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NATIONAL SURFACE TRANSPORTATION POLICY  
AND REVENUE STUDY COMMISSION

DALLAS FIELD HEARING  
Hyatt Regency Dallas  
Dallas, Texas

September 21, 2006

Attendees

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Maria Cino, Chairperson, Acting Secretary of  
Transportation  
Commissioner Rick Geddes  
Commissioner Frank McArdle  
Commissioner Steve Heminger  
Commissioner Jack Schenendorf  
Commissioner Frank Busalacchi  
Commissioner Steve Odland  
Commissioner Tom Skancke

Panel Number 3  
Gary Thomas  
Richard Ruddell  
Allan Rutter  
Alan Clark  
Michael Morris

Panel Number 4  
Mort Downey  
Tim Lomax  
Art Lomenick

Panel Number 5  
Karen Hedlund  
Tim McGuckin  
Darius Gaskins

Public Comments  
Norman Emerson  
Councilman William Duncan Blades

## P R O C E E D I N G S

(On the record at 8:08 a.m.)

CHAIRMAN CINO: Okay. If I could have everybody please take their seats. I know we're starting late this morning, but we're going to get back on track.

You're all looking at your nametags there.

Well, let me thank everybody for the second day of our field hearing here in the wonderful city of Dallas. It certainly -- yesterday was a long day, but I think a very, very informative day for all of us. And as we said yesterday, we know we have many challenges, but I think we continue to learn that we also have many opportunities.

There was much stimulated testimony on a wide range of issues that were discussed, and I know that that will be continued today. And I look forward and I know my fellow commissioners also look forward to hearing from everybody.

Let me -- let me just make sure that everybody, especially folks in the audience, please sign in, and then at the end of

1 the day, as we did yesterday, we will have  
2 testimony from anybody who would like to say  
3 anything. And if you please make sure that you  
4 fill out a card with Wanda. I don't see Wanda,  
5 but certainly somebody in the back of the room.

6 Also, small group today. I  
7 know it will get larger. If you could all take  
8 care of your electronic paraphernalia, whether  
9 that is pulse or off. I'd appreciate that. I  
10 know the fellow commissioners would.

11 With that, we are going to get  
12 started with our third panel. And our third panel  
13 will discuss regional needs of the surface  
14 transportation system. And I believe -- Alan, why  
15 don't we start with you, Alan Clark. We can go  
16 ahead and start, and I think we are just missing  
17 one person, but we are going to -- in fact, going  
18 to begin today. Thank you very much.

19 MR. CLARK: Thank you. If I  
20 could find a way to activate our signs. This is  
21 not my presentation, however. I -- I'm on the  
22 desktop. There you go.

23 CHAIRMAN CINO: I'm sorry.  
24 Did I screw that up?

25 MR. CLARK: No. Let me see if

1 I can figure out how we advance everything. Let's  
2 see if that works. Next. How about next. Does  
3 that work?

4 Thank you. Chairperson Cino  
5 and distinguished Members of the Commission, thank  
6 you for this opportunity to discuss the linked  
7 challenges of improving the Houston-Galveston  
8 region's mobility and air quality.

9 Although the magnitude of  
10 economic and travel growth in the  
11 Houston-Galveston area may be exceptional, even  
12 within Texas, the transportation and air quality  
13 issues the region is facing are not.

14 I'm going to briefly describe  
15 the transportation and air quality needs of the  
16 Houston-Galveston region as a backdrop for  
17 recommendations on retooling the critical public  
18 policy interface between these related challenges,  
19 the state implementation plan and transportation  
20 performance process.

21 Let's see if I can get this to  
22 work.

23 Population, economic, and  
24 travel growth in the Houston-Galveston region are  
25 among the nation's highest. As one consequence,

1 people travel will almost double. Home to one of  
2 the nation's largest seaports and one of the  
3 largest petrochemical facilities in the world,  
4 transported goods are expected to triple over the  
5 next 30-year period.

6 Transportation investments  
7 will also be great, but won't be nearly enough to  
8 keep pace. Our regional transportation plan  
9 anticipates 77 billion in roadway transit, port,  
10 and airport expenditures over the next two to two  
11 and a half decades.

12 Importantly, 60 percent of  
13 this investment will be nonfederal, nonstate  
14 dollars. Tolling and managed lanes, including  
15 congestion-sensitive hot lanes will grow from 500  
16 to 2,300 lane miles and generate 6 billion in  
17 surplus revenue available to other highway and  
18 transit projects by 2035.

19 In cooperation with the State  
20 of Texas and other Texas metropolitan planning  
21 organizations, our organization is estimating  
22 investment levels and their benefits, based upon a  
23 performance-driven plan called the Texas  
24 Metropolitan Mobility Plan, HGAC's 2025 regional  
25 transportation plan supports investment of over

1 \$3 billion per year; however, both transportation  
2 system conditions and performance levels will  
3 deteriorate under this financial-constrained plan.

4           Achieving the performance  
5 targets of the Texas Metropolitan Mobility Plan  
6 would reduce the most severe future congestion by  
7 60 percent, requiring an additional 14 billion in  
8 transportation system expansion or demand  
9 management managers. The TMMP, I believe, is a  
10 valuable tool describing the benefits of the  
11 additional transportation investment to our local,  
12 state, and federal elected leadership.

13           HGAC is examining the ability  
14 of land use transportation strategies and pricing  
15 incentives to reduce the growth of nonfreight  
16 travel; however, there must be a compelling  
17 federal interest in infrastructure needed to  
18 support bids movement as its growth on the demands  
19 on the transportation system will exceed the  
20 financial capacity of state and local governments.

21           I would also suggest to the  
22 commission that you look for opportunities to  
23 reduce unnecessary strings on the use of federal  
24 dollars. Although federal funding only comprises  
25 20 percent of HGAC's long-range plan, it is -- it





1                   Achieving the new eight-hour  
2 ozone standard will, however, require an  
3 additional reduction in nitrogen oxides of more  
4 than 50 percent above those that we were required  
5 to make for the one-hour standard.

6                   These reductions need to  
7 achieve the eight-hour standard, exceed the  
8 emissions from those sources within direct state  
9 regulatory control. Voluntary emissions  
10 reductions programs are essential to our current  
11 state implementation program, but voluntary  
12 actions and choices are limited by available  
13 technology and the pressure to remain economically  
14 competitive in an international marketplace.

15                   Current federal controls  
16 for -- on on-road vehicles will not result in  
17 reductions of nitrogen oxides in the magnitude of  
18 50 percent until the middle of the next decade,  
19 approximately 2014. Federal controls for off-road  
20 engines will require a 14-year time span before  
21 equipment and vehicle replacement meeting new  
22 emissions standards result in a similar level of  
23 emissions reduction.

24                   CHAIRMAN CINO: Al, if you  
25 could summarize. I apologize, but you're over the

1 time limit here. We're going to try to keep on  
2 schedule here. Thank you.

3 MR. CLARK: Thank you very  
4 much.

5 I would also say that one of  
6 the problems that we have in this process is its  
7 focus on immediate short-term emissions  
8 reductions. This removes from local governments  
9 one of their most useful tools, the ability to  
10 work with transportation and land use.

11 Among the recommendations I  
12 have, this -- a requirement or a need, strong need  
13 for greater federal action, both in the area of  
14 reducing emissions, and I -- and in a new  
15 partnership I propose for the state implementation  
16 plan process.

17 In this new partnership, I  
18 would suggest that the responsibilities and  
19 outcomes of each level of government be clearly  
20 identified, that the consequences of failure be  
21 directed to the responsible parties, and that the  
22 penalties, if any, be proportionate to the  
23 consequences for -- for failure to attain  
24 standards.

25 Thank you very much for the

1 opportunity to make these remarks.

2 CHAIRMAN CINO: Thank you very  
3 much, Alan.

4 Now, I apologize. I'll get us  
5 back on. I'm used to looking from left to right,  
6 and I did not look at the sheet. So now Gary  
7 Thomas, who is president of the Dallas Area  
8 Regional Transit, will talk to us. And if I could  
9 just remind everybody: There's a five-minute  
10 clock. I know that's not a whole lot of time, but  
11 we want to provide the commissioners the ability  
12 to ask us questions, so I would ask everyone to be  
13 conscious of the clock.

14 Gary.

15 MR. THOMAS: Thank you, Madam  
16 Chair. Good morning to Madam Chair and the  
17 commissioners. Appreciate the opportunity to be  
18 here this morning. My name is Gary Thomas, and  
19 I'm the president and executive director of Dallas  
20 Area Rapid Transit. Welcome to Dallas. And  
21 hopefully you had a good tour yesterday, saw the  
22 TRE train, the light rail train, and we're  
23 certainly anxious for you to hear our story this  
24 morning.

25 Let me tell you very briefly,

1 we started -- DART was formed in 1983, 23 years  
2 ago when 13 cities held an election to tax  
3 themselves 1 percent, 1 penny sales tax to form a  
4 regional transportation agency.

5                   Since then -- since then,  
6 we've created a multimodal transportation agency  
7 that includes 45 miles of light rail. We include  
8 35 miles of commuter rails, 31 miles of  
9 high-occupancy vehicle lanes, 120 bus routes,  
10 paratransit services, van pool services, ride  
11 share services, all those services that combine to  
12 form basically a toolbox of transportation modes  
13 that we provide to our customers, 320,000  
14 customers every single day.

15                   Now, we understand that that's  
16 not -- while those are a lot of modes, it's still  
17 all about choices. It's still about providing  
18 people a choice, and we have to work very closely  
19 with our partners, our transportation partners in  
20 the North Texas area: The T and Fort Worth --  
21 you'll hear from Dick Ruddell in a minute --  
22 Denton County Transportation Authority, NTTA,  
23 TxDOT. And all the cities that we serve have to  
24 work together to form this seamless transportation  
25 system that provides people -- the customers, the

1 people that use the services a choice, a good  
2 choice to get around.

3 As I said, we have 320,000  
4 customers every single day. 10.5 percent  
5 increase -- a 10.5 percent increase over the last  
6 12 months. Now, sure, gas prices don't hurt our  
7 ridership. Congestion doesn't hurt our ridership.  
8 But again, it's about people having a choice,  
9 people looking for ways to get out of traffic  
10 congestion, to solve air quality problems.

11 And so as we look at -- as we  
12 look at those choices, as we look at our  
13 ridership, it -- while it's certainly gas prices,  
14 it's also all about providing a quality service, a  
15 quality service that people feel safe on, that  
16 it's clean and it gets them where they want to go  
17 when they want to get there.

18 I have to tell you just a  
19 little bit about our -- as I said, 45 miles of  
20 light rail on the ground. We're in the process of  
21 doubling our light rail system. Just this past  
22 June, we celebrated our 10-year anniversary,  
23 10-year anniversary in the light rail system. And  
24 then in July, we received a \$700 million  
25 full-funding grant agreement from the FTA, the

1 second largest full-funding grant agreement in the  
2 history of the FTA. We're very excited about  
3 that.

4 We started construction about  
5 eight weeks ago on our next expansion as we -- as  
6 we go from southeast Dallas up to the suburbs and  
7 northwest Dallas, Farmers Branch, Carrollton, and  
8 then on to D/FW Airport. That \$700 million  
9 full-funding grant agreement represents a  
10 47 percent share of that first 21 miles, our  
11 minimum operating segment, a 47 percent share of  
12 federal dollars, 53 percent share on the local  
13 dollars on the 21 miles. The rest of it is  
14 locally funded. So we're way overmatched on  
15 the -- on the local federal split.

16 As I said, this further  
17 expansion is -- is key to our system. Our system  
18 is good, but -- but it's not really a system yet,  
19 quite frankly, until we get this next expansion in  
20 place where we can take people, like I said  
21 before, where they really want to go. It links a  
22 lot of the jobs in the northwest corridor to a lot  
23 of the neighborhoods in the southeast corridor,  
24 where people -- people outnumber their jobs 3 to 1  
25 by 2025.

1 Now, what are we going to do  
2 next? We're already working on our 2030 plan.  
3 We're already figuring out where we're going to go  
4 next.

5 I -- the mayor of Dallas,  
6 former mayor of Dallas said: Gary, you don't have  
7 the problems that we had when the agency was  
8 started.

9 I said: Mayor, we do too. As  
10 we look at our 2030 plan, now the problem is,  
11 rather than: We don't want you and go away, it's:  
12 Why can't you get here and get here quicker?

13 And -- and so now the fight  
14 is: We want transit in our community and our  
15 region.

16 As we look to our region,  
17 though, our region -- the growth of our region,  
18 population will double -- double in -- by 2030.  
19 So our real challenge is: How are we going to  
20 bring more cities into the three transit agencies  
21 that currently exist?

22 The three transit agencies  
23 that worked very closely together and developed a  
24 tri-party agreement, an agreement between the  
25 three authorities that said: Number 1, we don't

1 really want a fourth entity.

2 Now, that sounds self-serving,  
3 but the reality is that we have three entities  
4 that know how to provide the transit services to  
5 our regions, and quite frankly, we don't need to  
6 have to deal with 27 or 30 transit agencies in a  
7 particular region. Three is -- is plenty, and we  
8 can handle that. So that's one of the things in  
9 that tri-party agreement.

10 The other thing in the  
11 tri-party agreement is exempt -- exempt the  
12 transit tax from the sales tax cap. So we spread  
13 this word through -- throughout the region, a lot  
14 of the nonmember cities, if you will, in the DART,  
15 T, and Denton County service areas and North Texas  
16 region. The response by the local governments has  
17 been overwhelming. Overwhelming in saying: Yes,  
18 if you give us that local option to raise sales  
19 taxes, we'll do that.

20 Now our next job is to work  
21 with the state legislature because obviously  
22 they're the ones that are going to have to make  
23 that change, working very closely with them to  
24 make that happen.

25 And -- and I'd like to



1 summarize just by saying that their track  
2 record -- our track record demonstrates that  
3 public transit not only addresses key mobility  
4 issues, it has the power to transform the  
5 metropolitan region like North Texas, providing  
6 choices to the auto, reducing car trips on our  
7 freeways, stimulating development, \$3.3 billion in  
8 economic development around our rail stations  
9 since we opened the rail 10 years ago, expanding  
10 our economy, generating more funding for still  
11 more transit-developed initiatives.

12 As we kick off our program,  
13 our sales taxes are up, our ridership is up.  
14 We've got to stay on track, on budget for  
15 expansion, add rail cars, parking, enhancing our  
16 bus services are all things that we're doing.

17 To many observers, it's a  
18 novelty to see transit work in Dallas, Texas, but  
19 at DART we work hard for the people that we serve  
20 every single day. We work hard for  
21 forward-thinking people that created us and the  
22 people that are working with us now to create the  
23 vision. Thank you very much.

24 CHAIRMAN CINO: Thank you very  
25 much.

1 I assume poor Michael Morris  
2 isn't coming because you're all taking his time.  
3 Again, if I could just ask you to watch the clock.

4 Let me now introduce Dick  
5 Ruddell, who is president of the Fort Worth  
6 Transportation Authority. Dick, we look forward  
7 to hearing from you.

8 MR. RUDELL: Thank you,  
9 Chairperson Cino. And commissioners. As the  
10 Chairperson said, I'm the director of T, that's  
11 the transportation authority to the west of Dallas  
12 in Tarrant County and serves the western portion  
13 of the metroplex.

14 Our county is growing. Our  
15 city is growing, and it's causing and forcing us  
16 to deal with tremendous mobility issues in our  
17 community. Historically, we've had plenty of room  
18 to grow and to move around, and that's changing  
19 and it's changing rapidly in Tarrant County and  
20 the western portion of the Dallas/Fort Worth  
21 metroplex area.

22 Our county was one of the --  
23 is, continues to be one of the fastest growing  
24 counties in Texas. Fort Worth was the fastest  
25 growing city of all cities in America, over

1 500,000 just two years ago, and it continues to be  
2 one of the fastest growing cities in America every  
3 year.

4 This growth is causing a lot  
5 of transportation issues for us. We cannot build  
6 enough highways fast enough to deal with all of  
7 this. We're trying to implement public  
8 transportation solutions, but those take time too,  
9 tremendous amount of time to get through the  
10 new-start process to develop some of these  
11 solutions.

12 We are currently in  
13 alternatives analysis for a new corridor from  
14 southwest Fort Worth to northeast Fort Worth and  
15 into D/FW Airport, which will provide passenger  
16 rail service into the airport serving the  
17 terminals, but you know, those -- those solutions  
18 take time.

19 We have the financing  
20 identified on how to do it, but just to get  
21 through the process, to have access to the federal  
22 funds takes years to do that, and that's what  
23 we're starting with, alternatives analysis, but I  
24 think anything, any kind of solutions that you can  
25 offer to try to shorten the time it takes to gain

1 access to some of these funds will greatly enhance  
2 public transportation growth and services in the  
3 future, no matter -- no matter what mode we're  
4 talking about.

5 One of the things we're trying  
6 to really emphasize is the variety of solutions we  
7 need to look at. HOV lanes, yes, we need that,  
8 and those take time too, to develop those, to find  
9 the funding for them and to get them built.

10 Public transportation, we have  
11 an extensive bus service. We're using a lot of  
12 van pools. Our van pool is one of the fastest  
13 growing segments of our service. Now, our  
14 services are growing, just as our friends, DART to  
15 the east and Gary Thomas has described, some of  
16 that to do with gas prices, but a lot of it to do  
17 with the growth in our area.

18 Our service grew at 8 percent  
19 last year overall. It's growing at over  
20 12 percent this year. Last month, our -- our  
21 total ridership was over 15 percent above what it  
22 was a year ago.

23 So it's growing and we're  
24 trying to deal with that growth with the services  
25 and facilities and -- and all of the issues that

1 we have at the same time. We don't have enough  
2 money to solve all of that, but we're trying to  
3 get access to it as -- as we can to -- to deal  
4 with each of those different modes and provide  
5 choices for the public.

6                   Recently, a poll was done in  
7 the metroplex, throughout the metroplex just to  
8 ask people whether they would support increasing  
9 their own sales tax to support public  
10 transportation in the form of a -- of a regional  
11 rail, commuter rail system throughout the  
12 metroplex. That showed that 72 percent, metroplex  
13 wide for several counties around us, 72 percent  
14 would support that. Well, that's pretty  
15 impressive when people are willing to say: I  
16 would vote for a sales tax increase to fund  
17 commuter rail and regional rail services in my  
18 area. In Tarrant County, it was 78 percent.

19                   We are currently -- in this  
20 one corridor that I described, we have a city,  
21 Grapevine, which is the north end of the D/FW  
22 Airport. They already have on their ballot for  
23 this November to increase their sales tax to help  
24 build that -- that corridor and make improvements  
25 in it. Their polls show that that will pass, to

1 increase their sales tax will pass by close to  
2 70 percent.

3 So people are ready. They --  
4 they are willing to put money into public  
5 transportation, into other transportation mode  
6 solutions if given the chance. And I think we  
7 need to give people that chance to vote on that,  
8 vote themselves a tax to support transportation  
9 improvements.

10 And I think you need to  
11 consider, from the federal level, making sure that  
12 there's a level playing field between the modes.  
13 That's the best way for communities to have a -- a  
14 good choice in what they're building, to solve  
15 their transportation needs is keep the playing  
16 field level so that it isn't dependent on what's  
17 easiest to get the money or what's quickest to get  
18 the money or who has the most access to federal  
19 money, but rather what's the best solution for  
20 their community, whether it's regional, commuter  
21 rail, light rail, van pools, public  
22 transportation, HOV lanes, or just -- or just  
23 building some more highway lanes where some places  
24 that's needed in order to solve those issues.

25 I think yesterday you took a

1 trip on the TRE and went up to the Alliance area.  
2 Tremendous problems in trying to -- to provide  
3 transportation services up there for all the  
4 employees up there. We can't build enough  
5 highways to solve all of that. We have to have  
6 public transportation solutions along with the  
7 highway solutions.

8 I think that concludes my talk  
9 this morning, Madam Chairman, so thank you.

10 CHAIRMAN CINO: Thank you  
11 very, very much.

12 Our next speaker has a lot of  
13 transportation experience and that's Allan Rutter,  
14 who is now the executive director of the North  
15 Texas Tollway Authority.

16 Alan, thank you for being with  
17 us.

18 MR. RUTTER: 'Morning  
19 everybody. Let me also add my welcome to Dallas.  
20 I hope that this has been successful for you.

21 You got testimony that we  
22 provided that gives you a little picture of who we  
23 are and what we've done and what we're getting  
24 ready to do. Let me focus on four stories of  
25 regional success that we've been able to do using

1 some project examples.

2 First, there's President  
3 George Bush Turnpike, which is a 30-mile  
4 circumferential highway north of the LBJ Freeway,  
5 I-635 in north Dallas, southern Collin County.  
6 This was a loop that had been in the planning  
7 stages for about 20 or 30 years. Local  
8 governments, local landowners and developers were  
9 trying to set aside a right-of-way and reserve a  
10 corridor for that facility, but the lack of state  
11 and federal construction dollars left these folks  
12 with little hope of being able to actually build  
13 this road.

14 So elected officials,  
15 businessmen, community leaders began to suggest  
16 the possibility of building that facility as a  
17 toll road. Now, it took a lot of effort to try to  
18 convince the people who had been setting aside  
19 their land for a freeway that a tollway would be  
20 just as good for them.

21 The fact is, they were able to  
22 make that choice. The Department of  
23 Transportation, our state Department of  
24 Transportation made substantial investments in  
25 right-of-way purchasing, intersection improvements



1 at the major north/south highways, and in 1995,  
2 the Department and the Texas Turnpike Authority,  
3 our predecessor agency, actually used provisions  
4 of our state law to allow for the road that had  
5 been developed by the state to be transferred to  
6 the toll agency.

7 We then went out and issued  
8 the bonds, built the road, and now it's been open  
9 through -- 1998 to 2005. The result is a  
10 combination of about \$1.6 billion worth of  
11 investment in that corridor, and the results are  
12 substantial economic development and actual  
13 decreases on traffic volumes on 635 as a result of  
14 allowing people more choices on where they can go.

15 Second example is the Dallas  
16 North Tollway expansion. This is our north/south  
17 roadway that we are in the process of building a  
18 10-mile, \$270 million expansion that should be  
19 open by September of next year.

20 Once again, looking at the  
21 economic development that was possible between  
22 Addison, Plano, and Dallas, the City of Frisco and  
23 Collin County looked at that and said: If we go  
24 out and donate some land, put in the frontage  
25 roads, that will make it possible for the tollway

1 to be extended a lot easier, and we can start  
2 achieving some of that same economic growth and  
3 benefits for our city.

4 And that's exactly what they  
5 did. Collin County went and made us a step  
6 further and used county bond funds to construct  
7 the frontage roads so that when it came time for  
8 us to consider financing that extension, we didn't  
9 have to come up with a right-of-way, we didn't  
10 have to come up with the frontage roads. It was a  
11 lot simpler. It was a lot more financially  
12 feasible. And as I said, by September 2007, we'll  
13 be able to offer that 10-mile extension and bring  
14 the kind of economic benefits and extension to the  
15 commuters that the people have been looking for.

16 The third regional success is  
17 something that's fairly recent. It has to do with  
18 how we develop and deliver toll roads with  
19 multiple owners and multiple operators, and that  
20 is that the state Department of Transportation is  
21 seeking to use some of its new tools that  
22 Commissioner Williamson told you about yesterday.

23 In our region, we -- we kind  
24 of worked together to try to figure out what is it  
25 that we can bring to that and what is it that the

1 state could do to bring for the region the  
2 benefits that come from a -- a comprehensive  
3 development agreement.

4 We've reached a regional  
5 protocol within the last month in which we will  
6 provide operating services, everything from the  
7 lane on back, to take care of the customer, so  
8 that our region will be able to gain the benefit  
9 of what the private sector does: Bring in the  
10 financing, do the design build, get the road built  
11 as fast as possible.

12 And we're very encouraged  
13 about what that means and the kind of cooperation  
14 we'll be able to do with the department and with  
15 our MPO on trying to look at future toll roads and  
16 make decisions locally about how to deliver those  
17 projects.

18 Finally, I'd say that the  
19 final success story is our use of our Tac  
20 technology, our electronic toll collection at our  
21 local airports, D/FW and Dallas Love Field. We've  
22 been able to use our ETC technology, our toll tags  
23 and our million tag distribution of 600,000  
24 customers to allow people to use those tags at  
25 airport parking. It's been very successful. We

1 won an award from the IBTTA this year.

2                   What this is going to mean is  
3 we took something that our toll payers helped  
4 invent, offered an extension of ability benefits  
5 for the rest of the region, and it gives us the  
6 confidence that we'll be able to continue to do  
7 that for parking operations, commercial parking,  
8 and in other ways of extending the benefits of  
9 what's already been put in place.

10                   I look forward to answering  
11 any questions. I appreciate the opportunity.

12                   CHAIRMAN CINO: Thank you all  
13 very, very much, gentlemen.

14                   My understanding is that  
15 Michael Morris is about 10 or 15 minutes away. To  
16 save on time, I think that we'll begin our  
17 questioning.

18                   And if I could just start off  
19 with a question: With regards to, I think, much  
20 of what we heard yesterday and again a theme that  
21 I'm starting to hear is choice, giving our  
22 customers choices, options, which we all believe  
23 is very, very important.

24                   My question to you all is:  
25 What are the policies and programs at the federal

1 level that remain barriers to your efforts at the  
2 state and local level in providing these choices  
3 to our customers?

4 MR. THOMAS: I certainly don't  
5 mind starting. Let me -- let me tell you a story.  
6 As we went through the planning process for our  
7 light rail expansion, one of the opportunities  
8 that we had within that federally funded segment  
9 was to go to Love Field Regional Airport, the  
10 Southwest Airlines headquarters, and as we looked  
11 at that, certainly the cost differential was --  
12 was high. The ridership gain was -- was not very  
13 high.

14 The region said: You know  
15 what, this is so important to us, we will -- we  
16 will pay for the cost differential with regional  
17 dollars to make that happen.

18 We couldn't do that because  
19 within the federal process it just didn't work,  
20 because ridership that we gained was so low, even  
21 though we were contributing the delta in the cost  
22 of the partners, the region, the city, the cog,  
23 DART had come up with that cost differential. We  
24 couldn't do that because it skewed the numbers and  
25 because the process is so competitive within the

1 national structure, we couldn't do that.

2 So now we're -- we're next to  
3 Love Field airport, and then we'll figure out some  
4 type of shuttle, people mover or some other type  
5 of system. So as we look at trying to provide the  
6 people choices, if we could -- you know, if we  
7 could come up with a process that allows for those  
8 kinds of things to work, it would be great.

9 MR. RUDELLE: Thank you. I'll  
10 just provide a little different angle on that --  
11 on that answer.

12 In Tarrant County, we're --  
13 we're very much involved in -- in this new  
14 corridor which is going -- hopefully will be a  
15 commuter rail corridor, that's at least the  
16 approach that we're taking, that's what the  
17 Grapevine citizens are wanting.

18 But in other parts of our  
19 county, we would also like to have commuter rail  
20 services, but to do that, we need to do it on  
21 existing freight track and freight corridors.  
22 Those are very busy, very full. We have great  
23 cooperation from BNSF. Other railroads are not as  
24 cooperative as BNSF. Trying to deal with the  
25 other railroads is a difficulty.

1 COMMISSIONER HEMINGER: Two  
2 levels.

3 MS. HEDLUND: Mr. Ruddell, I  
4 hear you.

5 MR. RUDELLE: But you know,  
6 part of that is because they are locally  
7 headquartered in -- in Fort Worth, so that -- that  
8 provides a great opportunity in dealing with a  
9 railroad. But some others are more difficult to  
10 deal with.

11 I think that some -- looking  
12 at ways in order to -- to better facilitate  
13 cooperation between public transit agencies,  
14 railroads, many times it's a difficulty, I know,  
15 for the railroads to deal with commuter rail  
16 services on their freight lines. They're busy  
17 too.

18 So better mechanisms for  
19 helping public transit and the railroads work  
20 together to provide commuter rail services with  
21 freight, providing some ways to alleviate some of  
22 the freight congestion to allow for commuter rail  
23 services. I think any way that we can work toward  
24 that will help with those choices.

25 MR. RUTTER: I'll be quick.

1                   CHAIRMAN CINO:    You see the  
2 two-minute clock.  I apologize.

3                   MR. RUTTER:    Not unless you  
4 guys --

5                   CHAIRMAN CINO:    I'll try to  
6 give everybody an opportunity to speak.

7                   MR. RUTTER:    Modal  
8 specialization, delivery of services is very  
9 successful in Texas.  Modal specialization and  
10 funding sources from the federal level probably  
11 isn't as successful.  Being able to make  
12 investments, road to rail, such as what's being  
13 contemplated in Chicago, and Houston they're  
14 looking at the same things.  What these folks --  
15 what my transit colleagues talk about, airport to  
16 surface, airport to transit, and making it  
17 possible for federal funds to be used on toll road  
18 to transit to other uses, I'm not saying that our  
19 local region has made those choices yet, but  
20 having federal policy in place that allows them to  
21 make those kind of investment choices would be  
22 important.

23                   MR. CLARK:    Let me just make  
24 one comment.  I think that one of the factors that  
25 limits choice is the inability to preserve it for



1 the future. We need more flexibility to use  
2 federal participation in advanced acquisitions of  
3 rights-of-way. Quite frankly, it's so hard to do.  
4 We essentially do it with local money, or in a few  
5 cases we can use state revenue. But often we  
6 can't preserve the choice.

7 Like we know -- we can see  
8 clearly it's coming down the road, but we don't  
9 have the ability to implement the project today to  
10 go through the full environmental process  
11 necessary to get that permission to acquire those  
12 advanced right-of-way acquisitions.

13 CHAIRMAN CINO: Commissioner  
14 Schenendorf.

15 COMMISSIONER SCHENENDORF:

Thank

16 you, and again, welcome to -- thank you for having  
17 us here in Dallas, and it's been very, very  
18 informative.

19 The question I -- primarily,  
20 probably the two Alans, but anybody can comment if  
21 they'd like. The question I have is: The toll  
22 revenues that are generated in the area as to what  
23 purposes they can be used for, whether you divert  
24 any of that money to nontransportation uses, or  
25 just what kinds of restrictions you have on the

1 use of the toll revenues?

2 And then secondly, some -- a  
3 discussion of kind of the strengths and weaknesses  
4 between private toll authorities and public toll  
5 authorities as to what you see some of the  
6 strengths and weaknesses of those two different  
7 models.

8 MR. RUTTER: Okay. I'll start  
9 with that one.

10 The first question on toll  
11 revenues and their uses, a lot of that has to do  
12 with commitments that we as an organization make  
13 to our bondholders. They're pretty strict about  
14 what those dollars can be used for. The extent to  
15 which we choose to set rates at -- at a level  
16 that's more than what it's going to take to build  
17 the road, that gives the ability for dollars to be  
18 generated for uses on other systems.

19 Part of the protocol I  
20 mentioned that we've signed with the state is a  
21 commitment to consider making contributions back  
22 to our region in return for state dollars being  
23 invested in our roadways. If they're going to  
24 bring equity to our projects which make them  
25 deliverable and financeable, then we should be in

1 a position to offer the region some sort of return  
2 on that investment. And a lot of that has to do  
3 with how we set the tolls.

4 Public and private delivery  
5 is --

6 COMMISSIONER SCHENENDORF: Just  
7 follow up on that one second.

8 If you do set a rate, as you  
9 say, to give back, is that money that you're  
10 giving back going to transportation or is it going  
11 to something else?

12 MR. RUTTER: As far as I know,  
13 and Michael can speak to this in a little bit, in  
14 our region, we have chosen to make certain that  
15 one, those dollars stay local, regional, so we get  
16 to make those choices; and two, that they're on  
17 transportation, it's not being used to offset  
18 other local purposes.

19 Now, to a certain extent in  
20 North Texas, we have the luxury of having 130  
21 different cities in four counties, so it's  
22 unlikely that any one of those cities would be  
23 able to commandeer or garner some of those dollars  
24 for nontransportation purposes.

25 And if we're looking at a

1 \$60 billion debt, the gap between what we need and  
2 what we have, it's unlikely that we're going to be  
3 using those dollars for anything else.

4 And I'll let Alan talk about  
5 that and we can maybe come back around to the  
6 public and private delivery choices.

7 MR. CLARK: Our situation is a  
8 little bit different in that our tolling began  
9 substantially before some of the recent  
10 legislative arrangements that have created  
11 organizations like the NTTA. County governments  
12 control our toll road authorities, and the surplus  
13 revenues beyond meeting their bond covenant  
14 requirements are really at their discretion. To  
15 date, they have used those revenues only for  
16 transportation purposes.

17 Recently our largest county,  
18 Harris County, that includes the city of Houston,  
19 conducted a study to look at the possibility of  
20 selling full assets, which would have made that  
21 money available for other uses than  
22 transportation. They declined, after spending a  
23 lot of money, declined to go that route, continued  
24 to use those revenues for this kind of investment.

25 But it is, quite frankly, one

1 of the key issues that we're -- we will be  
2 discussing in our next regional transportation  
3 plan because it raises into question our ability  
4 to use those or claim those surpluses as part of  
5 our financial constraint.

6 I think the issue of public  
7 ownership also can be in conflict with the need to  
8 use pricing, both for congestion management  
9 purposes and to -- to generate revenue for  
10 transportation system advancement.

11 MR. RUTTER: Jack, let me come  
12 back to your public and private. I think that  
13 the -- our board and our region has made a  
14 decision that we don't mind other people bringing  
15 money for transportation purposes in our region.  
16 The question is: Who controls how that happens?

17 And thus far we've had an  
18 awful lot of regional investment and regional  
19 involvement in the decisions that are being made.  
20 Make the choice, public or private. Make the  
21 choice of how well you contract for the private  
22 delivery of that system so that, one, you make  
23 sure the concession fees stay local and go to  
24 transportation purposes, and that there are  
25 boundaries on performance standards that the

1 private sector brings to delivering the project,  
2 and their constraints on how far and how fast  
3 those toll rates can be raised over time.

4 MR. CLARK: I think the real  
5 issue, public versus private, is in part how we  
6 want to deal with risk, what we are willing to  
7 concede as a consequence of doing that. What I  
8 like about the private arrangements, as Alan  
9 suggested, our ability up-front on these  
10 agreements to craft everything from the way in  
11 which the frequency and amount of rate increases  
12 to other -- how much up-front revenue may be  
13 available as a consequence of that tolling  
14 concession.

15 With public governments, there  
16 is always this tension. It's just like, you know,  
17 me raising fares for the transit properties, very  
18 politically unpopular thing to do. It takes great  
19 political will. Perhaps Mike Morris can speak to  
20 that. His area has addressed the decision  
21 head-on. And I think that we will -- we will see  
22 the public agencies have the ability to do that,  
23 but we are trying to craft what kinds of  
24 agreements to use in this manner because we're  
25 obligating county commissioners for generations of

1 county commissioners beyond them in this -- in  
2 these financial agreements.

3 CHAIRMAN CINO: Can I just  
4 jump in and ask: How much faster, gentlemen, and  
5 with regards to the tolls, were you able to build  
6 those projects with tolls?

7 MR. RUTTER: I'd say you --  
8 you could probably look at both the projects that  
9 we've constructed and those that are in planning.  
10 We're probably cutting 20 years off, 20 to 25  
11 years off delivery times at -- at a conservative  
12 estimate.

13 MR. CLARK: One of our most  
14 recent toll projects was designed and built in a  
15 two- to three-year period. I don't think we've  
16 ever had a publicly developed freeway facility  
17 delivered in that kind of time frame.

18 CHAIRMAN CINO: If it's okay,  
19 I know that Michael Morris just got here, and if  
20 we could -- quickly, if you would -- wouldn't mind  
21 giving your testimony, and then we'll continue  
22 questioning. I apologize for the break, but if we  
23 wait until the end, I'm afraid you won't have any  
24 time.

25 Michael.

1 MR. MORRIS: Madam Chair.

2 Madam Chair, thank you very much. I apologize for  
3 being late. My last instruction was to be here at  
4 9:00, so I very much apologize to you and my  
5 colleagues for my tardiness.

6 Thank you very much for  
7 inviting us, and, Steve, congratulations on your  
8 appointment.

9 I have conclusions and I'm  
10 going to start with my conclusions and then give  
11 you the rationale.

12 The first is we have to create  
13 a national transportation system. I think from  
14 your business standpoint, as well as from a  
15 transportation standpoint, if we're going to  
16 compete in this international competitiveness with  
17 just-in-time delivery, it's critical we all work  
18 together to do that.

19 Second, I think metropolitan  
20 planning organizations, like the one I and Steve  
21 and Alan serve, our institutions, they can be part  
22 of the delivery of both the national and the  
23 regional transportation system. But I'm proud to  
24 be here with my colleagues, and I will share with  
25 you the multiple project delivery mechanisms in



1 order to timely implement projects.

2 So metropolitan planning  
3 organizations, I think, can be a glue to help  
4 establish delivery mechanisms to accomplish that.

5 The third and final point I'd  
6 like to make this morning is: We're in the middle  
7 of a financial crisis in transportation. Now, let  
8 me give you a quick overview of -- maybe some  
9 justification for that.

10 You've asked me to seek about  
11 from a perspective of a region. A region has two  
12 elements to look at when it wakes up every day.  
13 First, what is it -- what is handed to that region  
14 from a national transportation standpoint? And  
15 then what happens within the region itself?

16 So from a national  
17 transportation standpoint, we wake up every day  
18 with what we are told from Burlington Northern and  
19 from Union Pacific that we have the largest  
20 freight rail bottleneck in the United States.  
21 That's something we inherit, so we have to partner  
22 with others to try to solve that. The same thing  
23 can be said with regard to Long Beach and Oakland  
24 ports and how we deliver to a national system.

25 So in my remarks, I have

1 several strategies listed there to help with  
2 regard to a national system. I won't go through  
3 those. I encourage you to work with the Federal  
4 Reserve Bank, who has documented over time --  
5 every time our nation has taken a step forward  
6 with regard to a national transportation system,  
7 it has documented the impact to the gross domestic  
8 product and the efficiency and effectiveness to  
9 the business community with regard to the delivery  
10 of improved logistics for those commodities.

11 Let's focus on what we spend  
12 most of our time on, is what we do within the  
13 regions itself. My policy body is made up of 40  
14 representatives, the transportation providers of  
15 the region have voting representation on that  
16 group. The remaining persons are elected -- local  
17 elected officials who serve two functions. In our  
18 part of the country, they receive very little pay  
19 for their public service, so they are business  
20 persons, so this is an opportunity to get the  
21 businesspeople, as well as elected officials to  
22 sit around a table to make decisions with regard  
23 to how our region can proceed. So I think MDOs  
24 can serve that function with you.

25 We talk about the six Ps:

1 Plans, programs, policies, projects, partnerships,  
2 and performance, and they're in my remarks. It's  
3 critical that you use all tools in public policy  
4 to deliver transportation.

5 One, I'm just going to flag is  
6 the importance of a needs-based plan or federal  
7 requirements required by answering a constraint  
8 plan, but I think we also need to look at  
9 needs-based to communicate to the business  
10 community, to our legislatures: What is the  
11 magnitude of transportation needs we have in our  
12 particular region?

13 You know, policies like should  
14 we go to time and day pricing in our region, we're  
15 going to implement peak period pricing. We talked  
16 about that when we came in.

17 You folks in the business  
18 community charge higher rates for cell phones  
19 during the peak than the off-peak. When there's  
20 very few rental cars, they're more expensive.  
21 When the seats on the airplanes are fewer, it's  
22 more expensive. We think pricing transportation  
23 in a similar manner is part of that particular  
24 solution.

25 Lots of successes within the

1 region. I've listed them for you. Multiple  
2 agencies deliver projects. The role of the public  
3 and private sector to infuse capital to build  
4 projects sooner.

5 The important points to  
6 remember in that, that you're also building your  
7 most important projects, not just that you're  
8 moving, Madam Chair, projects 20 years ahead,  
9 you're focusing on the delivery of the most  
10 critical project within the region.

11 I think generations before us  
12 sometimes didn't have the funds to build the most  
13 critical projects. Now we have an opportunity to  
14 work with the private sector to do that and to  
15 leverage other means of transportation projects in  
16 the region.

17 I draw your attention to the  
18 last page of my remarks. This is a comparison of  
19 the financial constraint means in the  
20 Dallas/Fort Worth region. We're the 8th largest  
21 region in the country. I also documented what the  
22 unfunded needs are.

23 I think if you go to Steve's  
24 region in San Francisco or Alan's region in  
25 Houston, you'll see a very similar finding,

1 somewhere around 40 percent of the needs we have  
2 in our urban regions can be met.

3 Our local citizenry thinks  
4 that is a horrible situation. As a result, we're  
5 taxing ourselves. In this region about 60 percent  
6 of our transportation dollars are local sales tax  
7 dollars to provide rail improvements, property  
8 tax, bond programs to build thoroughfare  
9 improvements, toll projects to build toll through  
10 user fee.

11 It is critical, we think, for  
12 you to focus on this financial crisis, be a  
13 partner with us, and see what Washington can do  
14 with innovative financing, as well as working with  
15 each of our state capitals.

16 Madam Chair, thank you very  
17 much.

18 CHAIRMAN CINO: Thank you very  
19 much, Michael.

20 Now, if we can continue with  
21 our questioning.

22 Commissioner Heminger.

23 COMMISSIONER HEMINGER: Thank  
24 you, Madam Chair. It's good to see all of you  
25 here this morning.

1 I had a question for each of  
2 the Alans, and maybe if I can start with Allan  
3 Rutter, and Alan Clark, I don't know if you can  
4 get your slides back up and get -- get that one  
5 back up on the screen if possible because I wanted  
6 to ask about it.

7 It's -- is there -- I don't  
8 see a number. But you see the one I'm looking  
9 for? I -- you know, after a couple of days in  
10 Dallas, Alan, I'm beginning to think the T on the  
11 Rangers ball cap stands for "tolls."

12 And you know, it's certainly  
13 true that all across the country, elected  
14 officials are butting their heads up against the  
15 unwillingness of sales and their constituents to  
16 raise fuel taxes, but I'm just not aware of any  
17 other state that has turned so aggressively and  
18 apparently successfully to an alternate strategy.  
19 That hasn't happened elsewhere. So why is it  
20 happening here? In your views.

21 MR. RUTTER: I think the  
22 simplest answer is our history. We are the  
23 successor to the Texas Turnpike Authority. Our  
24 first project was 1953, a connection from Dallas  
25 to Fort Worth, which is now Interstate 30. It's

1 illustrated both. This is a project -- people  
2 were used to riding toll roads. They knew what  
3 they got when they did that. They got a road that  
4 they hadn't had before. It's not a foreign  
5 concept. It's not a weird thing. They grew up  
6 doing that.

7 We, as the North Texas Tollway  
8 Authority, being able to take that asset and go  
9 further with it, it starts with what you notice,  
10 it's a public acceptance. That public acceptance  
11 is something we don't want to squander. We want  
12 to be deliberate about how we do it, but one of  
13 the things that it creates is it allows us to  
14 build more facilities. And when we do that, the  
15 system that gets created, which we can pool and  
16 leverage for other things, it becomes exponential.  
17 With each successive project we add, gives us the  
18 ability to go further.

19 It also gives -- this public  
20 acceptance is what's attracted so many of the  
21 private sector interests to what -- some of the  
22 things that are departmentally in our MPO is  
23 encouraging.

24 That wouldn't happen if not  
25 for people being happy about using toll roads and

1 the investment we've already made in having a  
2 million tags distributed and 600,000 people with  
3 tags, who are ready for and willing to use those  
4 roadways.

5 COMMISSIONER HEMINGER: We --  
6 we heard yesterday that the governor was  
7 instrumental as well. And I've got to believe  
8 that anytime you make a transition like this, that  
9 the elected leadership at that level has to be  
10 very strong and consistent. Because look, we've  
11 got toll roads and turnpikes all over the country,  
12 and they're not building a lot of new ones. So is  
13 that, in your opinion, a big part of the picture  
14 as well?

15 MR. RUTTER: And there's way  
16 too many people here who will tell Governor Perry  
17 if I didn't take the opportunity to give him some  
18 credit.

19 COMMISSIONER HEMINGER: I'm  
20 giving you a good chance.

21 MR. MORRIS: Alan, I'll  
22 withdraw that.

23 MR. RUTTER: I'll hit that  
24 softball.

25 Yes, the fact that you have a



1 governor who says: Transportation is one of my  
2 priorities. He's willing to use his political  
3 capital to push toward design, build -- push the  
4 envelope with consultants and with the  
5 contractors, that doing alternate delivery, bond  
6 financing, toll roads, all of which is happening  
7 in Texas in oncoming warp speed and expansion.  
8 That's -- that kind of executive leadership and  
9 encouragement.

10 I'd also give credit to our --  
11 our local elected officials that make up the body  
12 that Mike works for, our regional transportation  
13 counsel, has also taken the heat, taken ownership  
14 of making that choice of: We're going to deliver  
15 transportation projects through this -- this  
16 public acceptance of toll roads.

17 COMMISSIONER HEMINGER:  
18 Michael, you wanted to --

19 MR. MORRIS: Yes. If I could.  
20 Three -- three quick reasons  
21 why I think in this particular region.

22 One, in 1991, the federal  
23 government came out with the financial constraint  
24 requirement and we took that seriously. There  
25 were transportation projects that needed to be

1 built. We established a policy in 1994. All  
2 limited access facilities in the Dallas/Fort Worth  
3 region would be built as toll roads.

4 We were -- we were -- we have  
5 a precious few gas tax money. So the gas tax  
6 money had to being flexed to the infrastructure  
7 maintenance and the widening of other roadways.

8 Two, last year this region  
9 grew by 167,000 persons. This region is adding a  
10 million persons every seven years. We've been  
11 adding a million people every 10 years since 1960.  
12 The people in our region know additional capacity  
13 is going to have to be met if we're going to  
14 survive.

15 And remember, we're the  
16 largest inland metropolitan area in the region --  
17 in the nation that does not have access to a  
18 seaport, so transportation is critical to us.

19 And third, why I think the  
20 local elected officials, the citizens, and the  
21 governor support it is you can take the toll road  
22 if you wish or if you don't wish. We have free  
23 options for the people. So they don't have --

24 COMMISSIONER HEMINGER: So  
25 it's the choice question.

1 MR. MORRIS: It's the choice  
2 question. And I think by giving the people  
3 individual choice, they can make their own  
4 decision. The pressure we're going to have now on  
5 the gas tax, when you have that particular gas  
6 tax, it's quite possible your gas tax goes up, but  
7 you may be in a portion of the state where you  
8 don't enjoy any transportation improvement.

9 COMMISSIONER HEMINGER: Alan  
10 Clark, just a couple of quick questions on your  
11 slide. I'm not quite sure what the vertical axis  
12 is. Is that some measurement of mobility?

13 MR. CLARK: Yes. It's  
14 basically the ratio between off-peak travel time,  
15 and travel time during peak periods.

16 COMMISSIONER HEMINGER: Okay.  
17 And it would appear that, you know, that -- the  
18 light blue line at the bottom is the only  
19 alternative that actually improves performance  
20 over the current day.

21 MR. CLARK: That's true.

22 COMMISSIONER HEMINGER: But it  
23 improves it -- you know, I don't know whether you  
24 what to call it modestly, but about by 10 percent.  
25 What is accounting for that? What is in that

1 scenario that's making it so much better than, you  
2 know, the base case, but especially than the other  
3 two?

4 MR. CLARK: I think it's  
5 because in the -- that scenario, we're able to  
6 relieve a number of critical choke points that  
7 really are financially affordable in our -- in our  
8 current transportation.

9 COMMISSIONER HEMINGER: So  
10 it's that you can provide additional capacity, or  
11 is it the capacity price? Is it --

12 MR. CLARK: Well, quite  
13 frankly, the Texas metropolitan mobility plan  
14 doesn't suggest specific project improvements.  
15 What we essentially did is said: If we had the  
16 ability either to increase capacity or further  
17 manage demand at these critical choke points that  
18 are beyond our financial capacity, what would the  
19 benefits to the region be?

20 We did estimate the costs,  
21 based upon the assumption of being able to  
22 increase capacity, but many cases, that's not the  
23 solution which would be implemented.

24 COMMISSIONER HEMINGER: And  
25 Michael, did you do a similar analysis and come to

1 similar results?

2 MR. MORRIS: Yeah, very  
3 similar results. I actually chaired the statewide  
4 MPOs that provide these particular reports. What  
5 you see here is the top -- top graph, very  
6 similar. You do nothing in a region, that's where  
7 you go. The traditional funding approach. We use  
8 new tools, you get that particular bump. The  
9 important point is both reducing congestion and  
10 moving projects ahead 20 years.

11 That last number represents  
12 what the needs are. This is the needs-based plan,  
13 and the difference between the 1.67 and the 1.24  
14 in all of our regions is the unfunded strategies  
15 that still have to come out of either a federal,  
16 regional, or statewide initiative.

17 COMMISSIONER HEMINGER: You  
18 know, and I have to say to my colleagues, I mean,  
19 it's really one of the difficulties that we find  
20 ourselves in now. But very often we're talking  
21 about that pink line, you know, and let's raise  
22 your taxes and we'll make congestion a little bit  
23 worse, but not that much. And if we can show some  
24 kind of absolute improvement in performance, we  
25 might have a different discussion.

1                   But the last point, Michael,  
2 if you could, both Commissioner Schenendorf and I  
3 noted in your testimony you mentioned studies by  
4 the federal reserve.

5                   MR. MORRIS: Yes.

6                   COMMISSIONER HEMINGER: I'm  
7 not aware of them. If you could provide those  
8 citations to us, we'd really appreciate it.

9                   MR. MORRIS: Be more than  
10 happy to do that.

11                  CHAIRMAN CINO: If I can now  
12 go to my esteemed colleague, the commissioner from  
13 Wisconsin, who has been waiting patiently.

14                  COMMISSIONER BUSALACCHI:  
15 Thank you.

16                  Michael, you brought up a good  
17 point about the needed issue. It's something that  
18 we've been -- we've been keying on, but I have --  
19 I guess my question is -- is going to be for  
20 everybody.

21                  You know, we understand  
22 that -- that our truck traffic is -- commerce is  
23 about 60 percent they haul in this country. Alan,  
24 you indicated that you've got a bottleneck here  
25 with BN. And I guess my -- my question is -- is:



1 rail and passenger rail, because that's a big, big  
2 nut that we're going to have to face. So I guess  
3 I'd just like to hear what you guys have to say.

4 MR. RUDELL: I'll start  
5 there, Commissioner, because we are in the middle  
6 of an alternatives analysis right now, that -- and  
7 we have community voting to bring commuter rail to  
8 their -- to their community. Most of that line  
9 is -- all of it is an existing freight line, but  
10 it is very lightly used. That's why that is so  
11 attractive in moving ahead, because it has very,  
12 very light freight traffic on it.

13 All of the other corridors are  
14 packed with -- with freight trains. I mean, a lot  
15 of them. And Tower 55 sits right in the middle of  
16 our community, and it's a congestion point that it  
17 bothers air pollution because the trains are  
18 idling, smoking, and running diesel. You can't  
19 put any more traffic on those tracks because  
20 they're all stopped, waiting for Tower 55 to clear  
21 to get through it.

22 So any kind of a public  
23 policy, federal policy to solve issues like that  
24 would be helpful. And it does have to include  
25 commuter rail in that policy and in that solution.





1 traffic which has a disproportionate affect on  
2 their own freight rail unless you expand the  
3 facilities.

4 Second is: We have to find  
5 ways of -- of augmenting our existing tort  
6 liabilities to make sure that when we ask freight  
7 railroads to allow more passengers on their  
8 property, that we offer them some sort of  
9 protection for the -- the liability that comes  
10 along with that.

11 It's one thing to have a --  
12 a -- I didn't expect the musical accompaniment.

13 It's one thing to have a grade  
14 crossing accident; it's another thing to have a  
15 passenger railroad accident in the middle of  
16 somebody's freight capacity.

17 So figure out some ways of  
18 expanding their ability to get their stuff done  
19 and offer them some protection against the kind of  
20 inevitable liability concerns that come along with  
21 additional bodies, people on their property.

22 MR. MORRIS: Commissioner, I  
23 think you're right on what I was suggesting should  
24 be a major focus of this particular commission.  
25 In Wisconsin, you know, it is very difficult for

1 you to flex your transportation funds that you get  
2 from your dedicated trust funds and then try to  
3 cross them over to develop partnerships with the  
4 rail freight industry who isn't paying into a  
5 particular trust fund.

6 Yet, on the other hand, you  
7 probably see it every day, that this is probably  
8 the most important way to enhance the movement --  
9 goods movement to your particular state as well as  
10 create the opportunity for passenger rail.

11 I think that should be, the  
12 question you raised, a major element of this  
13 particular commission. It's a major element in  
14 Texas. Texas just passed a Constitutional  
15 amendment that the voters approved to create a  
16 revenue source within the state to be used towards  
17 goods movement improvements.

18 They are struggling right now  
19 with, okay, what is the mechanism going to be? Is  
20 it going to be the product of an input/output  
21 model, where you can see commodities being  
22 exchanged in an excised fashion? Is it a  
23 container lift fee type of strategy or ton miles  
24 or some other fee structure that's established?

25 It is critical, I think, to --

1 it's going to be hard because, you know, the  
2 railroads are going to beat you up and say: Look,  
3 you know, we like it the way we are.

4 But on the other hand, they  
5 don't have the capital to reinvest in the critical  
6 linkages that this nation needs because they are  
7 cash poor. And I think we need to create a  
8 partnership.

9 The second part of that is we  
10 then need an institution to then create a dialogue  
11 to do that, and one of the things our MPO has done  
12 is create a subcommittee with a class on railroads  
13 and trucking companies, sit there right with the  
14 elected officials to identify those problems and  
15 to fund those particular strategies.

16 And the team has been put  
17 together, including the transit authorities, to  
18 work on this Tower 55 question and try to identify  
19 what's the federal role, what's the state role,  
20 what is the regional role, what's the private  
21 sector benefits and try to develop a cost  
22 allocation scheme on how we're going to pay for  
23 the hundreds of millions of dollars of  
24 improvements to do that.

25 I'm proud of my colleagues to

1 my left who, during the hurricane season last  
2 year, because of the infrastructure that has been  
3 previously built in our state, was able to take  
4 our passenger trains and go down to those  
5 communities and help in the evacuation.

6 Reliability is the issue. It  
7 isn't just congestion. Rail-dedicated rail tracks  
8 give you reliability. Passenger rail is  
9 successful in our region because it's reliable  
10 compared to the roadway system.

11 You don't -- you all watch  
12 television, when you saw the roadway system  
13 unreliable in Texas to deliver from Alan's  
14 community inland during that hurricane. Passenger  
15 rails don't have those same constraints.

16 So as you move in the freight  
17 area and create a revenue stream to accomplish  
18 that, work on an institutional mechanism or  
19 partnership to deliver the products, you have as  
20 benefits to that initiative the advancement of the  
21 passenger rail within the region in the role of  
22 passenger rail in homeland security, hurricane  
23 evacuation, and other benefits within the  
24 community.

25 CHAIRMAN CINO:

1 Commissioner --

2 MR. THOMAS: Commissioner, if  
3 I could just add to that.

4 CHAIRMAN CINO: I'm sorry.

5 MR. THOMAS: Commissioner, if  
6 I could just add to that.

7 DART owns over 200 miles of  
8 railroad corridor. Much of the corridor that Dick  
9 is looking at in his alternatives analysis, DART  
10 owns also, that we -- that we currently have short  
11 line agreements on. And as we've heard this  
12 morning, a lot of the challenge is capital. Those  
13 corridors allow for -- I mean, there's room in  
14 those corridors to allow for additional tracks.

15 We -- we run  
16 light-rail-to-light-rail tracks and freight tracks  
17 in one of our corridors in north -- far northeast  
18 part of our service area, but the capital is  
19 certainly one of the challenges to improve the  
20 existing tracks and to add additional track.

21 Also the priorities.  
22 Certainly on tracks that we own, the passenger  
23 takes priority; the freight companies' owned  
24 tracks, and the freight is generally a big  
25 priority. So it's working out, that balance.

1                   As Michael said, having the  
2 policies, the national policies to help govern  
3 that, to help -- to help find what those  
4 priorities are would certainly be advantageous to  
5 all of us.

6                   CHAIRMAN CINO: Now  
7 Commissioner Odland.

8                   COMMISSIONER ODLAND: Thank  
9 you. It's very impressive to listen to the way  
10 that you -- and you didn't lay it out linearly,  
11 but the way that you've gone about planning. You  
12 evaluated where you wanted to be as a state  
13 economically. You evaluated where your assets  
14 were. You've got a major port, a couple of them.  
15 You've got a major inland commercial center, a  
16 couple of them, and so forth.

17                   You -- you've evaluated the  
18 flow of commerce. You -- you've really set out  
19 the lay of the land, and then you determined where  
20 you wanted to go in the future. You've got slides  
21 on it that have 2030 on it, status quo, and so  
22 forth.

23                   So you really have a strategic  
24 plan, and I think maybe this is a -- a potential  
25 model that we could use at the federal level to

1 lay out the vision for ourselves, a strategic plan  
2 of what we need. And it seems like you did  
3 financing last in all of this, which is, once  
4 you've determined what your needs are, you said:  
5 Okay, how do we want to pay for it and what should  
6 be the private and public portion of that?

7 So it's a really intriguing  
8 model as we consider this from a national level.  
9 But I want to go back up to 30,000 feet with you.

10 If you -- so the question is,  
11 you know, the Republic of Texas has done a great  
12 job of -- of evaluating this, and -- and, you  
13 know, I'm not sure you need the rest of us, but if  
14 you -- if you had to hang with the rest of us,  
15 what should be the role of federal policy in this?

16 You've said there should be a  
17 federal policy, and you've articulated in a couple  
18 of areas, but -- but should the federal government  
19 just let it -- up to the states and the localities  
20 to put all of this together, and you know, is that  
21 a way to optimize our national system? Or should  
22 there be a national policy, and how should that  
23 interact and overlay to the state and local  
24 policies?

25 MR. MORRIS: Commissioner,



1 I -- I think over the last 20 years, you've seen  
2 an evolution away from Washington to states and  
3 regions to solve problems on their own. And to --  
4 to some extent, I think that is very positive.

5 The -- the -- for example, the  
6 Dallas/Fort Worth region is something like the  
7 28th largest economy in the world, so yes, you put  
8 the tools to solve related to the business  
9 community tied together.

10 The downside of that, however,  
11 as -- as we look in Dallas/Fort Worth into the  
12 future, China is becoming larger and larger and  
13 more successful, and India is becoming larger and  
14 larger and more successful. And it isn't just  
15 about getting goods from those communities into  
16 our particular country. It's about manufacturing  
17 goods in our country to be exported to those  
18 particular goods in the future.

19 So I think we have to get back  
20 to identifying, as you have, Commissioner, what is  
21 that national interest? And I think that national  
22 interest needs to begin with communication with  
23 the states. What has been difficult, if you go  
24 back to the "Federalist Papers" is -- you know, we  
25 are a United States, and the states wake up every

1 day and say: Wait a minute, federal government,  
2 you know, what is your role and obligation in  
3 national transportation? This should be a role of  
4 the states.

5 And to a larger extent, I  
6 think that's true. But how do we develop now in a  
7 world economy that has matured in the last 20  
8 years in getting goods from Houston to Seattle and  
9 from Long Beach to the East Coast?

10 You can -- while you're here,  
11 you will see container trains going through  
12 downtown Dallas with containers that have been  
13 loaded in Long Beach that are heading to the Port  
14 of Houston out your window. I'll bet there's 10  
15 container trains a day.

16 It isn't -- is it in the best  
17 interest of the region for those trains to be held  
18 up for an hour and 45 minutes or more at Tower 55  
19 in order for that to -- to do that? No.

20 So I think the backbone is in  
21 goods movement, but I think there are other  
22 elements: National security, communication of  
23 information, data collection with regard to  
24 seamless delivery, just-in-time delivery of  
25 commodities.

1                    Dick Ruddell and I woke up one  
2 day when we were working on our passenger rail  
3 corridor, and we said: Oh, we've got an idea.  
4 Our passenger rail corridor we'll have a dedicated  
5 window for trains during this particular time  
6 frame.

7                    So Gary and Dick and I look at  
8 that, and then we wake up one day and say --  
9 Burlington Northern comes flying in the room and  
10 says: You can't do that. We have a contract  
11 train, which is a train that doesn't get paid if  
12 it's late, that goes from the Port of Houston to  
13 the Port of the Seattle, happens to go right  
14 through this railroad track at 6:45 in the  
15 morning.

16                    We, of course, then did not  
17 implement a dedicated window because we -- we're  
18 very pro goods movement, but we didn't even have  
19 knowledge that there was dedicated contract trains  
20 within our particular region that we should be  
21 sympathetic to with regard to their particular  
22 roadway.

23                    So I think as we move forward  
24 as a nation, I think this commission has to ask  
25 that very question and reestablish, in my opinion,

1 a national focus.

2 Now, I don't think it has to  
3 be taking responsibilities away from states or  
4 away from regions. I think it can be done in a  
5 partnership role. I think it can have a lot to  
6 did with data and communication and -- and in my  
7 remarks, I talked about where were the missing  
8 linkages to the transportation system, could we  
9 all have knowledge of those and work towards those  
10 in a partnership way?

11 And I think from national  
12 security, improved safety, you know, we still  
13 struggle in getting where the high-accident  
14 location data is because there are restrictions  
15 in -- in information that states may have or the  
16 nation may have that aren't translated because  
17 they're -- they're fearful they may be sued  
18 because there's some knowledge of high-accident  
19 locations. I mean, you should establish  
20 protections that knowledge of known high-accident  
21 locations so we can go out and fix those  
22 particular locations.

23 I think there's probably a  
24 dozen elements that should be the foundation of a  
25 new national focus in transportation. That's my

1 opinion. I don't know if others will agree or  
2 disagree with that. But I'm hoping this  
3 commission does focus on that very point you  
4 raised.

5 MR. THOMAS: Commissioner, if  
6 I could just add: From the financial standpoint,  
7 we -- we do have a 20 -- a 20-year financial plan  
8 that we -- I just didn't have time to say it. I  
9 already went over my time earlier, but about our  
10 20-year financial plan does look at what we can do  
11 and what we cannot do.

12 So our 2030 plan is  
13 financially constrained. Obviously, there are a  
14 lot of assumptions in that 20-year financial plan,  
15 including federal funding. From a transit  
16 perspective, the -- the New Starts Program is a  
17 national program. We compete with every other  
18 agency throughout the country.

19 As we look forward in our 2030  
20 plan and the projects that we would anticipate  
21 receiving federal funding for, we would assume  
22 that we would still continue to have to compete  
23 with all the other projects throughout the country  
24 to make sure that we do have good quality projects  
25 that have good quality ridership, that we maintain

1 our on-time performance, our ahead -- ahead of  
2 time and under budget performance, which has got  
3 us to the point where we are, certainly.

4 COMMISSIONER SCHENENDORF: Is  
5 your financially constrained plan -- that's not  
6 the light blue line, right?

7 MR. THOMAS: That's not my --  
8 that's not my plan, no, sir.

9 COMMISSIONER SCHENENDORF: For  
10 the record, I mean your -- your version of this.

11 MR. MORRIS: Yeah, the  
12 financial constraint plan, you know, similar to  
13 Alan's would be that purple line. And then by  
14 advancing innovative tools like our public/private  
15 partnerships, we're able to leverage more money,  
16 we're moving it down to that yellow line.

17 And then we're still seeking  
18 additional -- by coming here and talking about  
19 revenue and other things, we're continuing peak  
20 period pricing potentially. We're looking at  
21 plans, programs, policies, and projects to deliver  
22 that 1.6 down to the 1.24. And I think Alan and I  
23 are saying that we don't think in urban medians of  
24 our size, you're going to get a -- below a 1.24.

25 COMMISSIONER SCHENENDORF: But

1 the -- just -- I don't want to take up any of the  
2 Commissioner's time with questioning that, but if  
3 you could help us after the hearing understand  
4 that blue line better, because that's the only one  
5 that's improving the situation.

6 I just talked to the DOT  
7 staff, and the current needs studies that we get  
8 don't represent that light blue line. It would be  
9 very interesting in getting a handle on how we can  
10 find out what this needs-based light blue line is  
11 and how we can get information on what kind of  
12 investment it takes to follow that line.

13 And apparently, our current  
14 information at the federal level does not produce  
15 that kind of information, so it would be very  
16 interested in finding out how we can get that on a  
17 national basis.

18 CHAIRMAN CINO: Commissioner  
19 Skancke.

20 COMMISSIONER SKANCKE: Thank  
21 you, Madam Chair, and thank you gentlemen for your  
22 information today. It's been very helpful.

23 I -- I'd like to kind of go in  
24 a line of questioning, if I can.

25 My colleague, Mr. Odland

1 and -- which is this vision. And then Mr. Morris,  
2 you started out by saying that we need to create a  
3 national transportation system, which errs in a  
4 definition of what that is yet, so I think we need  
5 to look at what that transportation system is --  
6 of the network is.

7 And you mentioned multiple  
8 mechanisms for delivery. I'd be interested in  
9 hearing a little bit more about that.

10 And then as a panel, I've been  
11 asked the question for several months of what's  
12 broken here, and I think we're touching on it a  
13 bit today of what really is broken. It would  
14 really help, I think, a lot of us, particularly  
15 me, who is a little bit slower than most, but  
16 what's working and what isn't working and what  
17 from your point of view is an MPO or your point of  
18 view as someone who is dealing in the light rail  
19 industry and having to coordinate all these  
20 efforts, because of the phenomenal amount of  
21 coordination that has to be done.

22  
Schenendorf

23 And then just as Mr.  
24 said, you know, looking at -- at that -- that blue  
25 or that purple line, whatever it is, these are  
some key elements that I think this commission



1 needs to actually make the proper assessment. So  
2 could you help us a bit by answering a couple of  
3 those questions?

4 MR. MORRIS: You want me to  
5 start, Commissioner?

6 Very -- very quickly, I think  
7 what's broken is -- is the inadequate resources in  
8 transportation and the lack of a national  
9 recommitment. Those are the two things I would  
10 focus on. We've touched on them earlier.

11 With regard to implementation,  
12 in our particular region we have two highway  
13 department districts that are implementing  
14 projects: The Dallas side and the Fort Worth  
15 side. We have a North Texas Tollway Authority  
16 represented by Alan Rutter. We have three transit  
17 authorities within the region. We hope to be, not  
18 like Steve who has -- maybe has the pleasure of 20  
19 or 27 transit authorities, we have public/private  
20 partnerships where the State of Texas can engage  
21 in the delivery of toll roads through a private  
22 sector mechanism.

23 We think by having multiple  
24 institutions, they can surgically deliver their  
25 particular mode. The transit agencies know how to

1 get rail start funds. They can deliver the rail  
2 system. Alan Rutter is -- his firm is with the  
3 toll road authority, you know, nationally  
4 recognized as a toll road entity. They can  
5 deliver toll road projects.

6 TxDOT is very innovative in  
7 working on public/private partnerships to deliver  
8 particular projects. We have a very successful  
9 Dallas/Fort Worth International Airport who can  
10 make airport improvements.

11 So the key to us is having a  
12 federated, multi-institutional approach whose  
13 board of directors can focus on their system. The  
14 downside would be: Well, gee, is it being  
15 coordinated?

16 That's where these  
17 metropolitan planning organizations come in, to  
18 make sure there's a glue that develops for the  
19 seamless systems that are being done, and they  
20 work closely with their state, so the state and  
21 the MPO are working together to have a  
22 multipronged delivery system.

23 We think that's a much better  
24 approach than, say, a regional authority of some  
25 kind, which does not have the specialized -- you

1 know, to orchestrate a bond sale in New York to  
2 sell toll road bonds is not the same talent to go  
3 to Washington and compete for rail starts, and the  
4 railroad is not the same talent to work with FAA  
5 on airspace with regard to runway extensions. And  
6 that's what I mean by "institutional."

7                   The first question you asked,  
8 Commissioner, I think deals with the  
9 inefficiencies that we have in the system. Right  
10 now, because I think railroads are -- don't have  
11 the capacity to reinvest in their system, they do  
12 whatever they can, they're overloaded, and then  
13 the rest goes by truck.

14                   So we have more trucks than we  
15 need or should have, in my opinion, on the roadway  
16 system. Trucks are large, heavy polluting,  
17 involved in often incidents that create the  
18 unreliability of the roadway system.

19                   In my remarks, I talk about:  
20 Is there a way to integrate better modal decisions  
21 where we can have rail improvements and rail  
22 capacity improvements that move those trucks onto  
23 trains? The largest user of rail freight in this  
24 country are the trucking companies. And I think  
25 if we could find out where the missing linkages





1                   So I'd like to see more  
2 thought given to how we can coordinate these  
3 investments and solve multiple federal priorities.

4                   MR. RUTTER: Let me add: In  
5 order to keep up with the ongoing theme of  
6 downers, you asked about what are our problems.  
7 Let me offer an analogy from the water issues.

8                   We have something in the state  
9 law called the rule of capture, when have you a  
10 water system, anybody who can dip their cups into  
11 it can get -- get at it. To the extent that you  
12 guys are successful in suggesting new investment  
13 programs and targeted strategic investment in  
14 those programs, let's be honest, we have to make  
15 sure that those dollars get to the places that  
16 your strategy intends them to get to.

17                   How you guard against the --  
18 the worse angels of people's nature to make sure  
19 that when you set up a program, such as the ICE T  
20 set up a lot of really good interstate investment  
21 systems, and federal agencies have no discretion  
22 as to where those dollars go in terms of  
23 strategies because either the authorizers or the  
24 appropriators are taking every one of those  
25 dollars and put them to their own particular

1 projects.

2                   If we're going to create  
3 strategic investment, we have to allow for those  
4 dollars to actually be used where the strategies  
5 are most effective.

6                   MR. RUDDLELL: If I could just  
7 answer that in -- in four parts.

8                   First, I think it's the money.  
9 We have a lot of plans for our projects. We can  
10 operate them with our local funds, but we need the  
11 help of federal funds to build them. We need that  
12 capital support, so we need federal funding and we  
13 need access to it and we need to see that the mass  
14 transit account is funded and not headed for  
15 bankruptcy or running out of money, both the mass  
16 transit account and the highway trust fund. So  
17 that's the first issue.

18                   And second is streamlining the  
19 access to those funds. Now, part of the problem  
20 with the streamlining is because there's not  
21 enough funds to go around, and so it just delays  
22 getting to them because the federal agencies just  
23 slow that process down.

24                   Some of it is congressionally  
25 mandated. Some of it is just part of the

1 regulations, and some of it is everybody knows  
2 there's not enough money there for all the  
3 projects that we're trying to do in the country.

4 So any -- any opportunity you  
5 can find to streamline access to that, and I think  
6 Gary Thomas could speak, among any of us, better  
7 than anyone on the problems of gaining access  
8 through the new start process because he went  
9 through it to get that \$700 million full-funding  
10 grant agreement. But he can talk about the  
11 difficulties in trying to get through that new  
12 start process and how long it takes.

13 It just -- if you stand back  
14 and look at it from 30,000 feet, it doesn't make  
15 any sense to require all of the agencies and  
16 communities in our country to have to take that  
17 amount of time and go through that many steps to  
18 get some -- get somewhere where we all wanted to  
19 go.

20 The third is -- is this level  
21 playing field between the modes. That's the best  
22 way to make sure the local communities are making  
23 the right choices for those transportation  
24 solutions.

25 And then finally, as I talked



1 earlier, facilitating the -- federal facilitating  
2 of discussions and agreements between different  
3 modes and between private and public sectors in  
4 the transportation industry.

5 MR. THOMAS: Dick's right. It  
6 takes a long time to go through the process.  
7 It's -- it's a long, arduous task. I certainly --  
8 certainly agree with the concept of putting money  
9 where the best projects are, as -- as Alan said,  
10 making sure the money goes where you want it to  
11 go. It's just getting it there in a timely  
12 manner, so -- so then we can implement the  
13 projects and get those out there. So again, we  
14 give the people a choice in a timely manner.

15 CHAIRMAN CINO: Okay.  
16 Commissioner Geddes.

17 COMMISSIONER GEDDES: Thanks  
18 very much, Madam Chair.

19 Once again, thank you for  
20 having the commission in and for this very  
21 enlightening couple of days that we have had here.

22 A couple of points. Second,  
23 congratulations, because the -- what's emerging  
24 for me in hearing you-all talk is that you haven't  
25 waited for the Feds to come down and swoop down

1 and solve your problems. You addressed those  
2 problems on your own to the extent that you can.  
3 And I think that in a -- that's crucial to  
4 appreciate the impact of that in a general policy  
5 sense.

6 And I know from studying  
7 welfare reform in the '90s, that one of the main  
8 advantages of that, structuring the reform, was  
9 that states were able to experiment and states  
10 could learn from other states and their -- their  
11 successes and failures became clear and that  
12 knowledge was diffused about how to approach that  
13 reform and subsequently became extremely  
14 successful, and I think most policy analysts agree  
15 on that.

16 And I think that probably  
17 we'll be learning a lot from your experience here  
18 because you have, you know, addressed things on  
19 your own, and you're gaining experience through  
20 that.

21 But Steve's questions at the  
22 20,000-foot level, I'd like to drill down a little  
23 to the 20-foot level and maybe address this  
24 question to Mr. Rutter, but anyone else who wants  
25 to chime in, please -- please do.

1                   You mentioned in an earlier  
2 response, just in passing, about restrictive bond  
3 covenants and how those disallow the diversion of  
4 funds from -- from toll roads to sort of  
5 nontransit uses. I'm a little bit familiar with  
6 bond covenants for private corporate activity and  
7 how they both -- there's affirmative covenants to  
8 require the firm to do certain things. Also  
9 restrictive or negative covenants that maybe  
10 restrict the activities that they do.

11                   And I assume there's similar  
12 parallels in the types of bonds that would be used  
13 to raise money for these -- for these roads, but  
14 I -- I was wondering if you could expand on that a  
15 little bit and just explain how those might work  
16 and how they restrict the use as to which those  
17 funds could be -- could be put.

18                   MR. RUTTER: Well -- and Steve  
19 is certainly in a position to talk about some of  
20 those uses. A lot of those restrictions are  
21 unique to the individual properties and are the  
22 result of whatever deal we've made with our  
23 bondholders.

24                   There are a number of toll  
25 road operators in the United States who have been

1 clear and transparent about the intended uses of  
2 the tolls they collect, and have substantial  
3 amounts of money going to nontoll road purposes.  
4 I look at the various toll bridge operators in the  
5 metropolitan New York area in which they've made  
6 choices to take toll road revenues and help  
7 subsidize the MTA on any -- on a whole variety of  
8 reasons. So it's a matter of what do you do at  
9 that local region to choose what you want the toll  
10 roads' revenues to be?

11 For us, we are now looking  
12 at -- the major constraint is our bondholders want  
13 their money. That's why they gave us money to go  
14 build something. As long as we can provide them  
15 assurances that they're going to be paid and that  
16 there's a reliability of them being paid, we then  
17 have a -- an awful lot of flexibility between  
18 where we're tolling now and where our tolls'  
19 elasticity curves are on how much could be raised,  
20 to make local choices about how much do you want  
21 to use the engine of a toll system to raise money  
22 for other purposes, whether there are other toll  
23 roads to leverage, other transportation purposes  
24 that don't create revenues, and finally a choice  
25 that we have yet to make in our region, modal

1 transfers from -- of road to nonroad uses.

2 But I think there's enough  
3 flexibility and certainly enough examples around  
4 the country in which toll road operations are  
5 being used within the constraints of their bond  
6 covenants, as long as you're clear with the  
7 market: This is what we're going to use the money  
8 for.

9 Some of those places that have  
10 the most money going to nontoll roads are some of  
11 the highest-rated creditors. So I think you  
12 can -- you can make that local choice. There are  
13 certainly examples of that around the country.

14 CHAIRMAN CINO: Commissioner  
15 McArdle.

16 COMMISSIONER McARDLE: If I  
17 could, I'd like to follow up with Mr. Morris, and  
18 perhaps all of you.

19 To what extent, in your  
20 decision-making, integrated with kind of the  
21 traffic-generating decisions for land use and on  
22 the air quality element that also contributes to  
23 your constraint or lack of constraint, the  
24 decisions to permit stationary sources, because at  
25 the end of the day, you're almost a derivative of

1 those two decisions within an area. You know, the  
2 land use will, in fact, the choices made, talk  
3 about the traffic that gets generated, and then,  
4 you know, the stationary source permitting kind of  
5 gives you the residual to kind of manage within  
6 the mobile source traffic circumstances.

7 Is it well-integrated in your  
8 mind? Should that be, in fact, the point where  
9 there has to be a lot more work done?

10 MR. MORRIS: Commissioner, I  
11 think you've raised a very important point. Let  
12 me take your second one first. You're very much  
13 correct that air quality planning within the  
14 United States is delegated to states. Those  
15 states first often go in and worry about their  
16 permitting process with regard to stationary  
17 sources. Alan and I, then, are left with the  
18 leftover that says: Okay, this is how much your  
19 budget for mobile source air quality will be, and  
20 then we have to somehow meet that.

21 In Texas, we've been  
22 successful in working closely with the state air  
23 agency in making sure they don't establish our  
24 particular budget a priori.

25 And for example, right now in

1 Texas, our local elected officials are in a very  
2 contested debate with the state on what is 17 new  
3 power plants that are going to be built. And  
4 you've probably read something in the paper maybe  
5 while you're here where it's our local elected  
6 officials that are challenging the state with  
7 regard to why aren't you requiring additional  
8 control measures?

9 Our local elected officials  
10 have no authority over that particular issue.  
11 They're not doing it just so a mobile source can  
12 gain emission levels. Air quality in our region  
13 is a bottom-up approach that says: We've had  
14 enough. This year we've come into the attainment  
15 of the one-hour standard. We now are focused on  
16 the eight. And it is critical that -- that the  
17 regions push back with regard to that particular  
18 process.

19 I don't know how much in your  
20 own charge you can get into that relationship, but  
21 it would be nice if -- if there was more of a  
22 cooperative structure. And I think, Steve, you  
23 have a very similar experience in California with  
24 regard to that very question.

25 With regard to land use, we --

1 we have addressed land use in a very different way  
2 than Portland is dealing with the land use  
3 question. We have a big push in what we call  
4 sustainable development. We're using our  
5 transportation funds as an incentive to build  
6 certain developments and critical places within  
7 the region.

8 So on two occasions we went  
9 out for a call for projects for \$40 million where  
10 we're telling developers: If you develop  
11 mixed-use developments around our rail stations,  
12 in our historical downtown, in low income areas  
13 that have excess roadway capacity, we've gone  
14 through this analysis of where we can take more  
15 demand without it triggering higher, then we will  
16 pay the delta for those particular developments.

17 It's been a very successful  
18 program. ASHTO has recognized that as a pretty  
19 innovative way, using a carrot instead of a stick  
20 to influence the location of that particular  
21 development.

22 Our local elected officials  
23 now embrace it. In the beginning they were  
24 extremely nervous that an MPO was now crossing  
25 over into the land use area. In Texas, there's



1 two strong rights: Individual home rule of cities  
2 and landowner rights, and they thought we were  
3 starting to cross over the -- that -- that line,  
4 but we've done it through a carrot approach.

5                   You know, the developers don't  
6 have to do it, but we've partnered up with our  
7 transit agencies to create more development in our  
8 downtowns, around their rail stations, and then  
9 historically underutilized portions of the region,  
10 and it has been very successful by both the  
11 private sector and those elected officials.

12                   COMMISSIONER McARDLE: But  
13 would it be possible to craft your national  
14 transportation strategy, which you suggested  
15 earlier, if in fact you did not address in some  
16 fashion, at least cooperatively, the issue of air  
17 quality and how that, in a country where  
18 metropolitan concentrations are growing all the  
19 time, to, in fact, somehow incorporate that into  
20 at least the thinking that goes on at both the  
21 national and regional level?

22                   I think we've been told  
23 yesterday that at least a substantial portion of  
24 the problem created in the Houston-Galveston area  
25 is in fact created in an adjacent state over which

1 you have absolutely no control.

2 MR. MORRIS: Yes, and, you  
3 know, we have in our particular case, low sulfur  
4 diesel fuel to our trucks. But Oklahoma, to our  
5 north, who doesn't implement low sulfur diesel,  
6 trucks will go get their fuel from a neighboring  
7 state, travel through our region with higher  
8 polluting levels because they're saving money.

9 You know, national compacts,  
10 multistate partnerships, we're moving in that  
11 particular direction. Somewhere to the Northeast  
12 has moved in trying to develop a multistate  
13 approach to a particular problem. More focus on  
14 national controls. Maybe more focus on national  
15 emphasis areas.

16 I think it's okay for the  
17 federal government to say: You know what, it  
18 isn't all about the money. We're not going to  
19 close that gap all with money. Show me what  
20 equity that you can implement in your region.  
21 Here's 30 examples. Show us -- show the states  
22 how you're willing to either implement peak period  
23 pricing on toll roads or a sustainable development  
24 program or a greater focus on management and  
25 operations, or where are you with ITS on reliable

1 transportation using signs and communication?

2 I think there should be more  
3 accountability. Air quality, as you know,  
4 you're -- you're accountable. If you don't do  
5 these things, you get sanctioned, and we react to  
6 that.

7 In the state of Texas now, we  
8 have these performance measures that are  
9 implemented by our commission. The good news is  
10 we're delegating this responsibility to the  
11 regions to build projects but we're going to hold  
12 you accountable with regard to these performance  
13 measures. I think more of us should be held  
14 accountable to specific performance measures to  
15 drive more innovative strategies to try to  
16 accomplish those things. And I think integrating  
17 the -- into the air quality arena, I think is a  
18 very logical nexus.

19 MR. CLARK: Mr. Commissioner,  
20 if I could also speak to that, and I had some  
21 testimony in my remarks concerning this. And I  
22 really think that our process is broken right now  
23 because the most critical partner is not a  
24 partner, the federal government. They're a  
25 regulator. And in the air quality process,







1 additional choices for people to move, the more  
2 we're going to enable for that equilibrium to kind  
3 of find itself.

4 With investments in the light  
5 rail facilities in Dallas, we now see a response  
6 of the developing community, and you look into  
7 downtown Dallas and there are an amazing amount of  
8 lofts, single-family unit development infill in  
9 the region. That's made possible by transit.  
10 That's made possible by having additional choices.

11 One of the things we notice in  
12 the roads that we've built is it's enabled for  
13 cross suburban movements for people in either  
14 lower-cost housing to go to jobs that are not in  
15 central Dallas, but are in some of the other  
16 suburban locations.

17 Our roads have just as many  
18 people going from Garland to Plano as we do from  
19 Frisco to downtown Dallas. That's -- that's not a  
20 problem, that's a solution. That's -- that's  
21 allowing people to make choices where they live,  
22 where they work. They can't do that unless  
23 there's transportation infrastructure to get them  
24 there.

25 MR. THOMAS: As we work with

1 the cities to lay out the light rail lines and the  
2 expansion lines and look at station locations,  
3 obviously we work very closely with those cities  
4 to look at the zoning, the growth opportunities  
5 around those stations. With \$3.3 billion worth of  
6 development around our stations currently, some of  
7 that might have been accidental, but not all of  
8 it. A lot of it was very, very -- very thorough  
9 planning exercises that developed those  
10 opportunities.

11 As -- as we move forward now,  
12 as we -- as we're looking at the next 45 miles,  
13 the cities are already looking at the -- the  
14 zoning changes around those stations so they  
15 can -- they can enhance those -- those live, work,  
16 and play kind of atmospheres around the stations.

17 How do they -- how do they  
18 create that community, where someone has a choice,  
19 again, has a choice where they don't have to get  
20 in the car? They can get on trans -- or they  
21 can -- they can do everything they need right  
22 through that station. So everybody is -- is -- it  
23 takes a lot of effort. It takes a lot of work.  
24 Quite frankly, the smaller cities are -- are  
25 quicker and easier at dealing with -- with that



1 than the larger cities are.

2 CHAIRPERSON CINO: Well, let  
3 me thank you all very, very much. You've been  
4 very generous with your time and with your  
5 comments. I know that we can go on for probably  
6 not minutes, hours, but I thank you very, very  
7 much and appreciate all that you've done to help  
8 us in our tasks.

9 (A recess was taken from  
10 9:51 to 10:26.)

11 CHAIRPERSON CINO: Okay. If I  
12 could have everybody perhaps take their seats.

13 Mort, it looks like you're all  
14 alone down there.

15 MR. DOWNEY: (Unintelligible).

16 CHAIRPERSON CINO: That's been  
17 tried, so you may be able to do that. I'm not  
18 sure.

19 All right. If we can, we'll  
20 now start our fourth panel: Preservation Needs of  
21 the Surface Transportation System. Mort Downey  
22 certainly needs no introduction, is a consultant  
23 with PB, and is going to talk about funding to  
24 maintain the systems.

25 Mort, thank you very much for

1 being here today and thank you for being very  
2 patient with us.

3 MR. DOWNEY: Thank you, Madam  
4 Chair and Members of the Commission. I really do  
5 appreciate the opportunity to be here, appreciate  
6 what you are doing in grappling with these issues.  
7 When the legislation was moving over the last  
8 couple of years, this was always part of my pitch.  
9 We should be a commission to look forward over the  
10 next decades and say: How can we make the systems  
11 work better?

12 There's an unlimited range of  
13 issues that I'd love to talk to you about: Goods  
14 movement, urban development, safety, security, but  
15 the one I've been assigned, funding to maintain  
16 the systems, really cuts across all of those.  
17 It's a fundamental need. Whatever we do, whatever  
18 systems we develop, whatever the institutions, we  
19 will not provide the service to the public unless  
20 the system is really effectively maintained.

21 Always the focus is on the new  
22 investments. Someone once said: There's never a  
23 ribbon cutting for a repainted bridge, but overall  
24 performance in terms of capacity, safety, quality,  
25 cost, things that the public worries about is

1 influenced, frankly, much more about how well we  
2 maintain our existing facilities than by what we  
3 add. If we don't do that, the system really  
4 collapses.

5                   There is a federal interest in  
6 this, even though it is not largely a federal  
7 responsibility. The way our system has developed  
8 institutionally, the states, the transit agencies,  
9 local governments are the ones responsible for  
10 maintaining the system. And as you look at the  
11 numbers, most of the money that's spent in any  
12 given year represents those operating and  
13 maintenance dollars.

14                   But the federal policy can  
15 strongly influence how that system works, how it  
16 is maintained. There's six areas in my prepared  
17 statement that I'd like to touch on quickly in  
18 terms of your thinking about future funding,  
19 future institutions, future policies, and how they  
20 would affect maintenance.

21                   First, certainly would  
22 strongly endorse continuing a process of condition  
23 of performance reports as a real way to see how  
24 the system is working, both in terms of its  
25 physical condition and then we'll talk about its

1 operating condition. These are significant, and  
2 we know that what gets measure is what gets  
3 managed. We need to set a basis for how this  
4 system is being managed.

5                               Secondly, I don't want to  
6 support the idea there be federal-prescribed  
7 standards on how the system is maintained. We had  
8 a little excursion into that, and then back out of  
9 it again. What I think was instructive is that  
10 most states maintained in place optionally and on  
11 their own hook the systems that showed them how  
12 their pavement, how their bridges, and how their  
13 transit -- transit system is performing and used  
14 that for a tool in their planning.

15                               There may be some areas where  
16 safety and health standards need to be there, but  
17 I think we need reasonable flexibility for those  
18 who are operating and maintaining the system to do  
19 it.

20                               Certainly, there is a federal  
21 role in research. As the state and local and  
22 transit agencies look at their systems, what they  
23 need to do to make them perform, the federal  
24 investment that looks at, practices materials and  
25 methods and -- and shows what can be done is a

1 critical part of making a system work well and  
2 should be continued.

3 Fourthly, as the federal  
4 government encourages innovations in developing  
5 our transportation system, there's really some  
6 great opportunities for how better maintenance,  
7 better performance can be achieved. Ideas like  
8 design, build, operate, maintain contracts,  
9 warranties, even with -- with new trends in  
10 private development of facilities, will align the  
11 economic incentives with the performance  
12 incentives. If you own the roadway and you are  
13 committed to 50 years of good service, you are  
14 going to maintain it.

15 This is going to require some  
16 rethinking about cost-sharing, what is capital  
17 costs, what is operating costs, but I think we  
18 really ought to look at performance, including  
19 issues like what the public pays when we have to  
20 do maintenance at -- at total system rebuild and  
21 really screw up service in order to get that done.

22 Federal dollars are  
23 occasionally, and I think very importantly,  
24 directly applied for system renewal. The  
25 interstate system has had a sustenance effort in

1 many years to keep building it. Commissioner  
2 McArdle, you will recall, when we started building  
3 MTA in New York, said: It has to be brought to a  
4 state of good repair.

5 Well, that was 25 years ago,  
6 and they're still working at it, \$75 billion  
7 later, mostly local funds, bond funds and others,  
8 but including federal dollars. The federal  
9 government was willing to do that because that was  
10 the most effective way to get the service that was  
11 needed. No federal dollars had gone into  
12 rebuilding track, rebuilding power systems, the  
13 like, bringing in what we call a state of good  
14 repair.

15 I think we need to retain that  
16 flexibility. I think you need to look  
17 particularly at the interstate system. We're all  
18 celebrating the fact that it's 50. At 50 you go  
19 for a checkup and they say a lot of things you  
20 ought to be doing, and I think may -- maybe we  
21 have to be very costly. I think we should  
22 understand that up-front, what those costs will be  
23 to bring a 50-year-old system back into a state of  
24 good repair and be prepared to meet those costs.

25 And finally, as you are

1 looking at the important issues of revenue, where  
2 it's raised, how it's raised, I think you need to  
3 always keep in mind that you have partners out  
4 there. Whatever you put in place, whether it's  
5 taxes, user fees, bond proceeds and the like, you  
6 don't want to do something that will preempt or  
7 interfere with your partners being able to raise  
8 the money they need.

9 So look at the total needs,  
10 look at where they're paid for, and come to an  
11 overall system conclusion about the best ways to  
12 maintain that important system that we have.

13 I thank you for your time, and  
14 I look forward to answering your questions.

15 CHAIRPERSON CINO: Mort, thank  
16 you very, very much.

17 Our next speaker -- excuse  
18 me -- is Tim Lomax from the Texas Transportation  
19 Institute. And you're going to spend, I think, a  
20 little time talking about the challenges of  
21 congestion and the results of needs suppressed.

22 MR. LOMAX: Yes, ma'am. Thank  
23 you, Madam Chair. Thank you, Members of the  
24 Commission. I'm honored to be sharing the stage  
25 here with Mort Downey and honored to be addressing

1 you-all in this very important issue.

2 I think that those of us in  
3 the transportation profession know that your  
4 commission has a difficult task in developing a  
5 vision for the future and a way to get there. I  
6 think using our studies in congestion and  
7 reliability is a base. I would like to suggest  
8 that an important aspect of a plan should be a  
9 focus on increasing the value of our assets by  
10 improving our understanding of the concept.

11 Perhaps broadening the word  
12 "asset" to include something more than just  
13 pavement, bridges, markings, to include attributes  
14 like information for decision-makers, service  
15 quality, travel reliability, potential employee  
16 markets, and quality of life should be added to  
17 the assets that we consider. And focusing our  
18 nation's transportation investments on programs,  
19 policies, and projects that will enhance the value  
20 of those assets. The spreading congestion, the  
21 more routes, the more hours of the day, the more  
22 neighborhoods and job centers has resulted in  
23 traveler frustration and business sector concerns.

24 The problem has several  
25 aspects, but generally it's both extra time and



1 less reliable service. These concerns suggest  
2 that the expectation for trans -- transportation  
3 systems have grown in the last three decades, even  
4 if the real buying power of the funding mechanism  
5 hasn't.

6 We've faced extraordinary  
7 assets demands in Texas, as you heard in the  
8 previous panel. Three of our metro regions are  
9 among the 15 most congested in the US. The  
10 population expected to increase from 23 million to  
11 38 million over the next 25 years. Road transit  
12 capacity expected to increase by less than  
13 10 percent.

14 Current projects are that if  
15 we're really smart, very lucky, extraordinarily  
16 creative, congestion might only increase by  
17 75 percent, and the average commuter would only  
18 spend more than 90 hours of travel getting back  
19 and forth to work.

20 This in a state that's hung  
21 out essentially a -- an open-for-business banner  
22 on their transportation system, asking the private  
23 sector to come in and help us solve the problem.  
24 The metropolitan planning organizations and TxDOT  
25 has joined forces in a -- in a program that Alan

1 and Michael talked about, one of the most  
2 comprehensive and aggressive, analytical efforts  
3 in the country to address this issue. The  
4 planning models were used. We developed mobility  
5 targets. We identified a range of transportation  
6 improvements. There's no single mode, no single  
7 silver bullet likely to solve the problem.

8 The target is eliminating all  
9 locations of serious congestion. This isn't a  
10 let-everybody-travel-at-the-speed-limit kind of  
11 a -- kind of a study. I think the more realistic  
12 program provides huge benefits at large costs.  
13 This is not a costless program.

14 Current trends indicate that  
15 about \$108 billion will be spent over the next 25  
16 years by TxDOT. If you increase that to 123  
17 billion between now and 2030, we can keep  
18 congestion from getting worse, going from 108 to  
19 123 sort of maintains the current level of  
20 congestion.

21 In order to meet the targets,  
22 we're talking about an increase of spending from  
23 108 to 174 billion, a huge increase, no doubt, but  
24 that \$66 billion increase yields \$540 billion in  
25 benefits from lower travel delay, reduced fuel

1 consumption, and business efficiency. It does not  
2 include safety benefits, does not include air  
3 quality benefits, does not include a whole range of  
4 other benefits that we could likely throw into  
5 that.

6 Certainly there are a variety  
7 of ways to fund this deficit, none of them likely  
8 to be met with widely cheering spectators and  
9 fans.

10 I should point out, however,  
11 that the voters supported fuel tax increases,  
12 tolls and pricing programs when they know their  
13 funds will go to support improved transportation.

14 I think, just to bring us back  
15 to asset value, I would point out that several  
16 futures of this congestion reduction would bring  
17 about.

18 First, if you funded the  
19 program with a traditional gas tax increase,  
20 motorists would save more than half the money they  
21 spent on the gas tax in less fuel consumed by less  
22 stop-and-go traffic.

23 But consider the broader  
24 effects. I think the most important ones, Texas  
25 cities would have the ability to capitalize on

1 other assets such as low housing prices, good  
2 schools, supporting business environment,  
3 desirable quality of life. These are not -- these  
4 are not elements only known in Texas. These are  
5 elements that exist in many of our large metro  
6 areas around the country.

7 The cities could attract a  
8 21st century workforce, folks who are increasingly  
9 able to decide where they live and work.

10 To accomplish a vision such as  
11 this, we cannot live in a world of "or." The  
12 world of "and" will be a common theme. We need  
13 roads and public transportation. We need to clear  
14 collisions quickly and tell riders when their bus  
15 or train will be here.

16 We need workers to get to  
17 telecommuting, but we also need to have their  
18 employers see that flexible hours, commuting mode  
19 options, transit fare subsidies, creative parking  
20 solutions are attractive employee hiring and  
21 retention factors.

22 We need to solve the local  
23 problem of access -- access to jobs, health care,  
24 education, and solve the national problems, such  
25 as port or intermodal terminal congestion that

1 occur within a region.

2 Cities must regu -- reduce  
3 regulatory barriers to downtown and near town  
4 development and recognize that many people just  
5 wish to live in a house with a nice yard. And  
6 when those kids leave that house, those same  
7 people may choose to move near a condominium, near  
8 their job downtown, cultural venues, or ballparks.

9 Thank you very much for your  
10 time.

11 CHAIRPERSON CINO: Thank you  
12 very much. I hope we didn't rush you. I  
13 appreciate it.

14 Tim, we have undertaken a  
15 project with regards to congestion reduction.  
16 We've spent a lot of time on it, and I know we've  
17 looked at a lot of your -- your data and have been  
18 very, very thankful for that. One of the things  
19 we found that is kind of an overall generally is a  
20 lack of great data.

21 But with regards to what our  
22 economists are telling us and what we've looked at  
23 at the data, what is your thought about the real  
24 costs in dollars and in time with regards to  
25 congestion?

1 MR. LOMENICK: Well, our  
2 report only looks at elements like travel delay  
3 and fuel consumption. From that, we can get over  
4 \$60 billion worth of cost just in -- in the  
5 largest population standards and a number of other  
6 ones. I think you might be able to say the  
7 national problem on those two elements is maybe  
8 75 billion, 80 billion, something like that.

9 I think, really, if you look  
10 at what is happening, there are a lot of places  
11 that have huge safety problems that are related to  
12 those congestion area. The state of Ohio did a  
13 mapping study of where their congestion problems  
14 were, where their safety problems were. Not  
15 unsurprisingly, the dots were in the same places.  
16 The problem that solves congestion helps solve  
17 safety.

18 Furthermore, when you look at  
19 sort of urban sprawl, I don't necessarily buy into  
20 that as a term or a very descriptive term, but  
21 clearly suburban development is being driven in  
22 part by a recognition that people don't want to  
23 live in congested areas. They want to try to move  
24 out. They want to try to get away from  
25 congestion. That is, I think, a fleeing

1 proposition, but attractive nonetheless.

2 I think to the extent that we  
3 can create options for people to allow them to  
4 live in the suburbs and work in the suburbs if  
5 they want to, if that's where their business  
6 community wants to operate, that's fine.

7 But I think too many sort of  
8 older cities have an approach that essentially  
9 drives people away from the cities. If they could  
10 just sort of level the playing field, there's a  
11 lot of aspects of downtown and near town life that  
12 are important both from a -- from a -- from an  
13 economy standpoint, but also just quality of life,  
14 interesting new places.

15 To bring that back to the cost  
16 issue, think about all the infrastructure we're  
17 building out in the suburbs that perhaps we could  
18 make better use of the infrastructure that we  
19 built back in the -- back in the urban areas that  
20 we wouldn't have to create.

21 CHAIRPERSON CINO: I agree  
22 with you on that term "urban sprawl," but just one  
23 last question: With regard to congestion, urban  
24 sprawl, you've looked at a lot of data, probably a  
25 lot more than I looked at. In your findings, have

1 you found that people in urban areas or even a  
2 little bit outside -- I know that the term "urban"  
3 is getting bigger and bigger -- are willing to pay  
4 to reduce congestion in their -- their work and  
5 residential areas?

6 MR. LOMAX: I -- I think what  
7 you see is that where proposals are well thought  
8 out, they are well-described and -communicated and  
9 they're -- and the agencies that are proposing  
10 them are coming from a base of public trust, the  
11 general notion that you're doing a good job with  
12 our money now, we trust you with more money, we --  
13 you've outlined a good plan, whether it's projects  
14 or programs or policies, whatever the solutions  
15 that is, I think coming from a background of  
16 trust -- and that's not just: You're doing a good  
17 job with my money, but you're delivering projects  
18 on time, you're providing information to us. If  
19 the project's over budget or over time, we expect  
20 that to happen every now and then, but don't have  
21 it go on all the time and don't have it be  
22 something that we the public have to uncover. You  
23 should be telling us about this. This is our  
24 money. Tell us about this.

25 Where that happens, I think,



1 people are more than willing to either pay more  
2 money, gas tax, or pay more -- or at least they're  
3 more willing to generate a discussion, to just pay  
4 the discussion. I'm not going to say that  
5 everybody approves everything all the time, but  
6 they're certainly more willing to enter the  
7 discussion about pricing elements, whether that's  
8 gas tax or tolling or variable pricing. I think  
9 those aspects get a much better hearing when they  
10 come from that base of support.

11 CHAIRPERSON CINO: Thank you  
12 very much.

13 Commissioner Schenendorf.

14 COMMISSIONER SCHENENDORF:

Thank

15 you, Madam Secretary, and thank you very much for  
16 being here. I think it's a real honor to have two  
17 gentlemen of your qualifications to be here to  
18 talk to us a little about --

19 MR. LOMAX: One, you mean.

20 COMMISSIONER SCHENENDORF:

21 The -- obviously, as we go forward and based on my  
22 experience on Capitol Hill, and we're going to  
23 have some very, very difficult decisions to make  
24 at the federal level. This is not going to be  
25 easy as to the direction to go in in the next

1 reauthorization bills.

2 Back in the 1950s and the Clay  
3 Commission, it was a division of the interstate  
4 system that people bought into, and that vision  
5 really allowed the Congress to make some -- some  
6 difficult choices.

7 In -- in the state of Texas,  
8 we can see that with the Trans-Texas Corridor.  
9 It's a vision and it has provided some political  
10 momentum in order to make some tough decisions in  
11 the state of Texas as to how to finance these  
12 projects.

13 And I guess one -- one of the  
14 things that we will be struggling with is, is what  
15 is the federal vision that we should have for  
16 transportation going out to 2050? What is the --  
17 the tangible kind of system we can take to people  
18 and say: This is what we want to build, here is  
19 where -- or here is the kind of system we want to  
20 have, here's what it's going to take in the way of  
21 investment to get that? And now people buy into  
22 that, let's talk about the difficult choices of  
23 how to finance it.

24 And I'd be very interested in  
25 your comments, both here now and any thought that

1 you can give to it afterwards, what is that  
2 federal vision? What is the system that we should  
3 be looking at providing for the American people as  
4 we get out in the period of 2030 and 2050?

5 MR. DOWNEY: To respond to  
6 that, I don't think we're ready to sit down as  
7 people did in the '50s and draw lines on a map and  
8 say that is the system and move past that. But we  
9 heard a lot of discussion this morning about what  
10 is it we expect from our system? Transportation  
11 is a tool. It supports economic development. It  
12 supports security. It supports mobility. It  
13 improves the environment. The factors that are in  
14 the DOT strategic plan, looked at the draft this  
15 week and they're still saying very much the same  
16 things.

17 We have to promise the public  
18 that if they can invest in the transportation  
19 system, those are the results that they can  
20 achieve. And it may be different in Texas from  
21 what's done in New York or what's done in  
22 California, but we need to focus on performance,  
23 what you can achieve, what the benefits are,  
24 before we ask people to pay.

25 I think we should not,

1     however, fail to ask them to pay if, in fact,  
2     these are economically justifiable benefits, the  
3     kinds of things that Tim was talking about.

4                     So we need it to be a real  
5     transaction that says: We invest and we expect a  
6     return on that investment, and we expect to be  
7     held accountable for it.

8                     The point you made about bond  
9     referenda and legislative actions being linked to  
10    actually performing and delivering is very  
11    important. But I think we need to be flexible,  
12    but we need to keep what transportation can do for  
13    the society and the economy in people's minds so  
14    that they make positive decisions.

15                    MR. LOMAX: Notice how I let  
16    my esteemed colleague go so I can say: Ditto.  
17    Yeah, I want to follow that.

18                    I think I'll certainly take  
19    you up on your future notes to allow me to think  
20    about it a little bit more, but I think the  
21    expectation game is clearly one of the most  
22    important ones that you're dealing with when --  
23    when you look at the expectations of people  
24    that -- civic clubs and business organizations,  
25    they -- some of them have the notion still that if

1 you live in a city of a million people, that you  
2 should be able to get back and forth to work at  
3 7:30 in the morning driving at the speed limit on  
4 the freeway. Clearly if they have that, then we  
5 in the transportation profession haven't done a  
6 very good job of communicating what their  
7 expectations ought to be, what their realistic  
8 options are. You can't do that at the speed limit  
9 and not pay something. I think that's -- that's  
10 sort of the conclusion I come to.

11 I think reliable service  
12 and -- and accountability are things that state  
13 and local areas ought to be held accountable to.  
14 They should expect to -- to have to communicate,  
15 but also I think part of the federal rule is to  
16 allow those areas to create a situation that they  
17 feel like meets their needs, whether it's the --  
18 the public business community, the whole range of  
19 stakeholders -- typically we take our  
20 stakeholders' medium here -- but the -- the whole  
21 range of groups that are involved in  
22 transportation are important.

23 And those areas of -- I mean,  
24 the areas of the country are not the same. They  
25 are not going to solve their problems the same.

1 So I think some of the federal role is just  
2 supporting those areas by in some senses staying  
3 out of their way, in other senses solving huge  
4 interregional or national problems that happen to  
5 wind up on the Port of LA/Long Beach or at the big  
6 intermodal terminals.

7 COMMISSIONER SCHENENDORF:

Well,

8 thank you. I think it is a very, very big task  
9 when we're talking about trust. I do think that  
10 in recent time the federal program, I think, has  
11 lost some of the trust of the people, be it  
12 between earmarks and other things. I think that  
13 it doesn't quite have that trust that maybe it  
14 once had when we were building the interstates  
15 system.

16 So as we look at what that  
17 national system needs to be and how the federal  
18 government can recapture that trust through a real  
19 vision and the showing of the investment that's  
20 going to go to that vision, I think that's going  
21 to be one of the most important things we do is  
22 try to articulate that. So any help you can give  
23 us over time when you've had more chance to think  
24 about it, we'd much appreciate it. Thank you.

25 CHAIRPERSON CINO: I'm going

1 to pause here, and it appears that Art Lomenick  
2 has just joined us from Trammell Crowe. If you  
3 might, sir, maybe summarize your observations with  
4 regard to needs of developers in the building  
5 community, and then we'll resume questioning from  
6 all the commissioners. Thank you.

7 MR. LOMENICK: I do apologize,  
8 but developers are always late.

9 CHAIRPERSON CINO: That means  
10 you get less time.

11 MR. LOMENICK: It's part of  
12 our curse.

13 Well, I think that from the  
14 development perspective, there's so many different  
15 components to this whole topic because the  
16 transportation needs -- it depends on what  
17 category you're putting that in. Developers that  
18 are dealing with the move -- the movement of -- of  
19 products -- like Dallas is obviously a big  
20 distribution city. That's a different -- whole  
21 different dialogue of how we appropriately move  
22 things from one city to one city or within cities.  
23 And the needs of developers in that regard is  
24 really about predictability.

25 As it relates to a lot of work

1 that I am personally in, which is more a mixed-use  
2 transit-oriented development, even though Trammell  
3 Crowe does development all over the world, that --  
4 that's actually a whole different discussion for  
5 developer needs. It's the same overarching need,  
6 which is predictability, but the developers are  
7 not usually leaders, even though sometimes we're  
8 thought of as leaders. We -- no, we can have a  
9 lot of influence on -- on how efficiently things  
10 get done. American developers are some of the  
11 best in the world, so we work within the rules  
12 we're given. As long as everybody has to follow  
13 the same rules, then we all compete and we can all  
14 compete evenly, then that's really what we're  
15 looking for.

16 Right now, there's still a  
17 scenario where creating better human scale  
18 environments, mixed-use environments, transit  
19 modes, those are at a huge disadvantage against  
20 the other development patterns that happen in  
21 regions and in cities and towns.

22 So it's a lot to ask of a  
23 private developer to bite off solving all of the  
24 issues related to not only mixed-use, but  
25 transit-oriented development.



1                   The transit-oriented  
2 development, though, is a linchpin, in -- in my  
3 opinion, personally, separate from being just a  
4 developer and needing to make a living, it -- it's  
5 a development pattern that has to happen. I don't  
6 think we have any choice.

7                   So the things that -- that  
8 I've worked -- that I gravitate to are  
9 municipalities that have on their own put a  
10 business plan together to figure out how they're  
11 going to make it more efficient and to develop  
12 these human scale developments and are thinking in  
13 terms of 100 years, not two or three years.

14                  Developers work and operate in  
15 three- to seven-year windows, and that's the best  
16 we can do, and it's usually more like three to  
17 five. So we have to put everybody in the  
18 appropriate box.

19                  Municipalities, to me, need to  
20 be thinking in decades and centuries. Definitely  
21 in decades. The federal government, I assume,  
22 needs to be thinking in those time frames as well.

23                  Right now, though, you have a  
24 real hodgepodge around the country of  
25 understanding levels and also how municipalities

1 and regions pursue federal money for  
2 transportation.

3 So the rule book to get the  
4 federal money is really counterproductive to  
5 creating these -- these livable environments. It  
6 doesn't give any credit for municipalities and  
7 forward thinking and do you want to do the  
8 off-site infrastructure, create villages, deal  
9 with 100 acres, 200 acres. It doesn't do that.  
10 It just deals with the movement of people.

11 So those are just some initial  
12 impressions, and I'm probably over my time, but  
13 I'm happy to answer any questions.

14 CHAIRPERSON CINO: Thank you  
15 very much.

16 Commissioner Hemig --  
17 Heminger. Sorry.

18 COMMISSIONER HEMINGER: Thank  
19 you, Madam Chair.

20 A question each for Mr. Downey  
21 and Mr. Lomax, and, Mort, I appreciate the fact  
22 that your written testimony includes an offer to  
23 visit with us more than just once, and I hope we  
24 take you up on that.

25 You also have a statement in

1 there: We all recognize that the maintenance of  
2 the system, important as that is, is not an  
3 assigned federal responsibility.

4 The question I wanted to ask  
5 is whether or not, though, the federal government  
6 should be more insistent that state and local  
7 officials, when they discharge that  
8 responsibility, A, adequately maintain key systems  
9 of national interest, however that's defined, and  
10 B, when they do that reconstruction and  
11 maintenance activity, put stuff in the pavement,  
12 in the infrastructure that we need to instrument  
13 the system for technology and safety and those  
14 kinds of -- of -- of systems.

15 MR. DOWNEY: I think the  
16 latter point is a very interesting one. Clearly,  
17 as we look to the future to make the system work  
18 well, it's got to be more intelligent. And  
19 incorporating those kinds of investments could be  
20 a significant step, won't be happening overnight  
21 to instrument our entire system. But if we're  
22 taking step by step as other things are being  
23 done, those opportunities, I think in some ways  
24 it's still going to be a matter of federal  
25 permission rather than federal mandate.

1 I think on these -- the  
2 experience with so-called management systems in  
3 the early 1990s, something that was enacted before  
4 I came to DOT, and suffered through for several  
5 years until it was repealed, I think was  
6 destructive.

7 Those who own the systems,  
8 those who operate them day-to-day, those who are  
9 closest to the users, need to take a great deal of  
10 the responsibility. I think the federal  
11 government can take leadership, can provide  
12 funding, can identify what needs to be done, but I  
13 don't think they can tell the State of New York or  
14 the State of Texas which road to maintain to what  
15 standard.

16 I think showing what can be  
17 done is important. The discussion about DBOM and  
18 warranties show that, for example, if you invest a  
19 lot more up-front in a roadway, which today you  
20 might be precluded from doing because of Federal  
21 Rules, you will need to maintain it less, and your  
22 users will be able to use it more because it's not  
23 going to be taken out of service.

24 We need to have a partnership  
25 on that. We need to set what the goals are, but I

1 don't think effectively in a nation of 50 states  
2 and some hundreds of municipalities and transit  
3 agencies the federal government can write the  
4 maintenance manual for -- for everybody who's out  
5 there.

6 COMMISSIONER HEMINGER: Fair  
7 enough.

8 Tim, the question I wanted to  
9 ask you, it continues something I asked Neil  
10 Schuster yesterday, who I -- I see is still here.  
11 He was mentioning ITS America's goal of zero  
12 delays, and I was questioning whether that was  
13 achievable. And the analogy I wanted to explore  
14 with you: In the air quality field for ozone, for  
15 example, there are background levels of ozone that  
16 are naturally occurring, so your regulatory  
17 program can really only drive ozone levels down to  
18 those amounts, but not below.

19 Is there some background level  
20 of congestion that -- that's going to occur on an  
21 urban network with a vital economy so that we need  
22 to know, or can we know what that is if there is  
23 such a level, and then try to orient our  
24 strategies toward achieving that level instead of  
25 achieving a level of no delays at all?

1                   It's really getting at this  
2 reliability issue you were talking about earlier.

3                   MR. LOMAX: Yes, sir, there's  
4 a level and, yes, we should try to figure it out.

5                   Thank you.

6                   Oh, you wanted more? I was  
7 told to be --

8                   COMMISSIONER HEMINGER: No,  
9 that's fine.

10                  MR. LOMAX: I was told to be  
11 short.

12                  I -- I think -- I think it  
13 really -- when we look at when people start to get  
14 stressed or when they start to really be concerned  
15 about congestion, it almost has a number of  
16 different aspects temporally. People care about  
17 congestion at -- at a certain level. A whole lot  
18 more in the off-peak than they do in the peak.  
19 They're willing to accept some level of congestion  
20 in a -- in the peak hours than they are in the --  
21 in the off-peak. They're more willing to accept  
22 traffic congestion on weekdays than on weekends.  
23 They're more willing to accept traffic congestion  
24 around big, special events or job centers than  
25 they are out in the rural areas or -- or down in

1 their -- in their neighborhood.

2                   Clearly, I think -- again, if  
3 you sort of build on this expectation, I think  
4 that some -- some places -- Austin, I know, has --  
5 has a -- a standard for what level of congestion  
6 they're going to try to program against based on  
7 where you are in the -- in the region.

8                   Many -- many states in -- and  
9 regions have level service standards that look  
10 that same way. We're going -- Level of Service F  
11 is really bad congestion is okay for an hour, but  
12 we don't want it to last three hours.

13                   I think when you fold in the  
14 data that we have had on reliability, it's very  
15 clear that you can also have the same kind of  
16 targets for reliability as well. I think the  
17 advantage of expressing these in quantifiable  
18 terms is you can grade against them, you can  
19 program against them, you can show the benefits of  
20 doing incident management, signal retiming, minor  
21 turn lane widenings, relatively small projects  
22 that really improve congestion a little bit,  
23 improve liability a lot, and you can show how  
24 those work against or help you meet those targets.

25                   COMMISSIONER HEMINGER: Are

1 all the statistics that are widely quoted from --  
2 from your study, are those compared --

3 MR. LOMAX: Yes.

4 COMMISSIONER HEMINGER:

5 -- against a -- a baseline of free flow?

6 MR. LOMAX: Yes, they are.

7 COMMISSIONER HEMINGER: So  
8 you're not factoring in some kind of background  
9 congestion level?

10 MR. LOMAX: No. We -- we've  
11 been asked about that. I think the -- the problem  
12 is: What is that background? What is -- do  
13 you -- do you say 45 miles an hour is okay? Well,  
14 people in New York City or LA or San Francisco I  
15 dare say would love to have 45 miles an hour on  
16 the freeways.

17 I'm not blaming you, you  
18 understand. But, you know, I live in a town of  
19 100,000 people, and if you have to wait more than  
20 a couple of traffic signals, we've got congestion  
21 and we've got city council people being called.  
22 So I -- that's probably an extreme example, but I  
23 think the -- the notion of what's acceptable for  
24 the local area is one that is reality. I don't  
25 that we could --



1                   COMMISSIONER HEMINGER:    Is  
2    your data capable, at least, of that manipulation?  
3    If someone wanted to say Level of Service B, for  
4    example, is good enough, could you --

5                   MR. LOMAX:    Yeah.

6                   COMMISSIONER HEMINGER:  
7    -- calibrate what you tell --

8                   MR. LOMAX:    Actually our next  
9    report is going to have a couple of different  
10   levels of, you know, if your standard was X, how  
11   much delay is there?

12                   I think there is a value to --  
13   to assigning a cost to everything below free flow.  
14   I think that talks about the cost to society.  
15   That doesn't talk about the solutions.   That  
16   doesn't talk about what's acceptable.   It's not  
17   acceptable to put a huge freeway through a  
18   neighborhood if that neighborhood in the community  
19   doesn't want it.

20                   So you -- your standards, I  
21   think, the expectations are going to be difficult  
22   depending on, like I said, where you are in the  
23   area and where you are in time.

24                   COMMISSIONER HEMINGER:   And  
25   when is your next report published?

1 MR. LOMAX: May.

2 COMMISSIONER HEMINGER: May.

3 Thank you.

4 CHAIRPERSON CINO:

5 Commissioner McArdle.

6 COMMISSIONER McARDLE: Yeah,  
7 Mort, in the water supply side of the business,  
8 EPA sets in the pipe standards, okay, for both  
9 water and wastewater. Communities set other  
10 standards. The fire department will set pressure  
11 standards that they expect when they have the  
12 mains. The health department will set certain  
13 residual standards that they want in the water.

14 But at the end of the day,  
15 performance standards that are set, you know,  
16 individually separated levels of government  
17 produce enforceable decisions, and communities are  
18 bound not to issue permits for building to allow  
19 developers to function if they cannot satisfy  
20 those standards, and that induces a lot of choice.  
21 Either you're going to build a project or you are,  
22 in fact, not going to have continuing building in  
23 the community, and that changes the economics  
24 thereof.

25 Should we approach congestion

1 in certain areas in the same fashion? Because it  
2 occurs to me, in the area you and I both love,  
3 that a lot of very major projects always get  
4 pushed to the back of the queue because they are  
5 the very major projects, and they result  
6 particularly in the off-peak congestion.

7 One that I'm particularly  
8 intrigued by is the inordinate congestion on the  
9 cross Bronx to the Degan interchanges. That can  
10 take an hour for trucks, and clearly that's a huge  
11 cost, but there's no penalty if New York State DOT  
12 ignores that problem in the same way there's  
13 really no penalty on the transit authority if they  
14 don't solve a particular junction problem, the  
15 solution to which is expensive, but would produce  
16 the substantial additional trains in a given  
17 corridor where you've got a lot of level of that  
18 service.

19 So is that something that  
20 would, again, we need to do at the federal level  
21 in the long-term to get localities to really, you  
22 know, adjust their problems, whether it's to  
23 manage traffic generation or to construct  
24 facilities to accommodate those standards?

25 Because clearly we do that on

1 the water supply side. If you don't have the  
2 water supply, you don't have the wastewater  
3 capacity. There is so -- you know, you don't put  
4 in the buildings. And that's happened in many  
5 communities all over the country.

6 Is that something we need to  
7 kind of balance this approach to?

8 MR. DOWNEY: In some ways,  
9 over the last decade or so, the planning process,  
10 as influenced by federal air quality standards and  
11 federal safety standards, has begun to do that.  
12 When you're driven to a transportation plan that  
13 meets air quality, you have to take that into  
14 account.

15 Another trend and one that has  
16 been very useful has been getting direct  
17 investments from developers to help support the  
18 transportation system. You see that a lot in  
19 Florida with their development fees. You see it  
20 in California. We've worked on some roadway  
21 projects where, in fact, one of the major drivers  
22 of the financing is the payments the developers  
23 are putting in in order to have the transportation  
24 capacity.

25 If it can be as precisely

1 measured as in the water world, it might be worth  
2 exploring. I think there's a degree of human  
3 behavior and human response that may make it a  
4 little more difficult, but it's certainly worth --  
5 worth exploring. It's also worth exploring what  
6 people are willing to pay in order to see reduced  
7 congestion.

8 I've been doing a lot of work  
9 in London over the last couple of years, and much  
10 to my surprise, the mayor was absolutely able to  
11 pull off the congestion charge in downtown London.  
12 He's now expanding it and raising the fee. It's  
13 now 8 pounds. But the reason the public has  
14 accepted that is it had very marked results on the  
15 degree of congestion.

16 The congestion in Central  
17 London is down 30 percent, busses are flowing more  
18 frequently, revenue is coming in, but more  
19 importantly, people are able to use their cars, if  
20 they want to pay for it, with a much greater  
21 degree of predictability and reliability.

22 So if we create a whole set of  
23 incentives to deal with behavior, I think there is  
24 some opportunity.

25 COMMISSIONER McARDLE: Is

1 there a certain irony in having a socialist mayor  
2 support the Beamer generation in London?

3 MR. DOWNEY: Well, Red Ken has  
4 some of his social. He is now proposing a  
5 100-pound charge on SUVs.

6 CHAIRPERSON CINO: We've also  
7 seen some success in Stockholm, and I believe  
8 just -- it was just -- I believe it was on Monday  
9 they actually voted to, after having elapsed,  
10 voted to reinstate the --

11 MR. DOWNEY: That's -- that's  
12 really good news.

13 CHAIRPERSON CINO:  
14 Commissioner.

15 COMMISSIONER BUSALACCHI:  
16 'Morning. I want to get back to maintenance, and  
17 maintenance as a need, because I think that was  
18 your -- your presentation.

19 The -- in our state, for  
20 example, we budget \$180 million a year for  
21 maintenance. We think it's critical. We have a  
22 relationship with 72 counties. We've negotiated a  
23 maintenance agreement with them based on their  
24 lane miles.

25 But I guess the -- the -- what

1 I want to hear or what I need to hear is -- is the  
2 federal role in maintenance. You touched on it a  
3 little bit, but I think we need to -- we need to  
4 just go a little bit -- a little bit further.

5                   You know, NHTSA talks to us  
6 about safety all the time, and you know, this --  
7 this role that the states have to have with the  
8 Feds on making the road safer, and of course,  
9 preservation of the system feeds directly into  
10 that. There's a -- there's a whole gamut of other  
11 issues.

12                   You know, I take maintenance  
13 very, very seriously because I think it's just --  
14 it's where we're headed and where we have to head  
15 because the -- as we know, we start talking about  
16 our needs, the gap is getting wider in needs  
17 versus revenues, and maintenance is right up  
18 there.

19                   So I think it's -- it's got to  
20 be part of our overall solution. So I think I'd  
21 just like you just to get into it a little bit  
22 more, if you don't mind.

23                   MR. DOWNEY: No. Thank you.

24                   You're right. It is kind of  
25 the fundamental investment that has to be made,

1 and the arrangements to do that, to work with  
2 local government, transit agencies and the like,  
3 it's a critical part of policy setting and a  
4 critical element in terms of system performing.

5 I think the other factor to  
6 look at is: This is clearly one of those areas  
7 where you pay me now or pay me later. If the  
8 system is not maintained well, the costs of  
9 rebuilding it become much greater and occur much  
10 quicker. In a world of constrained resources, we  
11 really need to get the useful life out of our  
12 investments, and that means maintaining them on a  
13 regular basis.

14 A question was raised earlier  
15 about bond covenants. One of the bond covenants  
16 that I happily accepted when we were financing the  
17 NPA was a covenant that said whatever was spent  
18 must first go to maintaining the system. Should  
19 some future generation of managers of that system  
20 begin to let it lapse into the condition it was in  
21 in the 1970s, the bondholders can rise -- rise up  
22 in rage and say: You must raise the fares in  
23 order to maintain the system.

24 I think it is kind of our  
25 fundamental stewardship responsibility to say



1 we're giving the years of service the people  
2 deserve for the capital investment that they're  
3 making. And -- and you're correct, it does relate  
4 to safety.

5 I think Commissioner  
6 Heminger's observation about zero tolerance for  
7 delay is probably saying we -- we invested too  
8 much. But I think we should have a zero tolerance  
9 for highway deaths and making the roadway safer,  
10 and avoiding some of the problems created by  
11 poorly maintained roadways are a key part of that.

12 CHAIRPERSON CINO: I'm very  
13 suspicious of this. Do I take it that there are  
14 no -- Commissioner McArdle.

15 COMMISSIONER McARDLE: If you  
16 follow up on that suggestion that we actually set,  
17 you know, a zero tolerance for highway deaths, who  
18 actually has to manage to that standard? And it's  
19 kind of the question: Does the accident produce  
20 the congestion or the other way around? What's  
21 the driver? Because certainly, if you have a road  
22 accident induced by alcohol, and allegedly  
23 50 percent of all the road accidents involve  
24 substance abuse of one kind or another, truck  
25 drivers staying up late on NoDoz or what have you,

1 you create that congestion. We all see it on the  
2 roads. Who's responsible for that? How do you  
3 make that responsibility for managing the road  
4 safety program a part of a road effort since it's  
5 usually a law enforcement issue? And as you know,  
6 in many jurisdictions they absolutely have other  
7 priorities in their own minds when they allow  
8 enforcing.

9 MR. DOWNEY: Well, over the  
10 years, the federal government has accepted that as  
11 a responsibility. That's why we have a National  
12 Highway Traffic Safety Administration. And it is  
13 a complex set of tools that have to be applied.  
14 Many people are involved. It does involve law  
15 enforcement. It involves emergency response. It  
16 involves behavioral changes. It involves the  
17 design of vehicles, the rulemaking that the  
18 department has now entered into on the electronic  
19 safety systems has a tremendous potential for --  
20 for improving safety of the system, but so is the  
21 issue of how the system operates -- is operated or  
22 maintained.

23 One bad event will lead to  
24 another. We've all seen that. We've all seen the  
25 one road, one car, both sides of the road, what

1 seems to attract others to go through that. So  
2 how we operate the system is part of that  
3 responsibility, but it is a complex set of  
4 relationships, set of responsibilities.

5 I think the important issue is  
6 setting the goal well above what we're achieving  
7 today in order to maintain that progress. Sweden  
8 has had a zero death goal for many years. They're  
9 getting closer to it. London set a goal of  
10 reducing fatalities and major injuries by  
11 40 percent. They achieved that in the first four  
12 years and have now have reset it to 50 percent.  
13 We can make progress. But each part of the system  
14 has to be part of that. And the federal  
15 government has to be supportive of that in  
16 allocating its resources.

17 CHAIRPERSON CINO:  
18 Commissioner Heminger.

19 COMMISSIONER HEMINGER: Madam  
20 Chair, I -- I strongly support the notion of  
21 setting such a national goal, and I would like to  
22 request the next time we're in Washington -- when  
23 we started this quest, we had grievances from the  
24 modal administrators but we didn't hear from the  
25 NHTSA administrator, and I think we should.

1 I know the report they just  
2 released indicated highway deaths are up this  
3 year, both the absolute numbers as well as  
4 tracking DMT. In my state of California, highway  
5 fatalities have been up for most of the last 10  
6 years. We don't seem to be making any progress on  
7 this 40,000 number that's in everybody's speeches  
8 as being unacceptable, and then it's in the speech  
9 next year as being unacceptable again.

10 And as I understand the field,  
11 which is just enough to be dangerous, there are a  
12 variety of strategies that we need to look at, and  
13 many of them are not engineering strategies at  
14 all.

15 But I -- I hope we can have  
16 such a briefing and begin a discussion among the  
17 commissioners on that -- on that subject.

18 CHAIRPERSON CINO:  
19 Commissioner Odland -- or I'm sorry. Commissioner  
20 Geddes.

21 COMMISSIONER GEDDES: We look  
22 alike.

23 CHAIRPERSON CINO: Yes, you  
24 do.

25 COMMISSIONER GEDDES: Thank

1 you, Madam Chair. I -- I just wanted to thank you  
2 for returning to the issue of bond covenant that  
3 they brought up before, but -- but -- but you, I  
4 must say, added a new dimension to it that I  
5 hadn't considered, and I want to make sure I  
6 understand the logical chain correctly that you  
7 brought up.

8                               So your point was that having  
9 these private -- private bondholders -- they're  
10 holding public bonds, but they're  
11 private individuals, is likely to increase the  
12 demand for maintenance on these roads. In other  
13 words, if maintenance is deteriorating, that --  
14 that is a group that has a lot of clout, that is  
15 likely to react to that and demand a higher --  
16 higher maintenance on those roads. And that that  
17 higher maintenance is likely -- we all share this  
18 goal, I'm sure, of reducing -- reducing highway  
19 deaths, and zero would be wonderful, but -- but on  
20 the margin, these people are likely to demand  
21 improved maintenance, which will result in -- in  
22 lower highway fatalities.

23                               Is that the logical chain? Do  
24 I have that correct?

25                               MR. DOWNEY: That would be one

1 piece of it. I think the point I was making is  
2 the bondholder, in the case of a toll facility or  
3 a transit facility, has an interest in his  
4 performance because that's going to produce the  
5 revenues that are needed to repay the cost of the  
6 facility, and operating it well and maintaining it  
7 well are critical in terms of that bondholder  
8 looking for a good rate of return.

9 Bondholders, in my experience,  
10 can be very flexible on how the revenues are used.  
11 A question was raised earlier about use of toll  
12 revenues for transit. I've done a lot of that.

13 At one time, the Triborough  
14 Bridge Tunnel Authority tolls could not be  
15 transferred over a quarter percent additional, and  
16 the bondholders said: That's okay. And it has  
17 now become a very important part of the financing  
18 of transit. And frankly, useful to the  
19 bondholders as well, that a strong city, a city  
20 that can manage its transportation resources  
21 assures them of a better return. I'm never afraid  
22 of the idea of debt and bond issuance within, you  
23 know, appropriate limits to the extent that it  
24 might affect policy. Policy just needs to be  
25 thought of at the -- at the time that these

1 contracts are entered into.

2 COMMISSIONER GEDDES: Can I  
3 follow up the question?

4 I'm particularly interested in  
5 pursuing the latter logical link, which -- which  
6 intuitively appeals to me, which is that improved  
7 maintenance on roads is likely to reduce highway  
8 fatalities, and I can see how that is.

9 Do we -- what do we know about  
10 sort of the magnitude of that effect? So if you  
11 spend X dollars additional on maintenance for  
12 whatever your metric of maintenance is, highway  
13 fatalities are likely to be reduced by Y percent?  
14 Do -- do we have -- do you think we have data of  
15 that sort or --

16 MR. DOWNEY: I think it would  
17 be worth exploring to see if we do. I could not  
18 give you an X and a Y percent off the top of my  
19 head, but I know in the allocation of resources  
20 towards the improvement of highway safety, highway  
21 investment is an important part of that.

22 In fact, in the  
23 reauthorization bill that brought you to life, the  
24 Congress reallocated resources to assure that  
25 safety investments were a key part of the -- of --

1 of the mix, and that was in response to the  
2 administration's feeling that that was an area we  
3 had to see greater investment in, that a  
4 well-maintained road, a well-designed road, a  
5 well-operated road is going to be a safer road.

6 CHAIRPERSON CINO:

7 Commissioner Schenendorf.

8 COMMISSIONER SCHENENDORF:

Since

9 we have two experts here, maybe I'll ask you the  
10 question a little bit differently.

11 Everything we've heard from  
12 all of the witnesses is the enormous needs that  
13 are out there and how we have really got to find a  
14 way to increase financing to accomplish that. So  
15 I was asking if you would comment on two related  
16 points.

17 First, the use, as we go into  
18 these alternative financing techniques, using toll  
19 revenues for nontransportation purposes. We've  
20 seen in the Chicago Skyway situation, your views  
21 on that, given the transportation needs that we  
22 have. And also on -- in these private concessions  
23 where the private operator is given the right to  
24 raise tolls up to a certain level each year, and  
25 it's, I think, anticipated that they will raise



1 them.

2 But as you look at them 20,  
3 30, 40 years, that could generate a revenue stream  
4 that would provide very significant profits to the  
5 private operator, but that revenue is lost to the  
6 public authorities for transportation purposes.

7 And what your views are on  
8 both of those items.

9 MR. DOWNEY: I think on the  
10 latter, while one could run numbers of projections  
11 that would say the toll will be \$72 in 50 years,  
12 there's also the law of supply and demand, that in  
13 fact, if an operator of such a roadway were to  
14 price it in that fashion, they probably would find  
15 a negative return, that people would actually say:  
16 I'm not going to pay that much. I will go  
17 elsewhere. So I have some feeling that there will  
18 be appropriate decision-making following the loss  
19 of economics.

20 I also think that some of that  
21 can be dealt with up-front in terms of contracts  
22 that are arrived at.

23 In terms of the use of  
24 proceeds, I think the Skyway deal may have been  
25 somewhat unique. The city did not see that

1 particular activity as a core activity for the  
2 city, but it is a city that is very responsive in  
3 terms of transportation needs. What they've done  
4 in recent years and are continuing to do in the  
5 Chicago Transit Authority really reflects their  
6 commitment. So if the mayor saw a way to use a  
7 nonpoor asset in that particular way, the voters  
8 of Chicago will take that into account.

9 I think most of the  
10 transactions that we're now seeing do reflect  
11 overall transportation needs and a -- basically a  
12 use of proceeds to try to achieve that, as we've  
13 seen in Indiana, certainly what we've seen --  
14 we've seen in Texas, what we've seen in New York.  
15 There's no shortage of transportation needs, and  
16 to get approval for these financing projects, I  
17 think transportation needs have to be identified  
18 in that.

19 MR. LOMAX: First on the -- on  
20 the tolls for nontransportation purposes. I think  
21 really it comes down to almost a communication  
22 issue. On some level -- let me -- let me start  
23 off by saying I think that there's a huge need for  
24 transportation, and for dollars to sort of leave  
25 the sector is -- is probably not a good thing and

1 not an economically justifiable thing, but on some  
2 level, I think maybe the transportation system,  
3 the professionals have gotten lazy about telling  
4 their message, about telling the relationship  
5 between the transportation investment and broader  
6 society.

7                   We have a trust fund. We  
8 don't have to compete with libraries, police and  
9 fire departments for our money at the -- at the  
10 state level. We perhaps have gotten lazy in  
11 telling our story, our connection to what people  
12 want and where they want to be in their -- in  
13 their lives and their business arrangements.

14                   So to the extent that money is  
15 leaving the sector, that's probably in part a  
16 reflection of the fact that people just don't  
17 understand what the effects of that situation are.  
18 So let's compete better in the marketplace of  
19 ideas.

20                   I think on the -- on the using  
21 private tolls, I think it's sort of a related  
22 issue. On -- on some level it comes down to the  
23 local -- to the extent that those toll roads  
24 are -- are sold off because the private operator  
25 can raise tolls where the public sector can't,

1 that perhaps shows a lack of backbone on the part  
2 of the elected officials or the folks running the  
3 program.

4 Why is that? Well, probably  
5 because the public doesn't support that. They  
6 don't think that they have the confidence of the  
7 public or the ability to raise those tolls. They  
8 figure, well, we'll make this better deal that  
9 gets us some money now that we can count on.

10 Again, I think it's part of a  
11 communication problem of telling our story,  
12 justifying the investment, and I think that's  
13 certainly something you-all can help us with.

14 CHAIRPERSON CINO:  
15 Commissioner Geddes.

16 COMMISSIONER GEDDES: Thanks.

17 I'd like to -- to follow up on  
18 your point, Mr. Downey, that you just made  
19 about -- about pricing on -- on toll roads, and  
20 I -- I think that's a -- an excellent point, that  
21 they wouldn't want to price out to the moon  
22 because it's just not serving the customer that  
23 they need on their roads in order to get those  
24 revenues.

25 And I think in the -- the

1 economic term would be it's not a  
2 profit-maximizing approach to do that. Right.  
3 And I wanted to take that logic a little -- a  
4 little bit farther and integrate it on our  
5 discussion of road maintenance and highway  
6 fatalities.

7 Do you think it makes sense  
8 then to use that same logic to apply that to road  
9 maintenance? In other words, that the -- the  
10 private owner, who has the profit incentive, would  
11 not want their roadway to be highly deteriorated  
12 because people would become irritated with the  
13 potholes, et cetera, wouldn't use it.

14 Conversely, they would want to  
15 maintain that road at a fairly high level, and  
16 we might even expect -- we don't know exactly what  
17 X and Y are, as we said before, but there's some  
18 correlation there, that we might expect fatalities  
19 to be -- to fall off as a result of that improved  
20 road maintenance which stems from that -- that  
21 economic incentive.

22 Does that make sense?

23 MR. DOWNEY: Yeah, it makes  
24 sense to me, and again, from my experience, one  
25 good measure is in New York City, you have toll

1 bridges and free bridges.

2 The toll bridges are in  
3 relatively good condition. The free bridges are  
4 usually hanging on by their -- by their  
5 fingertips. The toll bridge is being maintained  
6 because that is the way to maintain not only its  
7 service, but to assure its economic life and to  
8 assure that it -- that it continues to function.

9 I think that there are --  
10 there are -- there's -- yeah, concern. We don't  
11 want tolls to go to the sky. You don't want to  
12 restrict use of a transportation facility that  
13 could be contributing to the economy but to ask  
14 people to pay for what they're using does not seem  
15 immediately an unreasonable demand.

16 COMMISSIONER GEDDES: Thank  
17 you.

18 CHAIRPERSON CINO:  
19 Commissioner McArdle.

20 COMMISSIONER McARDLE: How --  
21 how would you see a relationship between your  
22 tolling strategy and the developing community?  
23 Because at the end of the day, every facility that  
24 gets installed, you know, that expands capacity or  
25 makes, you know, speed available that wasn't

1 available before adds value to approximate real  
2 estate, and in some respects for communities, the  
3 efforts you make become kind of a free good,  
4 particularly if it's something that generates  
5 commercial development with low impact on the city  
6 services, the ideal circumstance, you know, the  
7 City of Vernon in Los Angeles, with, you know, 87  
8 residents that all work for the City of Vernon  
9 kind of thing.

10 How do you capture that value,  
11 or should you even have that in the debate we're  
12 having? Because so much, you know, value that the  
13 developer can bring is a function of what the  
14 investment in transportation, but other utilities  
15 as well, brings to bear in this regard.

16 MR. DOWNEY: I'm interested in  
17 my colleagues' response to that, but let me just  
18 kick off by saying this is not a -- an idea that  
19 has not been tried and it has been tried with  
20 success. Toll roads that we've been involved in  
21 in California have derived a significant benefit,  
22 significant portion of their financing from those  
23 whose value has been valued, their land holdings  
24 has been raised substantially because there's now  
25 accessibility and an opportunity to develop, and

1 they are willing to pay those fees.

2 In other cases, our New York  
3 experience, as we were beginning to rebuild the  
4 system, a partnership with the city that said  
5 developers can add substantial density to their  
6 investment in office buildings if they build the  
7 sub -- subway station facilities to support that  
8 was enthusiastically accepted.

9 Developers have -- have a goal  
10 of -- of profitable development. It doesn't  
11 happen if people can't get there.

12 But I'll be interested in  
13 your --

14 MR. LOMENICK: Well, I think  
15 that's really the -- the heart of where  
16 development patterns and -- and the -- and the  
17 economics of it are in my world. You have this  
18 opportunity where you got billions of dollars  
19 being potentially spent on new highways or the  
20 retrofit of highways along with the transit, light  
21 rail, commuter rail.

22 Right now, that money is just  
23 coming in it seems without requiring that  
24 municipality to have a very defined plan of how  
25 that will be developed along its edges. It's



1 really just up to them in my -- from what I see.

2                   Whereas, to me, it seems a  
3 fair request of the federal dollars and taxpayers  
4 to ask: Well, if this is going there, what will  
5 be the economic benefit and what tools are you  
6 putting in place and what will this look like in  
7 20 years and 50 years and 100 years? Because  
8 we've all seen the mistakes. We've all grown up  
9 with the morass that's out there on Collector  
10 Street and the intersections on freeways are  
11 horrible. It's a horrible, horrible blight.  
12 Well, it shouldn't be allowed anymore. You don't  
13 get the toll road or the federal money.

14                   So to me, these are very  
15 important overlapping issues from a development  
16 perspective.

17                   COMMISSIONER BUSALACCHI:  
18 Well -- well, when you -- when you get into  
19 situations like that, isn't it the developer that  
20 develops the congested intersection or the  
21 developer that -- that develops the morass of  
22 population that goes into a certain section of the  
23 roadway?

24                   MR. LOMENICK: That -- that  
25 goes back to my very opening comment. You --

1 developers follow the rules they're given by  
2 the -- the civic sector. The -- when zoning was  
3 created, developers learned it, understood it, and  
4 responded to that rule book. That's my point.  
5 Don't -- you can't look to the private sector.  
6 Our time frames are too short to create the  
7 sustainable environment that everybody is  
8 desperate for now.

9   It's up to -- to me, it's the  
10 food chain. You have the federal government which  
11 can -- which can bring more power to bear on the  
12 state, and then the state on the municipalities to  
13 say: If we're -- if these dollars are going to  
14 come in here, show us how you're going to guide  
15 the growth pattern. Tell us what -- where I can  
16 have a Reston Town Center and not some blighted  
17 intersection somewhere, where there's a thoughtful  
18 plan of growth, densities are thought through.

19   And then that public entity  
20 has said: Okay. We want affordable housing. I  
21 hear that everywhere I go.

22   Well, that can't just be done  
23 in a vacuum. It's a net-sum game. There's  
24 only -- revenues come in, expenses go out, and  
25 there's costs.



1 what, we're good, but we're not -- we're not that  
2 good.

3 COMMISSIONER BUSALACCHI:

4 Well, let -- let me just -- let me just state  
5 something, and I -- and I apologize because --  
6 because I don't really want to debate the issue,  
7 but in -- in defense of federal government and the  
8 DOT, I mean, they've put the rule down. And let's  
9 use an interstate as an example.

10 The road is there, and it's  
11 not -- it's not them that develops that  
12 intersection or that corridor that becomes totally  
13 congested and useless. It's -- it's the local  
14 communities that allowed the development to occur,  
15 and then what happens, quite frankly, is that  
16 intersection is now useless.

17 And so -- well, wait a minute.  
18 Let me finish here.

19 So then what happens is the  
20 state has to go and clean it up at millions, in  
21 some cases, 20, 30 million dollars, and we have to  
22 go back to our federal partners at FHWA and ask  
23 for federal dollars.

24 So it's not really the federal  
25 government's fault totally with this. I mean, I

1 know it's -- it's an issue, but -- but these  
2 things get involved. And if -- if the state or  
3 the local municipality doesn't provide what the  
4 developer wants, then holy hell breaks loose.

5 MR. LOMENICK: Well, I would  
6 put forth that the federal government shouldn't  
7 fund any money into a road or a trans -- or a  
8 train line that -- that has -- unless it's been  
9 given a business plan from that community on how  
10 that development -- how their -- how their -- how  
11 their funding mechanisms will work for their own  
12 infrastructure, how their zoning and guidelines  
13 are going to work, how they're going to create the  
14 appropriate build environment that will be  
15 sustainable.

16 That's the way my business  
17 works. If I can't explain a very sophisticated  
18 business strategy, I will not get funding  
19 partners. So to me, the federal government is a  
20 lender. It's a partner. It is not subsidy. It's  
21 partnership.

22 And so that's my point, is it  
23 cannot be laissez-faire in my opinion. You can't  
24 think: Well, we'll put the road down and you're  
25 on your own.

1 I don't think history has  
2 proven that to work, because I'm out there every  
3 day fixing how that worked over the last 40 years.  
4 I have an entire business wrapped around that,  
5 fixing that.

6 CHAIRPERSON CINO:

7 Commissioner.

8 COMMISSIONER GEDDES: Thanks.

9 I'm -- Mr. Lomenick, I'm a  
10 little bit confused now on your -- sort of the  
11 main thrust of your message.

12 I understood earlier that you  
13 were suggesting that the main test for -- from  
14 your perspective, the positive main task of a  
15 commission like this would be to suggest that the  
16 proper institutional arrangements be established,  
17 and that could include issues of ownership, issues  
18 of pricing of the road, perhaps the setting of  
19 standards.

20 And then given that framework  
21 that was established by -- in policy, by legal  
22 authorities, the developers in the private sector  
23 would be able to do their thing given this correct  
24 institutional framework, proper institutional  
25 framework.







1 what they're doing because they have to pay the  
2 bills.

3 If you really want to see a  
4 shift in developers' interest and see a lot of  
5 things get created, it's got to get organized  
6 better. And I think the federal government is the  
7 big hammer for that, to force that. But  
8 that's just a personal --

9 COMMISSIONER BUSALACCHI:  
10 Could I ask just to comment on that?

11 In some cases, the  
12 relationship is a partnership. In others, I think  
13 it's an investment. And I will draw the example  
14 of the federal transit program that makes  
15 investments in cities for the development of new  
16 transit lines. And clearly in that case, the  
17 criteria that have been applied, I think  
18 successfully, are not just what it will do for  
19 transportation, but what will it do for urban  
20 development, and are the arrangements in place  
21 that will allow that to happen?

22 I recall a commitment we  
23 prayed over a lot that went forward in Portland to  
24 build extensions to the light rail out in places  
25 that at that point were cornfields. And it was on

1 the basis that Portland had a development plan and  
2 was willing to enforce it and was willing to put  
3 in place the kind of density and kinds of  
4 development that would make for a good outcome and  
5 a good investment. So I think there are  
6 opportunities there.

7 It's a little harder on the  
8 highway side, and I can't point to any great  
9 examples that have worked there except the cases  
10 where it's been a toll road that developers are  
11 contributing to or development fees that the state  
12 is able to use, but I think the same degree of  
13 thinking should apply. What are we getting in the  
14 way of overall outcomes for the investment, and  
15 what is the role of government in encouraging, not  
16 directing, but encouraging that kind of investment  
17 to take place?

18 CHAIRPERSON CINO: Well, thank  
19 you all very, very much. I appreciate your time  
20 and your comments with regards to the challenge  
21 that we have ahead, and we look forward to, I  
22 think, talking to all of you in the future.  
23 Appreciate it.

24 MR. DOWNEY: Thank you.

25 (A recess was taken from

1 11:39 to 1:39.)

2 CHAIRPERSON CINO: Okay. I  
3 wonder if we might have people take their seats  
4 for the last panel for our hearing -- our field  
5 hearing.

6 Thank you everybody. We are  
7 now going to be beginning our final hearing, field  
8 hearing panel, which has to do with financing the  
9 surface transportation system, and we're going to  
10 start off with Karen Hedlund, who is a partner --  
11 oh, gosh, I'm going to screw this name up, so I'm  
12 just -- just let you do -- introduce yourself with  
13 regards to that.

14 MS. HEDLUND: Good afternoon.  
15 Madam Chair and Members of the Commission. My  
16 name is Karen Hedlund, and I'm a partner of the  
17 law firm of Nossaman Guthner Knox & Elliott.

18 It's my pleasure today to talk  
19 to you about how state and local transportation  
20 agencies are using innovative financing to advance  
21 their surface transportation programs and what  
22 more the federal government should do to advance  
23 these initiatives.

24 My firm has had the privilege  
25 of advising over a dozen states on their

1 public/private partnership procurements, including  
2 the great State of Texas. And this morning, I'm  
3 going to talk about some of the lessons they've  
4 learned from their endeavors and suggest further  
5 steps that the federal government can take to  
6 unleash the productive power of these state  
7 programs.

8 We frequently hear it said  
9 that PPPs are but one tool in the toolbox, but the  
10 question to be asked today is whether PPPs and the  
11 use of user fee financing will become the  
12 predominant way we fund surface transportation in  
13 the future.

14 Given the apparent reluctance  
15 at both the federal and state levels to increase  
16 gas taxes, user fee-based financings, both public  
17 and private will clearly play an even more  
18 critical role.

19 TxDOT plans to use PPPs as  
20 their primary method for delivering new highway  
21 projects throughout the state, and they have no  
22 less than 10 major projects currently under  
23 contract or in the procurement stage. And I know  
24 you heard from Commissioner Williamson earlier in  
25 this hearing.

1 Over 21 states, in addition to  
2 Texas, have adopted innovative financing and  
3 procurement laws, and the list continues to grow.  
4 Just in the last year, North Carolina, Indiana,  
5 and California adopted laws authorizing user fee  
6 financings for 18 major projects.

7 Legislation has been proposed  
8 in New York, Ohio, New Jersey, and Missouri.

9 But first, let me turn an  
10 examination of the current federal role in PPP  
11 procurements. Now, public/private partnerships  
12 are primarily a state undertaking, and the  
13 procurements are governed in the first instance by  
14 state laws and regulations.

15 But beginning with ICE T and  
16 culminating with SAFETEA-LU, federal law now  
17 incorporates a number of provisions that provide  
18 strong, although limited, federal support for  
19 these programs.

20 SAFETEA-LU authorizes the use  
21 of tolling for three new interstate facilities,  
22 and Indiana and Texas have already expressed an  
23 interest in this program for I-69.

24 The 15 project, Express Lanes  
25 pilot program, will facilitate capacity, expansion

1 for the congested urban corridors. Our  
2 deteriorating interstates in three states  
3 including I-81 in Virginia and I-70 in Missouri,  
4 are expected to be reconstructed and expanded  
5 using toll roads to attract private investments.

6 SAFETEA-LU made available to  
7 equity investors in highway and intermodal  
8 facilities a total of up to 15 billion in taxes  
9 and financing, and Texas has submitted the first  
10 application in the nation for a \$1.6 billion bond  
11 issuance for the SH-121 project up here north of  
12 D/FW.

13 On the administrative side,  
14 federal highways is helping remove barriers to the  
15 use of innovative processes for SEP-15, and Texas  
16 has used the SEP-15 program to obtain advanced  
17 TIFIA commitments that will be available to all  
18 competitive bidders for the 121 project.

19 Federal highways' new  
20 initiative, corridors in the future will also help  
21 expedite multistate corridors that utilize  
22 innovative approaches, and even the Federal  
23 Transit Administration has issued new rules to  
24 encourage PPPs in a sector that has long been  
25 overlooked, at least in the United States, as an

1 opportunity for a private investment. Houston,  
2 Metro, and Atlanta will be taking advantage of  
3 these rules. So what more is needed?

4 I have three suggestions.  
5 Number one, we need to mainstream innovative  
6 financing and procurements. Given the fact that  
7 the majority of the states are moving in this  
8 direction, isn't it time to stop treating  
9 innovative financing as an experiment? We know  
10 these programs work, and in the absence of the  
11 kind of robust public funding we enjoyed in the  
12 '50s and the '60s, why are we continuing to limit  
13 access to innovative finances?

14 There are more than three new  
15 interstate corridors that need construction.  
16 There are at least 30, not three, existing  
17 interstates that need reconstruction. There are  
18 far more than 15 interstate corridors that need  
19 hot lands.

20 And Texas alone could probably  
21 gobble up the entire 15 billion in private  
22 activity fund.

23 Secondly, I think we need to  
24 limit federal oversight in matters of federal  
25 interest. You should support federal

1 transportation agencies in their initiatives to  
2 remove obstacles to PPPs to attract private  
3 dollars. We need to reduce regulatory delay  
4 rather than increase it.

5 Finally, I think we should ask  
6 not why, but why not? The public needs to  
7 understand that adequate public funding is just no  
8 longer available to fund all our transportation  
9 needs, and I suggest that, given that reality, we  
10 ought to think about giving priority in the  
11 allocation of federal funds to projects that can  
12 leverage these funds with innovative financing.

13 There are some projects where  
14 user fees can support the entire capital and  
15 operating costs, but many projects will require  
16 some injection of public equity, at least in the  
17 early development stage.

18 Let's look at this another  
19 way. In the past and on another planet far, far  
20 away, projects were billed with \$80 of federal  
21 funds and \$20 of state money. Today, taking  
22 advantage of innovative finance and procurement,  
23 that same \$80 could build three or more projects  
24 of the same size, not just one.

25 PPPs may be but one tool in



1 the project delivery toolbox, but it's proving to  
2 be the lever that can maximize the productive  
3 value of traditional public funding. Let's learn  
4 from the experiments in the last 15 years and  
5 finally give these innovations a full federal seal  
6 of approval and full federal support.

7 Thank you.

8 CHAIRPERSON CINO: Thank you  
9 very much, Karen.

10 Our second panelist is a  
11 Darius Gaskins from Norbridge, Inc., and is a rail  
12 expert to talk about rail economics and financing.

13 MR. GASKINS: Thank you, Madam  
14 Chairman, fellow commissioners. It's a pleasure  
15 to be here.

16 I feel like a fish out of  
17 water in the sense that I'm not a highway person,  
18 and I look at -- somewhat aghast at the problems  
19 that you-all face with your infrastructure needs,  
20 but I would make a modest proposal to you, and  
21 that is: Please do no harm to the rail  
22 infrastructure. We have user fees. They're  
23 called freight rates. And the US railroads are  
24 doing very well financially, and should be able to  
25 finance most of the needed rail infrastructure

1 going forward.

2 This is a recent development.  
3 For 25 years after the passage of the Staggers  
4 Act, a rail race in this country declined as there  
5 was increase in productivity and shared redundant  
6 capacity.

7 That era is over. The  
8 redundant capacity is gone. The railroads are  
9 basically full, and their rates are beginning to  
10 reflect the fact that there's a large demand for  
11 their service and it's grown, but particularly  
12 growing in the area of intermodal freight and in  
13 coal from the Powder River Basin.

14 Those are two very high-growth  
15 areas which are turning the rail industry into a  
16 bit of a growth industry, and the nice thing is  
17 that the rate system that's in place -- the rates  
18 that are in place seem to have the potential to  
19 finance most if not all of the needed  
20 infrastructure.

21 Second, we don't need a trust  
22 fund to help us with rail. Investment. The  
23 problem with the trust fund is it's basically  
24 driven by a political process, and the railroad  
25 industry governs its investments by an economic

1 process.

2 We look at what the market --  
3 with demand. We look at what the future demand is  
4 likely to be. We take risks, but we do it based  
5 on the economics of the situation, not the  
6 politics of the seniority of any particular  
7 legislature. We don't need additional economic  
8 regulation.

9 Another thing has happened  
10 recently because railroads have used up their  
11 excess capacity and demand is coming on strong,  
12 railroads -- railways have finally begun to rise  
13 after 25 years of gradual decline under  
14 deregulation.

15 This rise in rail rates has  
16 generated some concern on the part of our  
17 shippers. And there is -- there are bills posed  
18 and parties that are interested in tightening the  
19 regulation on the railroads or reregulating them.  
20 I think it's something that should be resisted at  
21 all -- in all cases.

22 We don't need additional  
23 economic regulations. We have a situation where  
24 the demand is there. The increased demand is  
25 driving up prices. They should go up and

1 they will -- those prices will be the user fees  
2 that will drive the -- the infrastructure  
3 investment process.

4                               Second -- thirdly, we do not  
5 need earmarked federal subsidies. Once again,  
6 from time to time, there are ideas that -- that  
7 Congress will earmark a subsidy for a particular  
8 rail project. That doesn't work in the rail  
9 industry, because in the rail industry, when the  
10 federal government builds something, the private  
11 parties decide not to build it and they go in  
12 another direction.

13                              So there is a displacement  
14 that takes place, and I think it's much more  
15 prudent to allow the -- the market itself to  
16 decide where the new rail infrastructure needs to  
17 go and not have it be driven by the political  
18 process.

19                              There is, however, a role for  
20 PPPs in the rail industry, and I want to pinpoint  
21 exactly where that role is. There's a case that  
22 can be made that you can reduce congestion in many  
23 urban areas by improving the rail infrastructure  
24 to get cargo off the streets in trucks. We have  
25 seen it work to some extent in the Alameda

1 Corridor. We've seen it work to some extent in  
2 Kansas City. It's possible we can do it in lots  
3 and lots of other areas, and that investment is --  
4 has so much public benefit associated with it.

5 It's unlikely that the  
6 railroads will step up and pay for those projects  
7 on their own. They just don't have enough -- they  
8 like the additional freight, but they're not going  
9 to pay for a project whose primary focus is to  
10 relieve congestion on the streets. They will do  
11 it in partnership with a state or local authority  
12 that can provide some financial assistance, and  
13 that -- so I see a role for PPPs in the future.

14 Even if you -- if you believe  
15 me and trust me and leave the railroad financing  
16 alone, you can tack onto it an additional system  
17 that -- that enables these PPPs to go forward.

18 And on that subject, I would  
19 point out that we've had some limited success with  
20 rail projects of that sort, and they seem to work  
21 when we have a project which is local in nature  
22 and in which the financing for the project comes  
23 from the local constituents. We failed miserably  
24 in Chicago. We had a nice plan to work out what  
25 we were going to do in Chicago, and at the end of

1 the day we couldn't find anybody to support it  
2 because it was so diffuse there wasn't an  
3 individual champion on the site that could deliver  
4 the goods for that project.

5 So I -- I say to you that  
6 if -- if PPPs are going to work, particularly in  
7 terms of rail infrastructure, they have to be  
8 targeted and they have to be funded by state and  
9 local folks to the extent that -- that they'll  
10 actually get done.

11 Thank you very much.

12 CHAIRPERSON CINO: Thank you  
13 very much.

14 And our final speaker --  
15 excuse me -- is Tim --

16 MR. MCGUCKIN: McGuckin.

17 CHAIRPERSON CINO: McGuckin.

18 And Tim is the executive director of OmniAir  
19 Consortium, and he's going to talk to us about  
20 vehicle infrastructure integration.

21 Thank you very much, Tim.

22 MR. MCGUCKIN: Thank you,  
23 Madam Chairman, and the rest of the commission for  
24 the opportunity to speak today.

25 The purpose of my testimony

1 here is to try in about 300 seconds to review for  
2 the commission a pretty complex problem -- a  
3 pretty complex program called Vehicle  
4 Infrastructure Integration and how the technology  
5 can be deployed to save lives, and in fact,  
6 because this is a finance panel, be leveraged to  
7 make -- create a more efficient means of  
8 collecting the revenue for the maintenance and  
9 operations of the system.

10 So VII. What is it? It is  
11 more than the Roman numeral 7. That's what I  
12 thought when I first heard it three years ago, but  
13 it's not about concrete asphalt or steel. It's  
14 really a nationwide layer of technologies,  
15 communication technologies integrated into the car  
16 and on the roadside for one simple purpose, to  
17 save lives.

18 And the reason why the -- this  
19 public/private partnership is getting together to  
20 do this is pretty clear. Despite seat belts,  
21 count them off: ABS, traction control, airbags,  
22 safety glass, crumple zones, and numerous other  
23 passive and active restraint devices built into  
24 the vehicle over the last 25 to 30 years, and mind  
25 you all things that do in fact prevent and reduce

1 death when a car -- when cars do crash, the fact  
2 is vehicles still do crash and claiming over  
3 42,000 lives a year, and that's 115 people per  
4 day.

5                   So the question the VII  
6 program is addressing is: What if we could  
7 prevent crashes from happening in the first place?  
8 Well, if you went at it from this angle, perhaps  
9 you could lower that -- that -- that figure. And  
10 how?

11                   Well, it's simple. If  
12 vehicles could talk to each other and talk to  
13 other devices on the roadside, we could design  
14 applications and systems that could inform or  
15 alert the driver of a near or impending issue on  
16 the road that could perhaps alter a course of  
17 events preventing an accident and saving a life.

18                   So that in a nutshell is VII.  
19 But I'd like to add a thousand words to my  
20 testimony by means of a picture on this  
21 presentation slide. I think it's upfront here.

22                   These are the parties that are  
23 involved in the public/private partnership. On  
24 the left side of the circle are all the federal  
25 agencies that are providing leadership in funding



1 to all the other parties.

2 On the left -- on the right  
3 side of the circle are the standards bodies. When  
4 you're designing technology, standards are very  
5 important. If everyone complies with those  
6 standards, hopefully the systems can be sourced  
7 from different vendors, lowering costs and they  
8 can be interoperable.

9 On the top is the vehicle side  
10 of vehicle infrastructure integration. There are  
11 all the automobile companies who say: If we can  
12 have a roadside infrastructure system subsidized  
13 by the USDOT -- that's really the primary thing  
14 I'd like to recommend -- we'll put the devices in  
15 the cars ourselves that talk to them. We'll  
16 underwrite that cost ourselves.

17 The folks in the bottom of the  
18 circle are the technology companies taking the  
19 standards and putting together the devices.

20 And the last two groups are  
21 the left and right of the gray circle. To the  
22 left of the gray circle are all those companies  
23 working on the systems, testing the applications,  
24 and they're doing that this year. And in fact,  
25 they're -- they're priming -- the whole group is

1 priming itself to make an announcement by 2008 as  
2 to when we'll see those devices in vehicles.

3                   And those on the right side of  
4 the circle are the trade associations, ASHTO, ITS  
5 America, IBTTA. You've heard from them already.  
6 They are trying to educate the -- the  
7 infrastructure side of the team, and OmniAir is an  
8 association which serves all of them. We're  
9 focused on technology standards and certification  
10 thereof.

11                   So that's the VII in a  
12 nutshell. Thanks for the slide.

13                   Now for payment. How does it  
14 relate to payment? Well, VII is designed to save  
15 lives, but the infrastructure, if it was deployed,  
16 can safety leveraged for financial application  
17 like toll collection. And the toll industry is  
18 very interested in VII tolling for two reasons --  
19 actually, one reason, to save money. But one of  
20 those ways to save money is through the reduction  
21 in cap -- capital expenditures.

22                   If the tag that we all see in  
23 our car, E-Zpass, FastTrack, and so forth is  
24 integrated into the motor vehicle, we don't have  
25 to buy them anymore, the toll machine doesn't have

1 to buy them. They don't have to disseminate them,  
2 procure them, dispose of them when they go bad,  
3 repair them.

4 So that's one reason we'd like  
5 to see this system funded and how it pertains to  
6 financing the -- the infrastructure.

7 The second reason is it saves  
8 operational costs. Toll collection is really a  
9 very successful application, reliable, robust, and  
10 in many regions of the country, popular, but it's  
11 imperfect in one way: It's based on proprietary  
12 systems. That means when you buy a tag, or an  
13 integrator buys a tag or integrates a device,  
14 you're buying it from one vendor and you're locked  
15 into that vendor year in and year out because his  
16 systems are proprietior.

17 The VII standards are  
18 open-source. They're nonproprietary. And what  
19 OmniAir -- the certification of services we're --  
20 we're developing would assure to the stakeholders  
21 that operate these systems that if they do buy a  
22 system based on these standards, they're going to  
23 operate.

24 So my final statement is:  
25 Please recommend to Congress to support the VII

1 initiative as compared to some of the others out  
2 there, \$500 billion for infrastructure  
3 improvements, this is probably 1 to 2 percent of  
4 that cost.

5 Thank you for your time.

6 CHAIRPERSON CINO: Thank you  
7 very much. This panel -- panel -- group of  
8 panelists assured me that it will be lively, and I  
9 suspect that that's going to be true.

10 Darius, I wonder if I might  
11 start by asking you a question, sir. I know that  
12 you have been a very important player with regards  
13 to rail deregulation. I hate to use the phrase,  
14 the Godfather of de -- rail deregulation, but can  
15 you -- can you talk a little bit about the lessons  
16 perhaps learned with regards to rail deregulation  
17 that might be applied to highway infrastructure?

18 MR. GASKINS: Well, the -- the  
19 thing -- the most significant aspect of rail  
20 regulation that came as somewhat of a surprise to  
21 most people was the tremendous productivity gains  
22 that the railroads were able to achieve as they  
23 took responsibility for their business with less  
24 economic regulation and oversight by the  
25 government.

1                   Now, part of it was because  
2 they were in financial crisis mode. They -- they  
3 didn't -- the Congress that passed the Staggers  
4 Act recognized that they could not continue to  
5 fund bankrupt carriers like Conrail and Milwaukee  
6 Railroad.

7                   And so the railroad management  
8 had no public source of -- of support left to  
9 them, and they got very serious about using the  
10 new freedoms under the Staggers Act to improve the  
11 efficiency of their business.

12                   And that productivity growth  
13 was incredible, and it was not predicted. I  
14 didn't predict it and other people at the time  
15 thought that the Staggers Act was to let the  
16 railroads raise rates, and they could maybe dig  
17 their way out of the mess by raising rates.

18                   It didn't happen. Railroads  
19 competed more aggressively against each other and  
20 with trucks. They cut their costs dramatically,  
21 and they passed on an awful lot of those cost  
22 reductions to their shippers. So the really  
23 incredible aspect of railroad deregulation was to  
24 the productivity gains that the private sector was  
25 able to achieve when given the opportunity.

1                   CHAIRPERSON CINO: Thank you.  
2     And Karen, if I could just ask you: I know you've  
3     had a lot of experience, and we actually touched  
4     upon it at lunch a little bit, with regard to  
5     overseas with regards to PPPs. I know the Asians,  
6     certainly the Europeans, and now we're even seeing  
7     Latin America, perhaps some of the lessons learned  
8     with regards to performances that -- performances  
9     and other particular things that would be a  
10    benefit as we -- we embark upon the PPPs in our  
11    own states.

12                   MS. HEDLUND: Outside the  
13    United States, most countries don't have the  
14    benefit of a highway trust fund, so they've had  
15    really little option but to go to the private  
16    sector for funding and to fund their projects  
17    either through user fees or through long-term  
18    payments by the governments over a -- an extended  
19    period of time, 35 or 40 or 50 years.

20                   Some of the lessons learned, I  
21    think, from abroad are the importance of  
22    competition. And -- and Texas has benefited from  
23    that. They actually went to Europe to go visit  
24    the Europeans' leading infrastructure companies  
25    and have been able to attract enormous competition

1 for their projects in the United States.

2 We want to use the private  
3 sector in the right way and get the most benefit  
4 from it. And one of the things we should do is  
5 try to get the best competition that we can. And  
6 this competition is worldwide. There are very  
7 strong American companies, and there are certainly  
8 a lot of American dollars now that are looking to  
9 invest in infrastructure projects, but it really  
10 is a world market.

11 CHAIRPERSON CINO: Thank you  
12 very much.

13 I will turn this over to  
14 Commissioner Geddes.

15 COMMISSIONER GEDDES: Thanks  
16 very much, Madam Chairman.

17 Thank you-all for coming  
18 before us. I would direct my question to  
19 Mr. Gaskins.

20 You noted that rail rates are  
21 likely to increase because you're hitting your  
22 capacity constraints and you're looking at demand  
23 going up in the future. I think an economist  
24 would respond to that by saying that's probably a  
25 good thing because those prices contain

1 information about how you might want to expand  
2 your -- where you should, according to market  
3 signals, expand your network in the future.

4 Do you see that, the rail  
5 industry as using that price information in that  
6 way and perhaps responding the way the market  
7 signals are telling you to do?

8 MR. GASKINS: I would say that  
9 it's clearly happening. The biggest investment  
10 areas in the rail industry today are in  
11 intermodal -- intermodal capacity, particularly  
12 for the transcontinental movement of containers.  
13 That's a very heavy investment area. The  
14 Burlington Northern/Santa Fe, for example, has  
15 nearly double-tracked all its railroad between Los  
16 Angeles and Chicago.

17 The other big area of big  
18 investment is in the Powder River Basin, where the  
19 growth and demand for coal driven by high natural  
20 gas prices and other changes in the utility sector  
21 are -- have driven tremendous increase in demand  
22 for Powder River Basin coal, and in that area  
23 again, both the Union Pacific and Burlington  
24 Northern Santa Fe have invested billions of  
25 dollars to cope with the demand that's coming out.



1 And it's clearly driven by what they see in terms  
2 of the future.

3 Now, I would make one comment  
4 there. There's risks involved in this because if  
5 environmental changes occur and we decide we don't  
6 want to use coal in generating electricity in the  
7 future, that investment is going to be a risk, but  
8 that's -- that's the way life goes in the private  
9 sector.

10 So they -- that's -- there's  
11 always a sort of balance. You've got -- you think  
12 you know where the market is going, but you don't  
13 always get it right, but those risks are going to  
14 be borne by the shareholders of the railroads  
15 under the current system.

16 CHAIRPERSON CINO: Steve.

17 COMMISSIONER HEMINGER: Thank  
18 you, Madam Chairman. Maybe a question for each of  
19 you.

20 Karen, I know that often these  
21 public/private partnership projects involve  
22 private capital, but very often they involve the  
23 so-called D-bomb approach, where the private firm  
24 is designing and building and operating,  
25 maintaining or some combination thereof, and I

1 wonder if you can sort of unbundle the benefits in  
2 your view. What if you publicly funded such a  
3 project? Is it still worth doing because of cost  
4 and time considerations? I mean, where is the  
5 greater advantage coming in? Is it from the  
6 private money? Is it the private design? Is it  
7 the private operating discipline? Do they -- do  
8 they not work if you take the private money away  
9 and take their financial incentive away?

10 MS. HEDLUND: It's really a  
11 combination of all of those things. And  
12 public/private partnerships can be seen as -- it's  
13 not a single thing. The arrangements are along a  
14 spectrum. Everything from design build, where you  
15 get the benefit of the private company taking the  
16 risk of final design and providing a fixed price  
17 and a guaranteed completion date so that you can  
18 reduce the risk to the private sector for the cost  
19 overruns, to design, build, operate, maintain  
20 where the private sector both builds it and then  
21 agrees to operate and maintain it for some period  
22 of time, 5 years or 15 years, without putting  
23 their own equity into it.

24 But what a D-bomb does is  
25 gives the public sector the benefit of potentially

1 a long-term warranty. And D-bomb projects have  
2 been particularly useful and very successful in  
3 the transit arena where it's very hard to attract  
4 public capital because most transit projects are  
5 not cash positive. Very few of them even make  
6 enough money to pay their own operating expenses.

7 But projects like the  
8 Hudson-Bergen line in New Jersey at Trenner Bono  
9 are good examples of where you can get private  
10 risktaking without necessarily having the private  
11 capital and have that work extremely well.

12 Where the private financing  
13 comes in is if you do have a project that has  
14 positive cash flow, it may need some mixture of  
15 public funds, as I mentioned. It may need public  
16 funds at the beginning before you get an EIS.  
17 That's a period of time where the private sector  
18 is very reluctant to invest because of the risk of  
19 the environmental approval.

20 But there -- the private  
21 sector, the benefit from that is that you're,  
22 first of all, getting even more risktaking on the  
23 performance side and for a longer period of time  
24 than you can get up-front benefits or long-term  
25 economic benefits to the public sector that they

1 can then turn around and invest in other public  
2 projects.

3 So what kind of project, what  
4 kind of public/private partnership you use depends  
5 on a number of factors, one being, you know, where  
6 is money coming from and -- but the important one  
7 being: Is there a stream of revenues that can be  
8 used to attract private long-term private  
9 investment.

10 COMMISSIONER HEMINGER: Thank  
11 you.

12 Mr. Gaskins, you mentioned in  
13 your testimony the example of the Alameda  
14 Corridor, which, you know, had a large public  
15 interest because of getting trucks off the road.  
16 As you know, there's a lot of interest around the  
17 country, in my state especially, in passenger  
18 rail, and right now, we're in a fairly  
19 uncomfortable position in many of our corridors  
20 where the freights run out of room and the  
21 passenger rail is out of room and they're waiting  
22 for each other, depending upon who owns the  
23 corridor.

24 And does that strike you as  
25 another potential area for public agencies to

1 bring some of their funds to the table to perhaps,  
2 you know, change a corridor from two tracks to  
3 four so they can accommodate both more freight as  
4 well as passenger movement?

5 MR. GASKINS: There have been  
6 examples all the around the country where some  
7 public money has been available to accomplish  
8 goals such as that, and Seattle recently, the city  
9 has again agreed to buy the rail line along the  
10 waterfront so they can use it for public purposes,  
11 but they're going to provide a railroad for an  
12 alternative line.

13 That's precisely the area that  
14 I'm thinking about, and it's only reasonable that  
15 the railroad should pay for that part of the  
16 project that really benefits it, but a lot of  
17 those projects are for public purposes, not just  
18 for the movement, efficient movement of rail  
19 freight, so therefore, there has got to be some  
20 public monies if you're going to get the deal  
21 done.

22 And these are all  
23 idiosyncratic projects. I mean, they all have  
24 different atmospheres, so I don't think that you  
25 can -- we can decide now what a perfect instrument

1 is to solve all those problems, but it does take  
2 some good faith bargaining on the part of the  
3 local authorities and the railroads to get these  
4 things done.

5 COMMISSIONER HEMINGER: I  
6 think that does get to the follow-up, though,  
7 since this is a panel concerned about national  
8 policy.

9 You expressed some pretty  
10 serious reservations about a federal trust fund  
11 because of concerns about diversion and tampering  
12 and politics and the rest, and those are all  
13 understandable.

14 But if, in fact, there are  
15 enough of these needs around the country on  
16 passenger rail and there is a need for, let's just  
17 say a federally directed source of funds, it might  
18 very well come from such a trust fund.

19 So I guess I'm wondering at  
20 what point do you get too uncomfortable with --  
21 with federal involvement? You seem comfortable  
22 with local involvement on a case-by-case basis.

23 MR. GASKINS: There's a reason  
24 for that and that is that the principle is that  
25 the local folks, they see the benefits, so they

1 don't -- you know, it's not just jobs for them,  
2 it's -- there's supposed to be some  
3 congestion-relief benefits or something that makes  
4 their city more attractive, so they see the  
5 benefits.

6 I am extremely uncomfortable  
7 with the idea that you set up a federal program  
8 and drop billions of dollars on a particular  
9 constituency. I live in Boston and I've been --  
10 I've witnessed the Big Deke and all its glory, and  
11 I don't think that was a very efficient way to  
12 spend the national treasure on that particular  
13 project. It should have been more local  
14 participation. It should have been done more  
15 plausibly because of the local participation as it  
16 was.

17 COMMISSIONER HEMINGER:  
18 Mr. McGuckin, just very quickly, what's the cost  
19 of the public infrastructure for VII? What's --  
20 what's the current estimate nationwide?

21 MR. MCGUCKIN: That's a hard  
22 question to answer because there are a couple  
23 states that are doing statewide analyses, and I  
24 implied that it was just a couple percentage  
25 points of the increase in the public

1 infrastructure route, which was \$100 billion.

2 We're thinking it's in the  
3 single billions of dollars, and that would be  
4 primarily spent between 2011 and 2015-16, rolling  
5 out this first level of roadside units.

6 The equivalent cost on the  
7 private sector would be something along the lines  
8 of 16 million motor vehicles built each year with  
9 roughly a \$100 device in them. So it is a true  
10 cost-share approach, a trickle-in private  
11 partnership.

12 COMMISSIONER HEMINGER: And  
13 when you mentioned a time horizon like that, is  
14 that because that's when the technology will be  
15 mature?

16 MR. MCGUCKIN: That's when the  
17 technology will have -- in short, the technology  
18 is being developed and tested now. They will have  
19 answered all the technology and institutional  
20 issues, they feel, by 2008. They'll make an  
21 announcement at the 2008 World Congress in New  
22 York City. That's the infrastructure of the VII  
23 group.

24 It takes about two to three  
25 years for an automaker to say: Hey, we can start



1 integrating the devices into the motorcycles on  
2 our assembly lines. Light vehicle, light-duty  
3 vehicle plates take an average of probably 10  
4 years in America to turn over.

5 But even if, say, 10 percent  
6 of the vehicles have -- are outfitted with a  
7 device, it could be enough to prevent an accident  
8 from occurring and a life to be saved. So you  
9 don't have to hit 100 percent deployment and  
10 rollout for this system to be effective.

11 COMMISSIONER HEMINGER: Thank  
12 you, Madam Chair.

13 MR. MCGUCKIN: Thank you.

14 CHAIRPERSON CINO:  
15 Commissioner McArdle.

16 COMMISSIONER McARDLE: I'd  
17 like to know of your experience with what's been  
18 done in Europe, particularly in the UK with the  
19 clean-operating companies as a public/private  
20 partnership alternative.

21 MS. HEDLUND: I'm not an  
22 expert on the rail side, so I would hesitate to  
23 make any generalizations about it. I know it's  
24 been controversial. Some have felt that it's been  
25 very successful as a result of a significant

1 investment, but there are studies out there  
2 that -- that talk about that. I'm just not an  
3 expert on it.

4 COMMISSIONER McARDLE: Oh,  
5 okay.

6 Mr. Gaskins.

7 MR. GASKINS: I don't think  
8 I'm qualified.

9 COMMISSIONER McARDLE:  
10 Followed the freight experience in the US?

11 MR. GASKINS: Well, I have  
12 followed the freight experience. I know the  
13 earlier years they made what I considered to be  
14 major blunders, when they separated their  
15 railroads from the -- the track -- maintenance of  
16 the track from the marketing of the services, and  
17 lo and behold, they got underinvestments in the --  
18 in the -- in the track, which turned out to be  
19 dangerous for people, and they -- they removed  
20 that and backed away from it.

21 But that was just a mistake  
22 and it was one that arguably was foreseeable at  
23 the time, but they learned from their mistake, and  
24 now they -- they've moved on to the next stage,  
25 but I don't follow closely, so I don't know where

1 they stand today.

2 COMMISSIONER McARDLE: And I  
3 asked that with a follow-up question:  
4 Institutionally, what do you have to do to have  
5 the railroads give passenger travel -- whoever is  
6 the operating company. You know, we now have  
7 Amtrak as the operating company, and they're the  
8 same circumstances, the operating companies in the  
9 UK, which started with a piece of it.

10 What do you need to give the  
11 railroads to give them the incentives to operate  
12 well in that area? Is there a way you can price  
13 that as opposed to simply mandating that you  
14 believe to get intercity rail the kind of access  
15 to train paths that's absolutely critical for  
16 scheduling and reliability?

17 MR. GASKINS: I don't know  
18 what -- what the panacea is. I know where it's  
19 worked fairly well, and it's always been a  
20 negotiated settlement between the railroad and  
21 the -- and the commuter. In -- Chicago is an  
22 example I'm fairly familiar with, and there,  
23 Burlington Northern Santa Fe sold their lines to  
24 the City of Chicago, but agreed to operate -- have  
25 the right to operate freight trains over them, but

1 they have to give priority to the commuter  
2 operations, and it's my understanding both sides  
3 of that particular deal seemed to be quite pleased  
4 with the results. They have first-class commuter  
5 service in Chicago, and the freight railroads  
6 continue to use the tracks on an off-peak basis to  
7 deliver freight.

8 Now, ultimately, there may be  
9 a solution that's even better. We may get the  
10 freight out of Chicago, which would be -- or  
11 get -- or get it around Chicago in some way, but  
12 we're not there yet. But in the interim, that  
13 solution seems to be working.

14 But again, it's a case-by-case  
15 basis. You need to strike a deal between the  
16 parties that makes sense where they both look out  
17 for their own interests.

18 CHAIRPERSON CINO:  
19 Commissioner Schenendorf.

20 COMMISSIONER SCHENENDORF: I  
21 have a question for you, Karen.

22 In your testimony, you  
23 basically seem to be saying that you don't think  
24 that there's much of a future in public financing,  
25 and the way of the future is really controlling

1 these public/private partnerships.

2 One of the things that we're  
3 having to look at is, obviously, what is the  
4 federal national role going to be in all of this?  
5 And one of the things that we're also looking at  
6 is what is the system going to look like in 2050?

7 And if we go the route that  
8 you're advocating, it seems to me we're really  
9 having private companies choose where the  
10 improvements will be because they will be the  
11 companies that come forward and say: This is the  
12 projects we're willing to do. And come 2030 or  
13 2050, what we will have is an amalgamation of  
14 whatever the private sector has been willing to  
15 invest in.

16 And how do we guarantee that  
17 we really have a national system in 2030 and 2050,  
18 and we have really made all of the -- the  
19 interregional, national improvements that we need  
20 to make to have a flow of commerce that's going to  
21 be necessary as we get at those areas and have the  
22 economic growth that we want?

23 MS. HEDLUND: Well, it's clear  
24 that the market of private investment is going to  
25 be most interested in the highest value projects,

1 and those are likely to be the projects that need  
2 to be built in response to the most congestion.

3 So in fact, if you let the  
4 market operate, you are very likely to get  
5 projects built that are really going to meet the  
6 needs, at least local needs and state needs for  
7 reducing congestion.

8 Now, that may not be, you  
9 know, the sole objective of a national  
10 transportation program, so to that extent, the  
11 market is going to, I think, operate in tandem and  
12 fulfill a national objective.

13 Now, there are other issues  
14 that need to be addressed that perhaps the private  
15 sector will not address as well as would an  
16 allocation, just a direct allocation of federal  
17 funds. We need to, you know, address congested  
18 freight corridors, where public monies may be  
19 needed to move freight lines where it's not  
20 economic for the railroads to do it themselves,  
21 that sort of thing.

22 So there's a role for -- for  
23 both to play. And I'm not saying -- I don't want  
24 you to misinterpret the thrust of my testimony.  
25 I'm not saying there's no role for public money.

1 There will be public money in the future, but the  
2 two of them need to be used together to maximize  
3 the benefits of both.

4 COMMISSIONER SCHENENDORF: But  
5 how do you build a national system with private  
6 investment?

7 MS. HEDLUND: You are -- you  
8 are building parts of it, and states working  
9 together, for example, may be able to build a  
10 whole new interstate corridor with private money  
11 going from Michigan all the way to Texas, the  
12 I-69.

13 So there are -- there -- it's  
14 not one or the other, and they still -- these  
15 projects will still need public money, and so  
16 to -- you know, to that extent, the allocation of  
17 those funds should reflect national priorities.

18 COMMISSIONER SCHENENDORF: So  
19 what that's saying, though, is that we do need to  
20 increase our revenues at the public sector level  
21 also in addition to using these alternatives.

22 MS. HEDLUND: Yes, of private  
23 financing and user-fee financing is no panacea.  
24 Let me give you an example of this.

25 North Carolina is looking to

1 build nine new projects, and they've turned them  
2 all over to the new North Carolina Turnpike  
3 Authority. Well, there are three projects in the  
4 Raleigh area that they estimate will cost  
5 \$800 million. Even with tolls, they're going to  
6 face a \$200 million gap, so they're going to need  
7 public money.

8 That's an example of projects  
9 where, you know, there's not enough public money  
10 to build them all, and there's not enough private  
11 money to build them all. They have to be built  
12 with a little bit of both.

13 Atlanta is the same way. They  
14 want to build a system of truck lanes and BRT  
15 projects around the city of Atlanta. The total  
16 cost will be \$2 billion. They think the user fees  
17 will only be about a billion. So, you know, there  
18 again, there's going to be a real need for public  
19 money as well as private investment.

20 COMMISSIONER SCHENENDORF: I'm  
21 familiar with one case in West Texas where there's  
22 a route that goes from the Mexican border up to --  
23 to Denver and a piece of it goes through Oklahoma,  
24 and turns out to be a very expensive piece, but  
25 it's not something that's going to be a high



1 priority for Oklahoma, but it's a very high  
2 priority because it's not going to provide  
3 necessarily just from a purely local standpoint,  
4 but it's an essential gap in that route from the  
5 Mexican border to Denver.

6                   There is no toll road that's  
7 going to come in there on that segment because it  
8 just isn't going to be able to justify it, so -- I  
9 mean, that's part of what we're grappling with  
10 here is to have a national system, you have to  
11 have certain levels of investment by the public  
12 sector to make that happen, and that, you know, I  
13 think there is a place for toll roads, especially  
14 on local congested roads where they can see an  
15 economic profit in it. But at the end of the day,  
16 I'm not sure that that kind of investment would  
17 produce a national system without an equally  
18 aggressive effort on the public sector side for  
19 these major national corridors.

20                   MS. HEDLUND: I think that's  
21 probably right.

22                   CHAIRPERSON CINO:  
23 Commissioner McArdle.

24                   COMMISSIONER McARDLE: What  
25 will keep local governments from doing to your new

1 public/private partnerships that which was done to  
2 the transit owners in New York City or has  
3 effectively been done to a large number of  
4 electric utilities in which they become cash cows  
5 through additional tax classifications and other  
6 things at which the railroads are well-familiar?  
7 I mean, at the end of the day, you know, you're  
8 creating an entity. It's got a stream of revenue,  
9 and local governments often like to hide the real  
10 revenue sources behind the bills sent to you by an  
11 electric utility or others. What keeps it from  
12 happening here?

13 MS. HEDLUND: There's a  
14 different contractual and institutional structure  
15 that has been developed for -- for the  
16 public/private highway and transit -- recent  
17 transit projects. They are not being subjected to  
18 utility-type rate regulation. And that's  
19 essentially what killed private investment in  
20 transit, particularly once the depression hit, it  
21 was impossible for the transit companies to get  
22 from their local utility commissions the ability  
23 to raise rates enough to keep their systems  
24 running.

25 Tolls on toll roads are not

1 being governed by the local public utility  
2 commission. They're being governed by contract.  
3 And in fact, the market is not very comfortable  
4 with a utility-commission-type regulation for  
5 these stand-alone projects.

6 The only one in the country  
7 that I know of that's governed by a utility  
8 commission is the original Greenway project in --  
9 in Virginia, which experienced some -- at least  
10 early on some significant financial difficulties.  
11 And then Virginia modified their public/private  
12 transportation act that created a new act that  
13 permitted public/private partnerships to be done  
14 through long-term contracts as opposed to  
15 subjecting rate increases to commission structure.

16 COMMISSIONER McARDLE: But  
17 nothing keeps the legislature from imposing a  
18 gross receipts tax on you or anything else, does  
19 it?

20 MS. HEDLUND: No, but the way  
21 the private sector seeks to protect itself in that  
22 event, and they have done this in Chicago and  
23 in -- in Indiana and in Virginia with the -- the  
24 asset dispositions is they seek reinforce back to  
25 the owner of the facility, the City of Chicago,

1 the state of Indiana, or Virginia to protect them  
2 in the event that there is some subsequent tax  
3 increase that discriminates against that  
4 particular project.

5 It is a worrisome. It is.

6 COMMISSIONER SCHENENDORF: I  
7 guess, following up on that, in a private setting,  
8 for a segment of road that a private sector is  
9 operating as a toll road and they have an  
10 incentive to maximize their profit on that piece  
11 of road and within the bounds of what they're  
12 allowed to raise the tolls, they're going to set  
13 it, it seems to me, at the highest level that will  
14 maximize the revenue, because the buyer is going  
15 to reduce the revenues and lower the rate, but  
16 they're going to set it at the highest amount.

17 And that, what is going to be  
18 responsive to their shareholders is what they're  
19 going to be looking at as opposed to what a public  
20 interest might be and maybe this road needs an  
21 additional two lanes for the traveling public.

22 And so isn't -- isn't -- isn't  
23 a private road really the incentive to financial  
24 incentives, not necessarily align itself with the  
25 public sector goals, which might be increase

1 capacity or improving it to help businesses in  
2 just on time delivery, because all the private  
3 sector owners are going to be interested in is  
4 maximizing their return?

5 MS. HEDLUND: There are two  
6 ways of addressing that issue. One of them is  
7 that, and we've seen this with the San Diego  
8 Expressway in Southern California and also a  
9 provision with respect to Pocahontas Parkway, that  
10 certain protections that these highways may  
11 receive of -- from competition or competitive  
12 facilities fall off at a certain point if the  
13 level of service or the congestion reaches a  
14 certain point, where they're presumably making a  
15 lot of money, but they decline to expand the  
16 facility.

17 In the case of San Diego, I  
18 think there's a provision in that contract that  
19 actually requires them to use their best efforts  
20 to add additional lanes once the traffic reaches a  
21 certain point.

22 So these are things that can  
23 be negotiated and should be negotiated in advance  
24 to -- to ensure that additional capacity  
25 expansions will be done.

1 Another way of doing it is for  
2 the state to reserve the right to add lanes in  
3 that same right-of-way if the lanes are not added  
4 by the -- by the private owner.

5 CHAIRPERSON CINO: Karen,  
6 on -- on that particular issue, having talked with  
7 various groups that have come in and talked to us,  
8 would you agree, though, that the market really  
9 will drive the price to a certain extent, given,  
10 if no one is willing to pay that price, ultimately  
11 the private owner would lose money --

12 MS. HEDLUND: Right.

13 CHAIRPERSON CINO: -- so that  
14 they would lower the price in order to maximize  
15 the dollars that would be coming in to that  
16 particular road?

17 A I'm not an economist. I'm only a  
18 lawyer. But some of the things --

19 CHAIRPERSON CINO: Which is  
20 worse.

21 MS. HEDLUND: -- that I've  
22 been told by the economists are that, you know,  
23 you can maximize the tolls or you can maximize  
24 throughput. Where you maximize revenues is kind  
25 of in the middle, so that their -- you don't have

1 a huge difference between the toll maximization  
2 rate and the toll -- and the throughput rate, that  
3 they really do converge. But I -- again, you --  
4 you would need to -- to talk to an economist about  
5 that or --

6 CHAIRPERSON CINO: And --

7 MS. HEDLUND: -- experts.

8 CHAIRPERSON CINO: And that's  
9 a little bit of what our last panel talked about,  
10 maybe hitting a little bit more on the value  
11 pricing and what we're seeing in Minnesota, which  
12 every six -- every six minutes actually changes  
13 the -- could change the price for that.

14 Let me ask you also with  
15 regards to your experience with PPPs and looking  
16 at those best able to run, more efficiently run an  
17 infrastructure system, the public or the private,  
18 and what your experience has been with that. And  
19 also, in some of the reading I've done and in some  
20 of the testimony I've read, the panel that we  
21 spoke about in front of Congress is that many  
22 times the private company is able to run it more  
23 efficiently and effectively.

24 MS. HEDLUND: In the private  
25 companies the -- respond to economic incentives,

1 and to get more traffic to attract more people to  
2 use the road, they're willing to spend the money.  
3 It's as simple as that. And they may be more  
4 willing and more able to spend that money than  
5 public agencies that have other -- perhaps have  
6 other priorities and other political priorities.

7 I think that's -- that -- but  
8 we have perfectly good, wonderful toll authorities  
9 in the United States that just do a -- you know,  
10 do a spectacular job, and were they not public  
11 authorities, were they private authorities, would  
12 probably be winning contracts around the world for  
13 their performance.

14 COMMISSIONER McARDLE: But  
15 what happens when a project goes bad? I mean,  
16 while the public sector may not be as effective in  
17 certain aspects, they also tend to hang on to  
18 projects longer than the private sector does. And  
19 a private sector firm that goes belly-up, as has  
20 happened in the business quite recently, with at  
21 least one English-based company, which operates  
22 here as well as there, may be instructive for all  
23 of us in that they walk away from things.

24 And as you know, right now we  
25 have a public/private partnership in the Northeast



1 on an airport facility that was based on a set of  
2 assumptions entered into before 9/11 with respect  
3 to traffic that's just literally fallen apart.

4 MS. HEDLUND: What you need to  
5 do is build in proper incentives in the contracts,  
6 and typically what happens is if there is an --  
7 essentially a bankruptcy event or if by reason of  
8 the fact that they don't have the money, they are  
9 not meeting the operation maintenance standards,  
10 which all these contracts have very tight  
11 operation maintenance standards. If they're not  
12 meeting it, the public owner has the ability to  
13 terminate the -- the contract.

14 You give the bond investors an  
15 opportunity to step in and put their money in in  
16 order to save their investment. So there's an  
17 incentive to bring, you know, some of the private  
18 money to the table, put a little bit more in to  
19 save their entire investment.

20 Ultimately, if nobody is  
21 willing to do that, the project would return to  
22 the public sector because they still have the  
23 ability to collect the tolls and -- and go  
24 forward.

25 COMMISSIONER McARDLE: But you

1 could be left with a giant connector between two  
2 companies in Europe that has no way of not only  
3 recovering its capital cost, but all the induced  
4 expenditures that have occurred around it, the  
5 rent, leaving the public sector with a huge  
6 commitment of financing in a circumstance where  
7 fewer and fewer trains and passengers and freight  
8 will be running after the 2007 guarantee period  
9 runs out.

10 MS. HEDLUND: Well, you have  
11 to look at what the public sector put in to begin  
12 with. I mean, I don't know what you're referring  
13 to is a project that was simply not completed or  
14 was --

15 COMMISSIONER McARDLE: No, the  
16 chunk. You know, the chunk.

17 MS. HEDLUND: You're talking  
18 about the chunk.

19 COMMISSIONER McARDLE:  
20 Absolutely. And the end -- end connectors of it,  
21 which they're just finishing now as the guarantees  
22 walk away in '07.

23 MS. HEDLUND: Well, the  
24 bondholders are going to lose a lot of money on  
25 that, so you -- you have gotten at least a large

1 piece of public infrastructure built at relatively  
2 little up-front cost to the public. And  
3 maybe down -- down the line the public has to take  
4 it over, but -- but if they take advantage -- I  
5 mean, it's a failure, but it's primarily a failure  
6 to the private sector, not the public sector.

7 MR. GASKINS: Can I just give  
8 you a little -- remind you of a little history  
9 here, and this is in response to general questions  
10 we heard on the panel.

11 The rail system in the United  
12 States is truly a national rail system. It was  
13 built piece by piece by the private sector, aided  
14 by the government with land grants and eminent  
15 domain and things like that, but it was primarily  
16 the market that built the railroad system.

17 And it's interesting that  
18 there was only one railroad that never went  
19 bankrupt. Every one of the other large railroads  
20 went bankrupt at some point in their history and  
21 were taken over by new management or by new  
22 bondholders or by somebody and resurrected. The  
23 infrastructure didn't disappear.

24 The only railroad that didn't  
25 go bankrupt was the Great Northern Railroad, and

1 that one didn't get a land grant. It didn't get  
2 any stimulation from the federal government. It  
3 just built it, because it built it in the right  
4 place, and that railroad never went bankrupt  
5 because it was based on market principles in the  
6 first place.

7 The others were -- they had  
8 gone, manifest destiny and notions of what we  
9 should build and dot, dot, dot, and we paid the --  
10 some financiers paid the price with all the  
11 bankruptcies we had over history in the rail  
12 industry.

13 But the private sector sorts  
14 it out. You know, if you make a mistake, you  
15 build it too big, you -- you fail, you default on  
16 your bonds and somebody else comes in to do a  
17 better job. But the infrastructure doesn't  
18 disappear. It stays there and is used by the next  
19 party. Maybe if it goes bankrupt three or four  
20 times, you can finally find someone that can run  
21 it properly.

22 COMMISSIONER HEMINGER: You  
23 know, I have to say that -- I -- I think that in  
24 part underlines Commissioner Schenendorf's concern,  
25 that applying that analogy to the road system, you

1 know, if we only get the Great Northern built and  
2 we don't have the land grants and all the rest of  
3 it to build the national network -- and I think in  
4 pursuing his questions with -- with Ms. Hedlund,  
5 he -- he -- they both sort of had a meeting of the  
6 minds about the partnership piece of public and  
7 private.

8 I do have to comment as well  
9 on this notion of public versus private toll  
10 authorities because I think it is a critical one.  
11 And there's no question -- I administer toll  
12 revenue in my region -- that you can maximize  
13 revenue and you can maximize throughput, and there  
14 will be two different toll schedules.

15 The other thing about public  
16 authorities is they're public authorities.  
17 They're subject to open meeting laws. They're  
18 accountable to the constituents of their regions.  
19 One of the major flaws of our first failed attempt  
20 of California, the SR-91 project is you had a  
21 private company building a road that was privately  
22 held, no one knew what their books were, and they  
23 were like completely opaque to the public. And  
24 they probably were aboveboard in many respects,  
25 but that just fueled so many suspicions about what

1 was going on with the running of the road.

2 And so I think those  
3 accountability provisions, which I'm sure to some  
4 extent could be adjusted in the contract, are also  
5 very important.

6 The question I wanted to ask  
7 you, just to take advantage of having such an  
8 expert here: I heard the other day on the Indiana  
9 and Chicago transactions about the question of  
10 depreciation, that there are significant  
11 depreciation tax advantages gained by the private  
12 party, and that they are potentially so large that  
13 they would be excess to the transaction and could  
14 be sold by that party to some third party.

15 Am I hearing the story  
16 correctly?

17 MS. HEDLUND: First of all, we  
18 were not involved in -- directly involved in  
19 either of those transactions. We were involved in  
20 other transactions where the issue came up, and  
21 the learning on it is nobody's figured out how to  
22 do it.

23 So although conceptually  
24 there's depreciation out there that could  
25 theoretically be monetized, nobody knows how to do

1 it.

2 COMMISSIONER HEMINGER: And so  
3 when will we find that out, now that the contracts  
4 have been signed? Those businesses will be  
5 working on, with their tax lawyers, on a way to  
6 figure out when they can, and then we'll see  
7 whether someone lets it --

8 MS. HEDLUND: At some point I  
9 guess we'll see if it could be done.

10 COMMISSIONER McARDLE: Steve,  
11 if I could, I could suggest Mort Downey is an  
12 expert in this area, the selling of depreciation  
13 of the New York City transit system. You have to  
14 have an ownership to sell the depreciation. You  
15 really -- they won't let you just sell an  
16 operating lease because there's no depreciation in  
17 the lease, and these, for all intents and  
18 purposes, are leases that don't transfer ownership  
19 to the underlining asset. The IRS frowned on what  
20 New York City was doing, and it's kind of dead on  
21 the operating lease side of it.

22 COMMISSIONER HEMINGER: Well,  
23 I guess we'll see.

24 MS. HEDLUND: The -- one of  
25 the things that public agencies can do, and it's

1 done in Europe frequently and Texas is putting it  
2 into their term sheets, is to require that there  
3 be a repayment to the owner of a share of any  
4 profitable refinancings.

5 So, you know, that -- if  
6 that's something that, you know, looks real, it is  
7 certainly also something that can be bargained  
8 for, a share of refinancings and also, you know, a  
9 share of revenues above a certain return on  
10 investments. And these are just, you know,  
11 businesses.

12 COMMISSIONER HEMINGER: One  
13 more if I could. I know you weren't involved,  
14 but, you know, it does strike me that there will  
15 be a lot of learning going on in -- especially the  
16 asset lease arena. And just in your personal  
17 opinion, does it really make sense to jump off  
18 with a 99-year one instead of something with a  
19 little bit shorter term so that when some of these  
20 ramifications unravel or reveal themselves, you're  
21 not locked into something that's going to cost you  
22 a fortune to get out of it?

23 MS. HEDLUND: That's a serious  
24 public issue. And it's also an economic issue.  
25 The -- there's a concession being offered on an



1 availability payment bases, not a toll basis, for  
2 the Miami Port Tunnel, and they have looked at it,  
3 and because, I think, of the lack of the upside,  
4 because it's availability payments rather than  
5 tolls, they think the 35-year term is probably the  
6 most efficient one. It's a shorter term.

7                   The Virginia transaction was  
8 99 years, and what drove that -- and I've seen the  
9 numbers, I'm not sure I completely understand  
10 them, but I have seen them, and the state had very  
11 good financial advisors -- that was a project that  
12 was really upside down. And the purchasers had to  
13 come in and actually invest, I think it's -- they  
14 have an equity commitment, an investment  
15 commitment of up to \$91 million over the next six  
16 years because that project is simply not making  
17 money. They've got to actually put money into the  
18 project. And to -- based on the -- on the current  
19 projections, you know, the state's advisors looked  
20 at, determined were reasonable, it was going to  
21 take a very, very long time, based on the  
22 projections, for the owner to earn its target of  
23 return, and they weren't going to be able to do it  
24 in 50 years.

25                   COMMISSIONER GEDDES: Madam

1 Chair, could I jump in here?

2 CHAIRPERSON CINO: Yes.

3 COMMISSIONER GEDDES: Sorry.

4 Thanks very much.

5 Someone with a little bit of  
6 economics background, I feel like I have to  
7 address the earlier question to be sure I'm  
8 straight on things, but it sounded for a while as  
9 if we were talking about a firm being able to  
10 undertake an unconstrained choice in its pricing,  
11 and of course that's not what we're talking about  
12 here.

13 MS. HEDLUND: Not at all.

14 COMMISSIONER GEDDES: So  
15 any -- any profit-maximizing choices -- prices  
16 subject to constraint that is laid out in the  
17 contract, right?

18 MS. HEDLUND: Yes, that's  
19 right.

20 COMMISSIONER GEDDES: Okay.

21 Just wanted to be clear about that.

22 So any -- any of these  
23 discussions we're having about them -- them  
24 pricing to maximize profits would have to be below  
25 that --

1 MS. HEDLUND: They would still  
2 have to be --

3 COMMISSIONER GEDDES:  
4 -- contractually determined price.

5 MS. HEDLUND: They would still  
6 have to be below. Some of the -- you know,  
7 Indiana and Chicago and Virginia, and these are  
8 asset dispositions rather than new projects, there  
9 were fixed increases going forward for 10 or 12  
10 years, and then once you get beyond a certain  
11 foreseeable future, then the contracts provide  
12 that the rates can go up a maximum of CPI or real  
13 GDP, or I remember in Virginia, it's like  
14 2.8 percent.

15 COMMISSIONER GEDDES: Uh-huh.

16 MS. HEDLUND: And the  
17 projections, I think, were all run at -- at  
18 2.8 percent.

19 Whether, in fact, if you were  
20 in a -- in a recession, you could raise rates  
21 2.8 percent every year and not start suffering  
22 losses. It's certainly something to be seen. It  
23 may be that you could not.

24 There was an analysis that was  
25 done -- a theoretical analysis done on the Holland

1 Tunnel that came to the conclusion that today, if  
2 they could have raised it to a 2.5 percent or  
3 3 percent every year since 19 -- whatever it  
4 was -- 32, that people would be paying \$100 to go  
5 through the Holland Tunnel. Well, obviously, that  
6 is not the case.

7 And for quite a number of  
8 years, we were in a period of, not inflation, but  
9 deflation, and a period of recession so that  
10 there's no way that tolls would have gone up that  
11 way.

12 COMMISSIONER GEDDES: They  
13 would have priced themselves out of the market.

14 MS. HEDLUND: That's correct.

15 COMMISSIONER GEDDES: Okay.  
16 There's another couple of follow-ups.

17 The -- as my CEO colleague  
18 here knows well, there's more than just a price  
19 dimension to providing any good or service.  
20 There's a quality --

21 MS. HEDLUND: Right.

22 COMMISSIONER GEDDES:  
23 -- dimension as well, which when you're a profit  
24 maximizer, you -- presumably you're concerned  
25 about, and that's good, and we had some discussion

1 about that in the previous session. So the  
2 quality of the roads that are tolled here would  
3 come into play, and we've learned that the quality  
4 of road is very important for fatalities,  
5 particularly in -- in decreasing the number of  
6 fatalities and making the road safer.

7 So I'm wondering if you  
8 could -- if you could comment on that a little bit  
9 in this context. And I'll put out the -- the next  
10 part and maybe -- maybe that would, you know, be  
11 something you prefer to address in more detail.

12 And all -- we've been hearing  
13 a lot about the needs of the system and the amount  
14 of capital we need to invest, and one of the main  
15 goals of this type of project that you're talking  
16 about is bringing in capital in -- into the  
17 network through the private financing mechanism.

18 So could you give us an idea  
19 of the magnitude of that type of capital  
20 investment that we would be talking about? How  
21 much additional -- you know, are the -- the  
22 financiers on Wall Street interested in this? How  
23 much capital could we expect? And particularly  
24 relative to existing toll roads so that, in other  
25 words, if we still have to toll private or toll

1 public roads, how much of a difference in  
2 investment would we be expecting if we went to --  
3 to the toll private.

4 MS. HEDLUND: What I'm hearing  
5 from the bankers is that the amount of capital  
6 that's available is virtually unlimited. Carlisle  
7 has just put together a \$100 million fund.  
8 Goldman Sachs, Morgan Stanley are all putting  
9 together huge funds, and the capital that they are  
10 tapping into is primarily the pension funds. Toll  
11 roads make a great investment for pension funds,  
12 and let me explain why.

13 Pension funds want to match  
14 their assets to their liabilities, and they want  
15 very long-term liabilities with very low risk, and  
16 they're willing to take a relatively low rate as  
17 long as they can be assured that the income is  
18 going to increase with inflation. With a toll  
19 road that has the ability to increase its revenues  
20 by inflation and -- which is almost by definition  
21 a pretty low-risk operation once it gets into  
22 operation, these make excellent, excellent  
23 investments for pension funds. And we have a  
24 trillion dollars in our pension funds in the  
25 United States alone.

1 COMMISSIONER GEDDES: Yeah.  
2 Could -- could I follow up on that?

3 My recollection is that  
4 CalPERS is probably the single largest pension  
5 fund. Could you give us some specific examples  
6 of -- of pools of money that are -- that are  
7 interested?

8 MS. HEDLUND: I -- I don't  
9 know exactly what the numbers are for CalPERS, but  
10 they're very, very large.

11 COMMISSIONER GEDDES: Uh-huh.

12 MS. HEDLUND: Billions and  
13 billions and billions.

14 COMMISSIONER SCHENENDORF: I'm  
15 confused now because if they're looking for  
16 investments that can increase by inflation, that's  
17 the Holland Tunnel \$100 fee.

18 MS. HEDLUND: Right.

19 COMMISSIONER SCHENENDORF:  
20 you're saying wouldn't happen.

21 So in the long-term, if you do  
22 increase it by inflation, you're either getting  
23 the \$100 fee or you're getting something less.

24 MS. HEDLUND: The Holland  
25 Tunnel number, the \$100, that was run on the basis

Which

1 of the minimum 2.5 percent. If it has -- it  
2 increased just by inflation, it's much lower  
3 numbers.

4 But it's also because of  
5 the -- the numerous years of very, very low  
6 inflation rates during -- during the depression,  
7 and in fact, negative inflation. But the point is  
8 they're willing to take that risk.

9 COMMISSIONER SCHENENDORF: I  
10 guess, you know, the point we have talked about  
11 before about not getting up to the \$100. I don't  
12 think that's the worry. I think the policy  
13 concern is that you do have a well-run toll road  
14 that's providing excellent service for people that  
15 is set at a -- an amount that allows for the  
16 maximum throughput, but 30, 40, 50 years from now,  
17 that has turned out to be a very good deal, and  
18 that toll road is generating a lot money.

19 If it's a private toll road,  
20 that money will all go into profits for the  
21 company, whereas if it's a public tolling  
22 facility, that additional money can then be put  
23 back into transportation.

24 MS. HEDLUND: Not if it's the  
25 Commonwealth of Virginia because they bargained



1 for a share in the revenues of that facility.  
2 Once it hits an internal rate of return of, I  
3 think it was 6.2 percent, and then they get  
4 50 percent of it. When it goes to 8 percent,  
5 8.something, they get 80 percent of it.

6 So the public sector can  
7 bargain for those additional revenues that are  
8 being produced within the toll rates that are  
9 permitted by the contract.

10 COMMISSIONER SCHENENDORF: But  
11 that's not the standard, though?

12 MS. HEDLUND: Well, I don't  
13 know what the standard is because regional --

14 COMMISSIONER SCHENENDORF:  
15 Indiana doesn't have anything like that, right?

16 MS. HEDLUND: Well, that's  
17 because I wasn't representing the State of  
18 Indiana.

19 COMMISSIONER HEMINGER: In --  
20 in some cases, though -- Jack, just to interject,  
21 in some cases, though, the public agencies which  
22 have an outstanding debt, their bond covenants  
23 will often require them to keep debt reserves, you  
24 know, to maintain a high rating.

25 And so it's not as if all that

1 excess capital is sort of readily available for  
2 reinvestment. Some of it has to sit in a bank  
3 account to keep the bondholders happy; whereas,  
4 the private sector could take a little bit more  
5 risk on that with a lower -- with a lower rating.

6 COMMISSIONER GEDDES: But --  
7 but I agree with what you said. In principle it  
8 can be if it's publicly owned. The question is:  
9 Do public property rights result in the incentives  
10 to do so? And -- and I think history shows in a  
11 lot of different areas and not just  
12 transportation, that if you have public property  
13 rights, that additional wealth will be dissipated  
14 in a -- in a series -- in a variety of ways.

15 It might go to labor. It  
16 might go to lack of maintenance, whatever. The  
17 question is one of incentives here to maintain the  
18 facility.

19 So the fact -- the point is  
20 the fact that you do have a group that has  
21 incentives to highly -- to maintain that -- that  
22 facility in its highest possible state because you  
23 want to provide customer service is the incentive  
24 that says: Okay. Reinvest -- actually do  
25 reinvest that money.



1 think, 123, 124 billion. You aggregate it all,  
2 that's the resource you want to take.

3 What do you add in value?  
4 They could cut those same deals with a  
5 state-operated toll authority to obtain exactly  
6 the same long-term protection. What are you doing  
7 for them that they couldn't obtain with a very  
8 direct transaction that gets them exactly the same  
9 thing they want, which is an assured return, you  
10 know, low risk?

11 I mean, clearly, within a  
12 state covenant you can structure that. Certainly  
13 in the state of New York and I suspect everywhere  
14 else, it becomes a contract that -- that is not  
15 easily changed by the legislature. What is it  
16 that you add in value? Because tapping that pool  
17 of capital, which is the main pool of capital  
18 we're talking about, those in the union pension  
19 funds as well, because they have a lot of sources,  
20 the pension capital.

21 MS. HEDLUND: It's the  
22 difference in the type of investment. If you have  
23 a public entity, they can't by definition issue  
24 stock, so they're issuing debt. Their debt is  
25 tax-exempt, and public pension funds, because

1 they're a tax-exempt entity themselves, have no  
2 appetite for a public tax-exempt bond. That's why  
3 they're --

4 COMMISSIONER McARDLE: They  
5 don't have to be tax-exempt bonds. They can get  
6 taxable debt.

7 MS. HEDLUND: Well, why --

8 COMMISSIONER McARDLE: You see  
9 that --

10 MS. HEDLUND: They could, but  
11 why should a tax -- tax -- an entity that can  
12 issue tax-exempt bonds issue taxable bonds?

13 COMMISSIONER McARDLE: Creates  
14 a different market for them. Quite frankly, we  
15 found that with the city of New York on the water  
16 side. You need in a mix of offerings, and you've  
17 got certain advantages from issuing taxable that  
18 you didn't get from issuing tax-free. And again,  
19 because you can roll it -- the rates in, it does  
20 give you certain advantages and certain markets  
21 you could tap otherwise.

22 MS. HEDLUND: Right. It's  
23 also the difference between fixed-income  
24 securities and equity securities. I mean, they  
25 would be investing on a different basis and

1 investing for a longer term.

2 What the bankers say is one of  
3 the financial advantages of private investment is  
4 that -- that the same stream of revenues will  
5 produce a larger investment from the private side  
6 because they're willing to take more risk. They  
7 value the entire revenue stream, not just a  
8 portion of it, and they're looking at it for a  
9 longer period of time.

10 COMMISSIONER McARDLE: But  
11 does that, then, capture you in the same problem  
12 we're in now on collateralized debt in which the  
13 equity trenches really are just about running, you  
14 know, free, and you've got a lot of people worried  
15 about what that's going to do in the long term to  
16 that marketplace. Because clearly the -- you  
17 know, investors you're trying to get from the  
18 public authorities is going to buy the absolute  
19 risk-free, you know, component.

20 MS. HEDLUND: I'm not sure I  
21 understand your question, but it's -- the  
22 investment in the toll roads is not a whole lot  
23 different from their investment in other  
24 utilities, and that's how they're going to look at  
25 it.



1 think the market -- the energy market was much  
2 more volatile during those periods, and so they  
3 were -- some of the merchant investments didn't  
4 pay off.

5 COMMISSIONER McARDLE: But  
6 aren't we in the same circumstance here in which  
7 we're betting on traffic generation as they were  
8 betting on the demand for electricity, and --

9 MS. HEDLUND: Yes, but it's a  
10 much more long-term bet, and when you look at  
11 pop -- I mean, traffic is driven by population  
12 growth, I mean, as is -- as is energy.

13 COMMISSIONER McARDLE: Yeah,  
14 that's --

15 MS. HEDLUND: But it's -- you  
16 know, the merchant investments, they were looking  
17 for a shorter-term payoff, and here people are  
18 investing really for the long-term.

19 CHAIRPERSON CINO: Well,  
20 you-all have been very, very good sports. Karen,  
21 I might tell you now that this panel is over, that  
22 the last panel yesterday, one of our professors  
23 was picked on continuously for the hour and 15  
24 minutes, and I'm afraid you've taken his place.  
25 But you've all been very, very good sports and



1 given us a lot of valuable information. I'm sure  
2 that we will be back to you with probably  
3 questions and other thoughts that we might have,  
4 but thank you very, very much.

5 This is the, as I said, the  
6 last panel, so we'd like to thank our panelists,  
7 and also now the general public is able to  
8 testify. And I have only two names that would --  
9 of folks that would like to testify. So at first,  
10 I'll pull Norman Emerson from the Emerson and  
11 Associates group from California.

12 MR. EMERSON: Thank you, Madam  
13 Chair and --

14 CHAIRPERSON CINO: Thank you.

15 Do you want -- do you want to  
16 come right up to the front and just sit down at  
17 the table? It might be easier for you, and I know  
18 that those mikes work.

19 MR. EMERSON: Madam Chair and  
20 Commissioners, I'm Norman Emerson. I'm  
21 representing the Southern California Leadership  
22 Council, which is a private sector organization  
23 that was established primarily to deal with public  
24 policy issues. Our primary focus currently is on  
25 goods movement and the related environmental

1 challenges facing our region.

2 Our counsel is joined with a  
3 number of public agencies and other private sector  
4 interests to extend an invitation to the  
5 commission to visit Southern California and to  
6 conduct a field hearing as one of your  
7 fact-finding efforts in the future months.

8 We believe that the Southern  
9 California region, and particular the San Pedro  
10 Bay port complex offers a number of significant  
11 examples of key trends and innovative solutions  
12 currently being explored by the commission.

13 For example, over 43 percent  
14 of the water-borne trade entering the United  
15 States is processed through the Los Angeles and  
16 Long Beach port complex. That's in 2005,  
17 14 million TEUs.

18 Over 50 percent of this  
19 container activity has a final destination outside  
20 of Southern California, with 60 percent traversing  
21 the city of Chicago, and as you heard this  
22 morning, the city of Dallas as well; port- and  
23 trade-related activity in 2005 created \$264  
24 billion in value and generated over 1 million  
25 jobs; and that the ports of San Pedro, and with

1 global gateways in Southern California, are  
2 currently responsible for between 35 and  
3 40 percent of federal customs revenue collected in  
4 the United States.

5 In addition, we would like to  
6 share with you the experience associated with the  
7 development in financing and a pre-TIFIA  
8 environment, as well as the operation of the  
9 Alameda Corridor, a public/private partnership,  
10 federally -- federally designated goods movement  
11 toll project of national significance.

12 So Madam Chair, Members of the  
13 Commission, we would look forward to working with  
14 you and the staff in making a field hearing a  
15 reality in Southern California. So thank you for  
16 your consideration.

17 CHAIRPERSON CINO:

18 Mr. Emerson, thank you very much. I know that  
19 they will be getting back to you relatively  
20 quickly, hopefully as early as next week with a  
21 decision on that. We thank you and all of the  
22 folks that have actually submitted proposals, and  
23 we appreciate what you bring to the table before  
24 us. I appreciate it.

25 Our next speaker -- forgive

1 me. Councilman?

2 MR. BLADES: Yes, ma'am.

3 CHAIRPERSON CINO: Councilman  
4 William Duncan Blades. Thank you, sir.

5 MR. BLADES: Thank you, Madam  
6 Chair. Never put a microphone in front of a local  
7 politician when you're having a hearing like this.

8 CHAIRPERSON CINO: I'm going  
9 to tell you that there's a time limit.

10 THE WITNESS: I understand. I  
11 understand.

12 My name is Bill Blades, and I  
13 am a city councilman for the City of Dallas.  
14 First off, let me thank you for holding this field  
15 program here in our city. I'll start there.

16 Secondly, I do chair something  
17 called the River of Trade Corridor Coalition,  
18 which is an organization made up of membership out  
19 of nine statements from California to Windsor,  
20 Ontario, Canada, a trade program that was  
21 established once we got to looking at the NAFTA  
22 highway and how goods and services were passing  
23 through the city of Dallas, and the desires to,  
24 along with the maritime administration of the US  
25 government, to complete an inland port system here

1 in this city, the southern half of this city.

2 So transportation and national  
3 surface transportation certainly became an element  
4 that we became very interested in over the last  
5 three years, because we were asleep before that,  
6 and not really paying attention to what was going  
7 on.

8 The Interstate 35 corridor  
9 from Laredo to Windsor, Ontario, Canada, is what  
10 we consider to be the NAFTA highway, with the  
11 inland port of Laredo being one of the largest  
12 inland ports in the world by tonnage. It makes  
13 the Interstate 35 system rather important with  
14 transfer of goods and services through the United  
15 States with 70 percent of the population of the  
16 United States living east of the line from the  
17 Canadian border to the tip of Brownsville, Texas,  
18 and the fact that China has now become our Number  
19 2 trading partner; Mexico, Number 3; Japan,  
20 Number 4. We don't get back to Europe until we  
21 get to Number 5; Canada being Number 1.

22 We seem to have turned our  
23 trade patterns around in this country. For 200  
24 years or better, we came -- our major trading  
25 partners were Europe. Everything came through the

1 East Coast through Chicago, Kansas City, and then  
2 dispersed to the balance of the country.

3 Now we are going west to east  
4 and south to north, which did change the traffic  
5 patterns and has changed the trade patterns in  
6 this country over the very last few years, putting  
7 us in the -- at the apex, if you will, of the  
8 southernmost trade routes out of LA/Long Beach --  
9 I was glad to see the gentleman here from LA --  
10 and the NAFTA corridor crossing at Interstate 35  
11 and Interstate 20 here in the southern half of  
12 this city.

13 The very fact that the Union  
14 Pacific and the Burlington Northern railroads have  
15 double-tracked from LA/Long Beach to Dallas,  
16 Texas, shows that there is a major increase in the  
17 trade patterns across the southern half of this  
18 country, which does put pressure on the -- on the  
19 routing systems as we go through.

20 We talked about -- or I've  
21 heard testimony today dealing with how do we go  
22 about repairing systems? How do we go about  
23 speeding up transport through our country and  
24 delivery of goods and services? That's exactly  
25 what Minetta had in mind before he left when he

1 set up the group who was to determine what the  
2 three to five largest or best transportation  
3 systems through this country were for delivery.

4 Those guidelines for bidding  
5 on that, if you will, just came out with the first  
6 reports due in by October the 28th for the  
7 transportation department to determine what routes  
8 they were going to get further information from,  
9 so that the money that was set aside in SAFETEA-LU  
10 for -- for surface transportation could be spent  
11 on the three to five largest operations or  
12 transportation delivery systems across the country  
13 in order to speed it up.

14 One of the things that -- that  
15 has come out of the River of Trade organization  
16 was a gentleman by the name of Steve Adams, who is  
17 a city councilman in Riverside, California, who  
18 came to us and said: Given directions by Senator  
19 Feinstein to go out and sell his program.

20 The program really dealt with  
21 the import duties that are paid on goods and  
22 services into this country. Today, they sit at  
23 about \$75 billion. He said: Why not, from a  
24 transportation -- national transportation  
25 standpoint, federal government put a cap on import

1 duties at 75 billion, and then for the next 10  
2 years, the increase that came through in import  
3 growth be applied to the transportation costs as  
4 they rose in this country because they are  
5 undesignated funds at this point.

6                   It gave a -- a position that  
7 said: You're not charging the people of the  
8 United States for what is -- is costing them,  
9 you're charging the people who are using our  
10 system for delivery of their goods from outside  
11 the country.

12                   Then at the end of that  
13 10-year period, the balance went back into the  
14 general fund as it currently does today. But for  
15 that 10-year period then, whatever that growth  
16 factor was for every year after that, it continued  
17 to feed the transportation industry or the -- the  
18 transportation systems that we have in this  
19 country.

20                   And if we look at ports like  
21 LA/Long Beach and they say they did 12 and a half  
22 million lifts in 2005, and they anticipate 35, 45  
23 million lifts in -- by 2035, there will be a major  
24 growth of import duties in this country that would  
25 allow for that system to take place, and then



1 allow for the port authorities of the United  
2 States across this country to charge whatever fee  
3 they might per container for work within the ports  
4 themselves without coming back to the general  
5 public for additional tax dollars for the funding  
6 of those.

7                   If we do not do something  
8 nationwide for things like the Alameda Corridor,  
9 we will lose our transportation routes because  
10 China is going to go to Vancouver, Canada, or  
11 they're going to Lazaro Cardenas, Mexico, and ship  
12 goods through a different fashion.

13                   Their ships are too large to  
14 go through the Panama Canal. They will either go  
15 to the two Pacific ports that we have in our  
16 country, Seattle or LA/Long Beach, or they're  
17 going to go to Vancouver where they're spending  
18 several million dollars to deepen that port and  
19 giving funds to the Canadian National Railroad to  
20 raise their tunnels so that they can drop it  
21 straight into Chicago across the southern half of  
22 Canada, or they're going to go to Lazaro Cardenas,  
23 Mexico, where they're spending \$300 million for a  
24 major container operation and tying into the only  
25 US railroad in Mexico, the Kansas City Southern.

1                   So I encourage us to find ways  
2 quickly to try and help our distribution system,  
3 or we will lose it. And in a major way that will  
4 have a lasting effect on every major city across  
5 the southern half of the United States that  
6 depends on that transportation system today.

7                   Thank you.

8                   CHAIRPERSON CINO: Thank you  
9 very much, Councilman. I appreciate your  
10 mentioning also the Department of Transportation,  
11 under which Norman Minetta announced our  
12 congestion reduction program, and I think he  
13 spoke. Highly appreciate that with regards to the  
14 corridors of the future. We're very hopeful to  
15 have those three to five corridors in the future  
16 that we will begin to --

17                   MR. BLADES: We hope to be one  
18 of them.

19                   CHAIRPERSON CINO: Appreciate  
20 your time, sir.

21                   With that I'll open it up to  
22 my fellow commissioners.

23                   COMMISSIONER McARDLE: One of  
24 the things that we learned yesterday is that there  
25 is in this environment a substantial problem

1 created by the Tower 55 crossing. It clearly  
2 impedes the free flow of goods through Dallas, and  
3 in fact that there's a proposal, at least by the  
4 Burlington Northern -- I can't speak to what the  
5 UP would do -- to actually run a route that would  
6 totally avoid Dallas.

7 MR. BLADES: At this point in  
8 time, there has been a -- a major -- conversations  
9 about how that gets rerouted.

10 COMMISSIONER McARDLE: Well,  
11 that's my question.

12 MR. BLADES: And the majority  
13 of the Burlington Northern, the majority of the  
14 north/south product that is coming through the  
15 Tower 55 program are the coal trains coming out of  
16 the Northwest going to the power plants in the  
17 southern half of this state. They are continuous  
18 and they are numerous and they are long, crossing  
19 the Union Pacific main line from California to the  
20 East Coast at Tower 55 where there is a major  
21 hangup. Nothing that \$100 million won't take care  
22 of.

23 COMMISSIONER McARDLE: But is  
24 that something, if you had the flexibility in --

25 MR. BLADES: If we --

1                                   COMMISSIONER McARDLE:   -- the  
2 City of Dallas to specify that is an investment  
3 program, you would do?

4                                   MR. BLADES:   Absolutely.

5                                   COMMISSIONER McARDLE:   In the  
6 private sector?

7                                   MR. BLADES:   Absolutely.  
8 There have been a lot of discussions at this point  
9 on how to clear that. From a trade standpoint,  
10 very interesting listening to the conversations  
11 about the -- the light rail system and the freight  
12 systems using the same rail. The Burlington  
13 Northern is considering doing a second intermodal  
14 in the southern half of Dallas, and the way they  
15 get there is on that very light rail system in a  
16 trade through the middle of the city, avoiding  
17 Tower 55 completely.

18                                   The other was the rerouting of  
19 both the Union Pacific's main line and the  
20 Burlington Northern's line through the Trans-Texas  
21 35 Corridor around from the west going east and  
22 around the southern half of the metroplex.

23                                   That has been a major bone of  
24 contention with the two cities and the State of  
25 Texas as to where the routing of that would go. I

1 think we settled that last month, and we are very  
2 aware of how that system would tie together across  
3 the southern half of the two counties that were  
4 involved, as opposed to having to go 100 miles to  
5 the west and 80 miles to the east of the metroplex  
6 and try to tie back with lateral roads and bridge  
7 lines to the various intermodals that are in  
8 existence, or disrupt the economy of the  
9 Interstate 35 system as it currently exists by  
10 having it go in 80 to 100 miles to the east of  
11 what is the 35 corridor or the current NAFTA  
12 corridor.

13 So I hope that answers your  
14 question. We are very much aware of the Tower 55  
15 program and what can be done there, and as we  
16 said, \$100 million will fix Tower 55 real quick  
17 because it will allow a separation of the track  
18 systems where those two cross, and it will be  
19 something that could be done fairly quickly.

20 CHAIRPERSON CINO: Thank you  
21 very much, Councilman.

22 THE WITNESS: Thank you-all,  
23 again. We appreciate you being here in our  
24 city --

25 CHAIRPERSON CINO: Thank you.

1 THE WITNESS: -- and the  
2 opportunities you gave us to speak today. We  
3 appreciate it.

4 CHAIRPERSON CINO: Well, this  
5 concludes our first field hearing. And let me  
6 just say that it's been very beneficial to get out  
7 of DC and to hear from our state and local  
8 officials, hear from various experts, and most  
9 importantly, from some of our customers and our  
10 users.

11 Obviously, you all know and  
12 have heard firsthand here today of the challenge  
13 that we have ahead, and I know that I speak for  
14 the commissioners when we take this -- we take  
15 this commission seriously, and we will forge ahead  
16 over the next six to eight months.

17 Please know that we will  
18 continue to hold more field hearings over the next  
19 six to eight months around the country, and we  
20 certainly look forward to getting back to you with  
21 a comprehensive report that will be submitted to  
22 Congress.

23 Finally, let me again thank  
24 our host. I see only Pat Jones here -- Neil. I'm  
25 sorry, Neil. I can't see behind you. And Neil,

1 thank you very, very much for hosting us. You-all  
2 have set a high bar. We appreciate you taking  
3 this on.

4 In addition, I want to thank  
5 all the panelists who did a terrific job, and it  
6 really added to our base of knowledge, and as  
7 always, the staff behind the scene that makes this  
8 happen. But finally, to the commissioners, each  
9 and every one of them has done this voluntarily,  
10 has put a lot of time and effort, and this is  
11 really just their nonpart-time job, so I thank all  
12 of the fellow commissioners here that have joined  
13 us in Texas.

14 Again, thank you, and I look  
15 forward to putting this report together on  
16 something that's usable and will be something that  
17 will take us into 2050.

18 COMMISSIONER SCHENENDORF: I  
19 think that all the commissioners also would like  
20 to thank you, Madam Secretary, for having led us  
21 so well during this period.

22 (Applause.)

23 (Off the record at 3:15 p.m.)

24 - - - - -

25

1 THE STATE OF TEXAS X  
2 COUNTY OF DALLAS X

3  
4 This is to certify that I,  
5 Jamie K. Israelow, a Certified Shorthand Reporter  
6 in and for the State of Texas, Registered  
7 Professional Reporter, Certified Realtime Reporter  
8 and Certified LiveNote Reporter, reported in  
9 shorthand the proceedings had at the time and  
10 place set forth, and that the above and foregoing  
11 pages contain a full, true, and accurate  
12 transcript of the said proceedings.

13  
14 GIVEN UNDER MY HAND on this  
15 the \_\_\_\_\_ day of September, 2006.

16  
17  
18 -----  
19 Jamie K. Israelow, CSR, RPR, CRR, CLR  
20 Texas CSR 3801  
21 Expiration Date: 12/31/06  
22 MillerParker, Inc.  
23 CRCB Registration No. 85  
24 100 Premier Place  
25 5910 North Central Expressway  
Dallas, Texas 75206  
214.369.3376

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