

1 Now, when we need partners to develop
2 new projects, we must look at the entire range.
3 There may be some times we will just do design-build
4 and times we will do design-build, finance; and then
5 design-build, operate, and maintain. And some of
6 that we may do just publicly or just let the public
7 see. So we're going to be very, very cautious in
8 terms of what are the implications of these long-term
9 contracts. To make this stuff work, you need -- we
10 have already seen now in San Diego where we may need
11 to stretch it out longer potentially from 35 years to
12 45 years.

13 When I came back from Washington, I
14 listened to people talk about 99-year contracts.
15 Well, 99 years ago, we didn't even really have the
16 automobile, really. So let's be clear. What does
17 this all mean in terms of 99 years?

18 So I think -- all I can tell you is we are
19 going to be moving cautiously. We realize that
20 there's not a whole lot of appetite to raise the gas
21 tax in California. I personally would like to see it
22 indexed. We would like to get away from
23 petroleum-based fuel. So we really should be looking
24 at other mechanisms. And we will be looking at
25 public-private, but we're not really rushing into

1 this.

2 We are going to look at what our needs are
3 and how we obtain resources and also how much we can
4 do ourselves. And you know, the public sector itself
5 may be in a better position also to do tolling and
6 financing and not have necessarily -- and just
7 contract with the private sector. There's such a
8 range, and I think people need to realize that, that
9 we're really talking about a wide range of options,
10 and only at one end is the total design-build,
11 finance, manage, operate. There's a whole other
12 range in which we can be partners. And we need to be
13 true partners, not give it away. That's where we are
14 in California.

15 MR. BUSALACCHI: Thank you, Senator.

16 MR. HEMINGER: Frank, if you wouldn't mind, if I
17 could follow up because I know, Art, you've had the
18 direct experience with the SR91.

19 Gary, I believe one of the other projects
20 that was authorized by our state law is being built
21 in your jurisdiction.

22 And John, I know you have been through a
23 lot of the legislature discussions.

24 Would any of the three of you like to chip
25 in on the same subject?

1 MR. LEAHY: Steve, I would with regards to the
2 SR91 experience. The Senator's comments are very
3 wise, and I can speak from our personal experience in
4 dealing with the private toll road owner in the
5 middle of a public freeway leading to lawsuits
6 between counties in the State of California regarding
7 that franchise.

8 As I said, the non-compete protection they
9 had which went miles beyond the toll lanes as they
10 existed then or today. The private firm, rationally,
11 wanted to make money. That's why they were there.
12 As a consequence, they cared little about the impact
13 of their non-compete clause on the travelling public.
14 They cared little about the impact that may have had
15 on employment or economy or other issues.

16 I'm going to note here that the reason why
17 we're so negative on non-compete clauses is it leads
18 to a very negative situation where you can't even
19 discuss improvements. The non-compete protection
20 that the private toll road owner had granted them
21 quote, "The quiet enjoyment of their franchise,"
22 which meant we shouldn't even discuss the impact of
23 the non-compete clause. That led to this very, very
24 negative situation that I have been describing.

25 I would also note that it took us a great

1 deal of analytical work, with a great deal of
2 caution, before we decided that we could buy one of
3 the toll road lanes, get rid of the non-compete
4 clause because we were buying that road from a
5 business, a private business. Their motivation is
6 economic; it's private, as distinct from ours, which
7 was to assist people traveling around.

8 So the notion of being cautious in dealing
9 with a private provider is -- you know, there's a
10 reason why we say, "Let the buyer beware." The
11 market runs the way it will. With that, I'll close.

12 MR. GALLEGOS: I would share Art's concerns
13 about the non-compete clauses. We were part of the
14 same package of legislation that allowed those. We
15 continue to struggle with them today. In terms of
16 making improvements, there's lessons learned. Those
17 non-compete clauses -- they're not being put in this
18 highway and the stuff going on in Indiana. So it
19 shows that there's been an evolution.

20 But I think, as we answer this debate --
21 and I watched for years the feds talk about
22 innovative financing and come more to the basic
23 practices that there's no free lunches and we have to
24 raise revenue.

25 How best to do that? In some ways it may

1 be best to do it through tolling and best to do it
2 through the private sector, but in other cases, it
3 may not.

4 I think too often we lose sight of what
5 we're trying to do, and what we really need to do is
6 raise more revenue. And the user is going to pay.
7 And we got to sort of figure that out and figure out
8 how best can we ensure that that user, you know, pays
9 his or her fair share and how best to do it.

10 And I would submit to the Commission that
11 in the cases where the public sector can do it
12 better, we ought to try them, and the places where
13 the private sector is more efficient, we ought to do
14 that. I don't believe that there's a "one size fits
15 all" and we have to sort of craft this in a way that
16 works for the best of the public interest that we
17 serve.

18 MR. BARNA: There's even -- stepping back one
19 step further, one step behind, what both, I think,
20 Art and Gary are talking about is why would we even
21 entertain public-private partnership? And it's
22 essentially to provide mobility. We are in a
23 situation in California which is not dissimilar to
24 the other states that have looked at this, and this
25 is the Commission's view, and this is what we've said

1 in front of the Senator's committee.

2 We can't raise the gas tax high enough in
3 California. We can't go -- counties, regional
4 agencies can't go back to the voters and raise
5 revenue high enough to deal with providing mobility
6 in key corridors where we have tremendous amount of
7 basically inner-county commute patterns whether
8 that's San Diego and Riverside, Riverside and Orange
9 County, Orange County-L.A.

10 The needs of California are on a national
11 scale. Therefore, in looking at public-private
12 partnerships, it's -- and as the Senator said,
13 there's a continuum of that. But the reason to look
14 at it is because we need to figure out a way to
15 provide that mobility, and we need to tie providing
16 that mobility to a reasonable cost scheme for paying
17 for that mobility.

18 And that's where the user fee comes in.
19 And whether that's in a toll or some sort of shadow
20 toll scheme, it's really coming back and asking why
21 would we do this? And it's about mobility, and it's
22 about providing mobility, really shoehorning it into
23 an already built-out system. And so it's not cheap.
24 It requires a fair amount of innovation. And there's
25 a lot of good thinking on both the private- and

1 public-sector side, but it's developing the strategic
2 approach and then being flexible enough to provide
3 implementation strategies, and public-private
4 partnerships are part of that implantation strategy.

5 That's at least our view of the Commission.
6 And if public-private partnership -- well, in fact,
7 there is public-private partnership legislation that
8 was approved last year that puts the Commission in
9 the new and, enviable position of having to approve
10 franchise agreements. Frankly, we've looked at that
11 and said, based on the legislation, we are
12 hard-pressed to see how that's going to work because
13 there's some hurdles.

14 And we would offer it needs to be a lot
15 more flexible. It needs to be on the order of what
16 the Senator has said and based on Art's experience,
17 based on Gary's experience, based on what's emerging
18 in Riverside County so we don't have a "one size fits
19 all" and we can understand why we're actually
20 pursuing public-private partnerships.

21 MR. HEMINGER: Mr. Skancke.

22 MR. SKANCKE: Thank you, Mr. Chairman.

23 All right. Let's stir this up a little
24 bit. This is a great panel, and I appreciate your
25 comments, and I've got lots of questions, if we have

1 time for all of them, because this is kind of the
2 thing that I have been trying to get to on several
3 programs.

4 So Gary, my question to you is when you
5 made the comment about making funds more flexible,
6 what do you mean by that exactly?

7 MR. GALLEGOS: I think if you look at it, we're
8 matching local dollars and, in our case, we are the
9 majority investor in the system. And so we get
10 dollars from the feds, and you get CMAC dollars, and
11 CMAC dollars can only be used in this way and under
12 these rules.

13 And then you get STP dollars, and those can
14 be used a different way. And you get FTA dollars.
15 We argue -- we have been having an argument on the
16 fixed guideways. We are building these managed
17 lanes, and we are putting a BRT and giving them a
18 priority. That's pretty darn close to a fixed
19 guideway, but the rules of the federal government
20 question whether we should get any credit for that.
21 So you get all these pots of money with all these
22 requirements, and then we're always pressed to figure
23 out how we put the puzzle together, and hopefully the
24 picture looks good at the end of the day.

25 So I would advocate more flexible and being

1 able to move funds, building on John's point, where,
2 at the end of the day, it ought to be about mobility
3 with some environmental pieces like air quality and
4 enhancing quality-of-life kinds of things. But I
5 think there's too many programs, too little money,
6 and you're forced to mix and match things that don't
7 always give you the best investment.

8 MR. SKANCKE: Would you be willing to please
9 send me some recommendations? I'll give you my
10 E-mail address. But this goes to the heart of my
11 matter, which is there's too much bloody policy. The
12 entire program is busted.

13 MR. GALLEGOS: I would be happy to. I think you
14 need to keep it simple. It can't be too complex.

15 MR. SKANCKE: Well, the simpler the better
16 because you're dealing with someone from Nevada; so
17 make it easy for me.

18 My second question, Mr. Chairman, is to
19 Kent.

20 Thank you so much for bringing the
21 New Starts -- which I call "Slow Starts" -- Program
22 to our attention. I would like to know about how
23 much money an agency spends upfront before they
24 turn -- just an estimation, on average. I did have a
25 conversation with the folks at MTA here in L.A. I'd

1 like to know, on average, what does it cost an agency
2 upfront when they start the process, from day one,
3 going all the way through completion, before they
4 turn shovel, on a transit program in the New Starts
5 Program.

6 MR. WOODMAN: Well, Commissioner, that really
7 depends on the size of the program because most of
8 those what are called "soft costs" end up being
9 somewhat a percentage of what your project cost is.
10 So if you got a billion-dollar project, then you are
11 going to be spending a percentage of that over a
12 period of several years -- maybe eight years --
13 before you ever start construction.

14 But I think it's going to vary from one
15 project to another depending on the project cost
16 because the amount of preliminary engineering you
17 have to do, the amount of alternatives analysis you
18 have to do, how detailed your NEPA document is, is
19 all going to vary on how big and complicated your
20 project is.

21 And I think anecdotally -- and I don't know
22 statistically, but anecdotally the amount you spend
23 on those type of costs on a New Start, as compared to
24 the amount you spend on a project that you build with
25 your own money, is significantly different. Because

1 you can dramatically lower those soft costs when you
2 are not dealing with the Federal Government because
3 you don't have to constantly prepare these reports,
4 you don't have to have endless setting of meetings,
5 you don't have to spend all this time on the
6 analytical part. You can basically just get to the
7 engineering and design.

8 MR. SKANCKE: So Roger, correct me if I'm wrong,
9 but I think the amount that LAMTA spent was
10 \$450 million? Or that's what you received; correct?
11 Somewhere between 15 and \$20 million before they
12 turned the shovel? Is that accurate in the number?
13 Or close to it?

14 MR. SNOBLE: That's accurate. That's probably
15 over and above what we would normally spend too.

16 MR. SKANCKE: And my thought is what could you
17 spend -- I know, I realize it takes money to make
18 money, but what could we have spent that 15 or
19 \$20 million on besides going through a process to
20 compete for a few nickels at the end of the day?

21 MR. WOODMAN: Again, this is anecdotal, but I
22 would say if you do a new fixed guideway project and
23 you're not under the New Starts Program, you have
24 enough money to build it on your own -- and
25 California cities sometimes do -- you probably save

1 two years, I would guess, in the entire
2 project-development process.

3 If you have a project that cost a million
4 dollars, the simple escalation cost of saving those
5 two years is probably saving you 50 or \$70 million.
6 So that's a couple of bus maintenance facilities.
7 That's several hundred busses. Every transit
8 property has unmet transit needs, and when you're
9 spending this money unnecessarily, you're just
10 continuing to unfund those needs.

11 MR. SKANCKE: That's been my point for nine
12 months. For those of us who have to work inside the
13 system, the waste -- there has to be a component to
14 this report, in my opinion, that says, "Here's what
15 we can save, a billion dollars." Or in the Federal
16 Government's case, \$800 billion or maybe a trillion
17 dollars, and here's where we need to go in the next
18 direction. And I think it's the responsibility of
19 this Commission to come back with a cost-savings
20 proposal, not just a gas tax increase and privatizing
21 the highway system.

22 I mean, what you all have done here in
23 California is incredible. And to Will's credit, the
24 governor's credit, and John, the Senator, for
25 bringing forward this Prop 1B -- I was involved with

1 that, actually -- and what that is going to
2 accomplish for the state is twofold:

3 One, full faith and credit with the voters
4 of the state that you are going to develop projects,
5 and they know it's going to happen. And my thought
6 is that as California goes, so goes the rest of the
7 country. And I think the other 49 states are
8 watching to see how you manage these \$20 billion and
9 see how the process goes because other states are
10 going to get there. And I think if you can
11 demonstrate a positive outcome from this, which I
12 know you will, then other states will look at this.
13 And I think that this Commission should then look at
14 giving credits for self-help states and self-help
15 counties as it relates to the dollars that are being
16 spent.

17 To your point, everyone has said for the
18 past few days we are not generating enough gas tax
19 revenue. There likely will not be a gas tax
20 increase. Nobody wants to take that hit. But
21 somebody takes it at the end of the day, and if you
22 can demonstrate the fiscal accountability on this
23 program with what you're doing with Prop 1B, I think
24 you are going to see a wave of that coming across the
25 country. And so I commend you for what you're doing.

1 I appreciate your comments and your recommendations.

2 And Senator, not many people come to these
3 hearings with recommendations of where we can do
4 things, and all of you have done that, and I really
5 do appreciate that. So again, I had nothing to do
6 with this panel, but this panel has been right to the
7 core of what I personally have been trying to get to.
8 So I appreciate all of you addressing those issues.

9 Thank you, Mr. Chairman.

10 MR. HEMINGER: Mr. McArdle.

11 MR. McARDLE: Yes, I think I want to echo what
12 Tom just said. It's been an excellent panel.

13 Gary, it's as if you have been listening in
14 on our sessions in Washington, and we would like to
15 know how you did it because almost your phrasing to a
16 word is the way in which we have framed and phrased
17 the debate.

18 MR. HEMINGER: Because he's talking to me,
19 Frank. That's what's going on.

20 MR. McARDLE: I knew there was a leak someplace.
21 And obviously, he did a very good job in transmitting
22 it because, you know, the critical issue is 50 years
23 out, how are we still the best economy in the world?
24 If we can't answer that question in a vision of what
25 that would be, in a framework that creates a

1 new capacity to make that a reality, our
2 grandchildren and children will not have the jobs
3 that we would like them to have. And that's what
4 it's all about. It's not about any of us here. It's
5 about grandchildren having the opportunities that a
6 vibrant economy will create for them. And so we
7 phrased it that way. And I think we see that that's
8 the critical component that we can bring to the table
9 in all of that stuff.

10 Because if you really want to consider
11 it -- and I think all of you know this -- for many of
12 the projects that are needed to accommodate a
13 50 percent increase in the national population which
14 is forecast but could be more, but doubling of the
15 GNP that people talk about or more, we probably
16 should be starting into the need for process today.

17 Because it now takes so long to execute
18 projects, to get the real value over the course of
19 those 50 years that you needed the steps, we really
20 need to have that plan, and we really need to start
21 into it now, which you will start with that
22 \$20 billion. It's a great down payment, but it's
23 only a down payment on what's needed. There's no
24 question about that. And so I think we heard from
25 all of that.

1 Kent, have you considered how many people
2 would be unemployed if we eliminated the FTA process?
3 They would be on street corners trying to sell
4 consulting services.

5 MR. WOODMAN: Twenty-five years ago when I was
6 in FTA, we were much smaller than federal highways,
7 and we were always trying to figure out what all
8 those people in federal highways did. So I don't
9 think it would disemploy anyone.

10 MR. McARDLE: But in reality, they have created
11 a process basically to stop people from applying
12 because they don't have as much money as they need to
13 satisfy the need that's out there. And I kind of
14 necessarily feel for them, but it has created this
15 process that does not seem to have a lot of value.

16 And it gets back to the point that you
17 made, Gary, about the NEPA process. If you can't get
18 from an agency a defined set of compliance
19 requirements, how do you teach the people who prepare
20 the documents initially what they should prepare?
21 And it should not -- as I said yesterday, this should
22 not be a catch-22.

23 Presumably, by now in the process you
24 should have the ability to create, day one, a set of
25 documents that, in fact, would meet a QAQC program

1 against what the agencies require. And you should be
2 able at that point to put it out for public comment,
3 and then 60 days later go to a federal judge, because
4 you'll be there anyway, to have the federal judge
5 tell you finally what you need to add to it to make
6 it more. Because right now those two years of
7 delay -- or eight years of delay in some cases, if
8 you talk to Matt Rose -- basically end up costing you
9 in this environment a huge amount of money.

10 I mean, you look at the steel price
11 escalation that occurred since China got in the
12 market in '03 to today, and you are looking at
13 projects that were priced, you know, at a time for
14 the contractors, you know, that you couldn't price
15 today. You know, New York City is facing probably a
16 20-percent hit on its estimates today against
17 projects estimated four years ago. And that really
18 cuts what you can do, and what you then have to go
19 through.

20 But we need to do something. And in fact,
21 Matt Rose suggested yesterday that perhaps what we
22 should do is kind of a Dutch auction. That, in
23 essence, having a billion-and-a-half dollars, who's
24 willing to take as much as they can at a 10-percent
25 federalship, and then move up in that scale. Because

1 they're scanning the game. There may be projects
2 where you would be willing to, in fact, bid for a lot
3 of federal dollars at 10-percent participation. And
4 it's something, again, as a way of getting around
5 what is basically an allocation issue because there's
6 not enough money in the place.

7 I have a question for you, Senator. Have
8 you thought at all about just getting rid of the
9 responsibility for setting the gas tax? I mean, part
10 of the problem with the gas tax is a user fee is --
11 not that it is not a good surrogate for vehicle
12 impact, because, you know, it's weight and horse
13 power and the like and it may, in fact, be a little
14 progressive in terms of people who buy the big SUV's
15 with the higher incomes.

16 But one of the questions I ask in all
17 seriousness is have you thought about getting rid of
18 the rate-setting responsibility? In New York City, I
19 ran the water supply system. We took the rate
20 setting part of the process of raising money away
21 from the New York City Council with their blessing
22 because they could never seem to get anything out of
23 it. They wanted to know that they were going to have
24 an adequate water supply system. They wanted to have
25 professional advice and community involvement and

1 project decision. But the rate setting was what
2 always killed them. And so we took the rate setting
3 out of that and put it in another place where it
4 responded to what the system needed to have invested.

5 And I find across the country legislatures
6 simply get paralyzed by this because you do get
7 people who will argue against it under any
8 circumstances, notwithstanding the Arabs changed our
9 whole view of gasoline, you know, from a dollar, you
10 know, and now that it's two and a quarter, thank God
11 it's not three anymore.

12 We have truly changed the way we do that.
13 And I say that in the context of one last point I'll
14 make to you as something you should look at, one that
15 has been given the great example of congestion
16 pricing. And so Ken Livingston puts in a barrier,
17 very complex, and he gets a 30-percent reduction in
18 traffic. Small squib in the FT last week has gone
19 away. It's basically back up to 92 percent of where
20 he was before, and everybody expects it to go all the
21 way. As we have gotten used to \$2.30 gas as a
22 wonderful thing, they have gotten used to \$15.00 for
23 entry as something they will pay. But if you would.

24 MR. LOWENTHAL: To respond, you know, to give a
25 little background -- I don't know if you are aware --

1 we have a unique situation in California. For us in
2 the legislature to appropriate any money, to pass a
3 budget, to put on any kind of -- unless it's -- any
4 kind of tax, let's just say, without talking about a
5 fee -- we are one of three states, two small
6 states -- we need a two thirds' vote. It's
7 impossible for us to do it. So your point is very
8 well taken.

9 Now, having said that, whoever the minority
10 party is now can hold the majority party hostage
11 because of that is not likely to give up that power
12 to do that. So there's lots of political reasons for
13 us not to do that. But at a policy level, you're
14 right. It would be a much better way for us to deal
15 with this issue of finding revenues. But I will tell
16 you, not likely to happen in California at all.
17 Political careers are made on not raising taxes.
18 That's the mantra. And so to pass it off would be a
19 good thing, but then again, what would happen to all
20 those political careers that are out there running?
21 They would not be able to run any longer.

22 MR. McARDLE: Get them jobs at FTA.

23 MR. LOWENTHAL: Because we are not really able
24 to, I guess, point it out and identify exactly what
25 our needs are, what are the best sources of revenue,

1 how are we really going to do it? Whether it's the
2 private sector or public sector, what you are asking
3 is to have a more rational approach to all of this.

4 I just don't see that happening in this
5 political climate at this time. I don't say that it
6 might not happen. I think one of the things that has
7 been interesting out here is, after a long period of
8 kind of following the Washington model of having
9 tremendous partisanship, we have kind of moved much
10 more towards a problem-solving, nonpartisan approach.

11 And we can continue that. Issues like this
12 could be on the table. But it's going to take -- we
13 are going to have to get through a lot of other
14 things first before we get there. And this year,
15 away from transportation, we are trying to do major
16 health care reform which is going to cost a lot of
17 money. We don't know where that money is coming
18 from. So it's all these other issues that are on our
19 plate.

20 But as far as that first part, I concur.
21 We have to have -- what you address is that -- and I
22 agree completely with the other point. What we have
23 done is just a down payment. We cannot -- we have to
24 be very careful about building people's expectations
25 and not following through on that. And what you are

1 saying is how do we continue by doing this, and you
2 have raised some good points, and I'm not quite sure
3 we know how we continue.

4 One of them, obviously, is we're looking
5 at -- again, judiciously -- how those user fees will
6 be done. But not that that's necessarily the best
7 way to do it, as you pointed out -- under all
8 circumstances or in some or in congestion management,
9 congestion pricing. You know, that's also effective.

10 But you know, there are limits as we move
11 forward. So we need to have a wide array, and part
12 of that, possibly, would be to have the authority.
13 Who knows? We are about to embark on major reforms
14 in California, maybe even taking away the
15 legislature's ability to set it right its own
16 district. So maybe we will take some bold steps in
17 looking at finance in the future.

18 MR. MCARDLE: And maybe it will be kind of a
19 recognition of what these kinds of growth patterns
20 are that will bring us to this. Because so little of
21 the existing capacity that we depend on was built
22 under the rules that existed. That could not
23 probably be built -- would not be built if they had
24 to be built under the rules that we're used to.

25 MR. LOWENTHAL: The other issue that is over our

1 heads here in California -- over the rest of the
2 nation but especially here in California -- because
3 we now have taken steps, it has been our recognition
4 that, whatever we do, that existing models will no
5 longer work unless we take into account or will no
6 longer work because we now also have to take into
7 account the tremendous impacts of climate change.

8 And our AB32, our implementation on our
9 need to reduce our carbon footprint or trying to link
10 in California this year -- that's why I share
11 transportation, land-use decisions, housing
12 decisions, the transportation decisions, the funding
13 decisions, to reduce vehicle miles travelled -- all
14 of these issues are going on at the same time that
15 just widening freeways and having more sprawl is not
16 going to get us there. It's going to get us in much
17 more trouble, and that has to be figured into the
18 equation also.

19 MR. HEMINGER: Thank you, Senator. Maybe I
20 could ask a couple questions myself, and then I think
21 we might have time for a quick round two, which is,
22 with this panel, a very good thing.

23 Mr. Woodman, I also appreciated your
24 testimony very much. And my colleagues and I have
25 sort of run a little bit tired just by the

1 bellyaching we hear at much of these sessions. And
2 the specific recommendations are very helpful. I
3 wonder, though, if yours really go far enough. And
4 let me just give you three specific ideas to react to
5 either now or in writing.

6 On the evaluation process, I recall the old
7 cost per new rider, which I thought was pretty simple
8 and pretty straightforward and pretty stringent. And
9 what we have now is this TEA-stuff thing which, to
10 me, is almost to disguise differences between
11 projects so that everybody looks okay.

12 So one thing there I wonder about is going
13 back to plain, old incremental cost per new rider,
14 which is going to make a lot of this stuff in the
15 pipeline not look so good, and maybe that's what an
16 evaluation is supposed to do.

17 The second, on NEPA. And this may rile
18 some feathers, but if, in fact, we believe that
19 transit extensions on balance are a good thing to do
20 for mobility, for the environment, why are some of
21 them subject to NEPA at all? An extension that's in
22 the right-of-way of an existing railroad or existing
23 freeway -- why are we running them through the
24 process that was designed for a road built through
25 the wilderness?

1 And then the third one, on the issue of the
2 record of rescission. We have in the Bay Area almost
3 as a necessity taken a practice underway -- Caltrans
4 has -- called "risk design," where we actually do
5 design activity in advance of the completion of the
6 environmental review. Again, it's a way of trying to
7 get past everything in sequence and put more of it in
8 parallel. And it's risk design because there's a
9 risk that you find something in the environmental
10 process that you have to go fix later on. But
11 sometimes risk is maybe worth taking.

12 To me, that's a bit of a theme with a lot
13 of the red tape we've got. Every single rule has a
14 reason, and it was all -- most of those rules were
15 designed to fix some problem that happened somewhere.
16 And what we got now is almost a completely risk-free
17 system that is so cumbersome that no one likes it.
18 And if we're going to step back from that, it does
19 seem to me that we need to be honest with the public
20 that that will introduce some additional risk into
21 the process. But look, we all take risks every day,
22 and the private sector takes a lot of risk to make a
23 lot of money. And it seems to me that we need to be
24 a little more entrepreneurial in how we deliver
25 projects by taking on some acceptable and reasonable

1 risk.

2 So what do you think? If you got some
3 reactions just here.

4 MR. WOODMAN: On the first point, I think the
5 evaluation system really cries out for some kind of
6 change. And ironically, years and years ago when I
7 was at FTA, we first had to consider this: How do
8 you evaluate projects? And we got some outside
9 experts in, and we looked at the issue of
10 cost-effectiveness and riderships.

11 One of the things they told us was that
12 ridership was really everything, and a lot of other
13 benefits were surrogates of ridership. If you have
14 ridership, you're going to have environmental
15 benefits. You are going to have good land use.
16 Things flow from ridership just as a matter of
17 natural economics. And if you, therefore, can
18 measure ridership and can measure what the cost is
19 per rider, you are not going to get much better than
20 that.

21 The planners around this world would hate
22 hearing that because this is a fairly elaborate
23 system that people are fairly fascinated with at this
24 point in time, but it's choking on itself, and simply
25 doing something like looking at cost-effectiveness

1 the way it was looked at in 1985, I have no reason to
2 think that wouldn't work and that wouldn't be able to
3 tell you what the best and worst projects were.

4 On the question of NEPA, as a federal
5 matter, you are never going to get around NEPA unless
6 the law changes. The ironic thing is when you do a
7 lot of these environmental documents, if you read
8 them, they will show that the product actually yields
9 environmental benefits overall. Obviously, you are
10 always going to have to look at noise impacts, in
11 particular neighborhood impacts. And there are a lot
12 of incidental impacts of building a project and
13 constructing through an urban area that should be
14 analyzed.

15 But you are absolutely right. It does
16 suggest that the process be shorter. If you ever
17 look at the NEPA regulations, the actual requirements
18 in the regulations for time frames aren't that long.
19 You have a period of time for publish. You have a
20 period of time for comment, et cetera. Why it still
21 takes three years is still a mystery to me.

22 On the last point, on the risk, I think
23 you're right. I mean, what FTA seems to want to
24 create is a risk-free world, and there's no such
25 thing. And the risk is on the grantee anyway

1 financially; so why not let the grantee assume that
2 risk and do the type of thing you're describing?

3 MR. HEMINGER: Thank you.

4 Senator?

5 MR. LOWENTHAL: I'm going to have to leave.

6 MR. HEMINGER: Can I ask you one last question?

7 MR. LOWENTHAL: Yes, you can.

8 MR. HEMINGER: It's too bad you weren't here
9 yesterday because we had quite a discussion about
10 container fees. And I did want to ask you, I guess,
11 two quick questions: One, your own plans for state
12 legislation on the subject this year and, secondly,
13 sort of ask a question on behalf of one of our
14 missing colleagues, Matt Rose, who is the President
15 of BNSF Railroad.

16 And Matt, I think, has a very healthy
17 skepticism about what the Federal Government will do
18 with a new pot of money. And his primary concern is
19 the Congress will earmark the hell out of it or it
20 will be diverted into some other general-fund
21 purpose.

22 So your call for a national container fee
23 and how could it be put in place so that it's not
24 diverted in that way?

25 MR. LOWENTHAL: That's a very good point.

1 That's exactly what they said about my state
2 container fee, that one of the real problems is that
3 it would be diverted and would not be used. We have
4 taken that very seriously, and the drafting of the
5 legislation is to try -- we have done a tremendous
6 amount of planning now in California. We're
7 not -- we now have the plans, whether it's the
8 governor's goods move-in-action plan or COLMITSAC
9 report, whether we have the air resources board,
10 emissions reduction plan. Both ports of Long Beach
11 and Los Angeles have a clean air action plan.

12 There is generally now a consensus on what
13 needs to be done and an understanding that, if you're
14 going to build infrastructure, you got to reduce the
15 pollution at the same time. The communities will not
16 stand for it, especially in Southern California where
17 we have a public health crisis. There is no doubt
18 that -- you know, it just has to be said again and
19 again the asthma rate, cancer rate, lack of lung
20 development in children is at a staggering rate; and
21 we know it has to do with the tremendous reliance on
22 old diesel; and it has to change. We now know we
23 have to fix that system. We have to not have such
24 particulates where two thirds of the particulates in
25 the air are due to goods movements in Southern

1 California and primarily to diesel particulates.

2 And so that will all change because we now
3 have the plans. We know what we have to do:
4 Electrification of the ports, plugging in; whether
5 it's looking how we shift to rail; how we change over
6 our fleet. It raises other issues.

7 But having said that, we are moving forward
8 again with the container fee. It will happen in
9 California. There will be some form, whether it's
10 called -- I did the same thing before with the pier
11 pass, when we pushed that real hard, introduced
12 legislation and, after ten years, the industry came
13 together and formed -- did their own extension of the
14 hours. And so for the first time in North America,
15 we have -- our ports are running besides eight hours
16 a day to get those trucks off the freeway in the
17 daytime.

18 The same thing is happening here. Whether
19 it's the ports themselves that do it, whether we do
20 it as a state, whether the private sector joins in,
21 we must develop partnerships. We now know the plans.
22 Money gets -- if we don't want a Christmas tree, we
23 must target, use these plans; and what we built into
24 the bond itself is priority projects on those
25 goods-movement infrastructure have to have a match.

1 Well, the Federal Government is not coming to
2 California with that match, and so we have to start
3 to take care of ourselves if we want this
4 infrastructure to be built in a clean way. And the
5 only way is -- if our partners on the private sector
6 add a container fee and that money is tied to
7 particular plans and projects and it goes away when
8 we complete it, we can ensure that it won't go into a
9 great, big hole. We can do that.

10 But without this, there is no money. Let's
11 be honest. And we have a crisis. We want, for
12 example, in Southern California to go from 15 million
13 containers to 40 million containers. What are you
14 talking about? The largest urban center in the
15 world. And with all this pollution that is taking
16 place, if you don't have partners really stepping up
17 with resources, it's not going to happen. And the
18 rest of the world is investing, and we're not doing
19 it in the United States, to be honest, also. So we
20 only have ourselves to blame if we don't step up.
21 And if they don't like the container fee, show me the
22 money somewhere else.

23 MR. HEMINGER: Senator, I think the last, last
24 question from Mr. McArdle.

25 MR. McARDLE: Sorry to keep you, but we would

1 keep you here all day if we could, quite frankly.
2 One of the issues that's come up is exactly this
3 diesel and asthma issue. And it's an issue here.
4 It's an issue in New York; it's an issue in Houston.
5 Everywhere.

6 MR. LOWENTHAL: Of course it's an issue.

7 MR. McARDLE: The question -- the quick math --
8 you have 16,000 basic tractors that are used in the
9 drayage business, and it would seem to me that you
10 should, you know, not easily but, in a two-,
11 three-year period, be able to change out those
12 engines to LNG. It's probably about a \$1.6 billion
13 to \$2 billion program, but it's a classic
14 public-private party leasing opportunity, I would
15 think, that someone would want to bank, perhaps much
16 more effectively than some of the deals we have seen
17 in Indiana and elsewhere, and that looks to me like
18 it's ten dollars a box --

19 MR. LOWENTHAL: That's what we say. I couldn't
20 have said it better.

21 MR. McARDLE: -- to finance that. And why
22 hasn't somebody made that happen?

23 MR. LOWENTHAL: Because we are trying to make
24 that happen. Remember there are problems with this.
25 Every time you open up the box, you find there are

1 unintended consequences. One of the things that we
2 have learned is that the movement of goods,
3 especially since just-in-time delivery and the
4 movement of goods from the ports to the inland
5 distribution centers, of those 16,000 are
6 primarily -- that is, those drivers who are not doing
7 the interstate carriage but local are the bottom of
8 the economic heap in terms of what they're paid.
9 They are the only ones in the port process who are
10 not in the collective bargaining agreements. They
11 are paid by the load. We estimate somewhere between
12 40 percent to even greater than that do not have
13 documentation.

14 We have issues. Unless we address those
15 other issues, it's going to also -- even if we
16 replaced all their trucks -- all their trucks -- they
17 wouldn't have enough money to pay the taxes on the
18 new trucks. So we have another issue that is just a
19 looming issue that needs to be addressed, but I think
20 we are facing that.

21 MR. McARDLE: I don't disagree with you.

22 MR. LOWENTHAL: I think it's an issue that must
23 be addressed that we didn't create and that we will
24 face.

25 MR. McARDLE: It's very analogous to the 16,000

1 cabs we have in New York City that are all
2 medallioned, and all of those are leased and insured
3 by other than the driver, who basically earns against
4 the trips he makes.

5 MR. LOWENTHAL: I think that's exactly what we
6 are going to be doing, looking at that direction. We
7 are coming together to begin to address these issues,
8 and we now know what the costs are and what it would
9 take to replace it, and just like we're here, we are
10 going to be looking for those resources to identify
11 it, and we're going to do it.

12 We want to keep -- we are part of this
13 global economy, and unless we understand that the
14 jobs in logistics go far beyond the port, we will not
15 benefit by participation.

16 MR. McARDLE: And I don't think anybody benefits
17 by bottom-feeding for the workforce, which is the
18 worst piece that I've heard in all of this, that
19 somehow owner-drivers ought to be allowed to
20 bottom-feed against one another in the worst
21 circumstances possible.

22 MR. LOWENTHAL: Terrible, terrible. I agree.

23 MR. HEMINGER: Senator, thank you very much.
24 You have been very generous with your time, and
25 again, we appreciate your leadership on these issues.

1 And I believe we have ten more minutes for
2 this panel, if we haven't worn you out yet.

3 So John, you could take your seat again,
4 and we're into round two here now with
5 Mr. Busalacchi.

6 MR. BUSALACCHI: I have a question for each of
7 you, if you can all answer the same question.

8 As you know, as I said earlier, the
9 Commission is going to make its recommendations to
10 Congress, obviously the recommendations for the next
11 six-year bill, which the last bill we named after
12 somebody's wife, and I think the next bill we'll
13 probably name after somebody's gerbil or something
14 like that.

15 But the question I have is we have
16 discussed -- and you hit on it, but we really haven't
17 gotten into it -- are the needs in the country. The
18 needs, particularly in California, are astronomical.
19 And so we're going to give our recommendations to
20 Congress. Do you think that the federal
21 participation that we have now should remain the
22 same, or does the federal participation need to
23 increase or decrease?

24 Because I think there's probably some
25 thought process going on around the country that the

1 Federal Government may want to back away from some of
2 their obligations. And of course, there are others
3 that say we have these needs that the states are not
4 going to be able to meet without a substantial
5 partnership with the Federal Government. So what do
6 each of you think? Gary?

7 MR. GALLEGOS: I'll start. I really think the
8 name of the game in the future is about empowerment.
9 And I guess, I'm just not one that believes that the
10 federal government is ever going to bail me out. And
11 if we look at the history of where we've been with
12 transportation financing, it's changed. And I think
13 that the focus of Federal Government ought to be
14 setting that vision that they want to accomplish and
15 then empowering states and, really, regions.

16 I believe that, when you look at what's
17 happening in the country, that the political
18 boundaries that we've set up with counties and cities
19 and states are no longer valid in the economy that we
20 live in today. And so there's these mega regions
21 that are developing that are bigger than counties,
22 bigger than cities, bigger than states.

23 And I think that that's a role that the
24 government has to sort of figure out, how we empower
25 those mega regions to be able to do what we need to

1 do. So as I said earlier, not compete with Texas or
2 New York or Illinois but compete, really, in a global
3 scale with the Europeans and the Chinese and the
4 Asians and others that we're competing with.

5 MR. LEAHY: I'd like to make a couple of
6 observations. I think the dynamic of managing
7 projects shifts somewhat in counties, such as Orange,
8 which are self-help counties. Voters in Orange
9 County are taxing themselves a half penny. It's a
10 lot of money. As a consequence, there's a great deal
11 of visibility. This was referenced a while ago by
12 Commissioner Skancke. There's a great deal of
13 visibility locally about of how projects are being
14 managed and delivered. There may be some federal
15 money; there may be some state money. But the local
16 newspapers are at all the committee meetings, all the
17 board meetings, and they are tracking very carefully
18 when that project is being delivered, is it on
19 schedule, so forth and so on.

20 I would argue that leads to a much higher
21 level of accountability, public accountability, and
22 visibility than we have in the historic process where
23 the bulk of the funds are being paid for by the state
24 of the Federal Government. I think that level of
25 exposure is a great motivator, I can tell you. I'd

1 hate to go to a board of directors and report that a
2 project has slipped in schedule. We have that
3 self-discipline. That's a lot tougher than telling
4 the FTA that something is slipping. You know, I
5 don't like being grilled by 17 board members.

6 I do want to point out, though, this issue
7 of goods movement really bleeds over and, of course,
8 to the highway system, the rail system. We have an
9 international trade issue there, which is an impact
10 from local programs. We are now taxing ourselves in
11 Orange County to free up the railroads and the
12 highways to get goods to Arizona and points East. We
13 are not against the goods movement, but that is a
14 national issue. There needs to be some national
15 participation, as well as local, as well as the
16 shippers in solving that problem.

17 One last note, I think that some level of
18 coordination between the states and counties makes
19 sense as well. With that, I'll close.

20 MR. WOODMAN: I once represented someone in this
21 part of the country who thought the federal FTA
22 program ought to really consist of giving grantees
23 ATM cards and letting them figure what projects they
24 wanted to build out, build locally, and how to manage
25 them.

1 The federal Government Has to have a role
2 in terms of funding. I would hope that doesn't go
3 away. I hope that increases, although I think that's
4 difficult politically. But FTA seems to be stuck in
5 a time period 30 years ago when there was not
6 necessarily the capability of the sophistication at
7 the local agency level to engineer, design, and
8 manage projects. And I think the basic problem we
9 have right now is there needs to be a recognition
10 that capability exists. There's political
11 accountability locally. There's a capability to
12 build projects locally, and those decisions really
13 need to be made and managed locally, and the Federal
14 Government needs to provide the funding and basically
15 try to withdraw from the picture.

16 MR. BARNA: With Proposition 1B, California is
17 now a self-help state much like Orange County and
18 San Diego, L.A. In years past, the administrations
19 in California have suggested extreme evolution where,
20 for all intents and purposes, we would keep our gas
21 tax federal portion at home.

22 I think what we said in our testimony,
23 written testimony, is the relationship has been
24 realigned in November. The Federal Government is a
25 coordinating body. And I would argue that, from a

1 California perspective, what we would be looking for
2 out of the Federal Government is what Gary and Art
3 stated before, which is we need to get on the same
4 page as Art and Gary and get the hell out of their
5 way, make sure that there's some accountability,
6 clearly. But we're partners. We're not adversaries.
7 We are not trying to get in their way. We are not
8 trying to create roadblocks to implementing solutions
9 at the local level.

10 So frankly, I don't think there is much
11 federal role in California. I mean, the funding role
12 is okay, but we are not getting back anywhere close
13 to what we tie, and we're stuck with a bunch of
14 restrictions. Frankly, we could live without the
15 Federal Government in California and deliver
16 transportation better.

17 And so from our perspective,
18 notwithstanding the sort of institutional and
19 historical significance and the desire of a lot of
20 people to go back to Washington during the spring,
21 I'm hard-pressed to understand what real value the
22 Federal Government delivers to us in trying to
23 resolve our transportation problems with the one
24 exception that Art talked about.

25 The logistics is, in fact, a national

1 issue, and the abdication of the Federal Government
2 on that issue is forcing us to do what we have to do.
3 And we will continue in California to do that
4 because, one, it's in our economic interest; two, we
5 have citizens who are demanding action as the senator
6 pointed out. We can't wait for Washington. Frankly,
7 we would just like to get them out of our way and let
8 us do our job.

9 MR. HEMINGER: John, if I could rephrase that.
10 I want to make sure I understood you correctly. It's
11 almost as if we've got the Federal Government
12 meddling in places where local and state institutions
13 are strong enough to do it themselves and not showing
14 leadership in one of the places at least where it's
15 sorely lacking, in freight.

16 MR. BARNA: Yes.

17 MR. HEMINGER: One thing to keep in mind is
18 that, even though we are a donor state in the highway
19 program, we are a significant recipient in the
20 transit program. And that's something we do need to
21 keep in mind. Irrespective of all the red tape,
22 we've been a pretty sizeable beneficiary too.

23 MR. BARNA: If we realign that relationship and
24 the burden was now on us in the state to fund our own
25 New Starts, we'd find a way to do that. We wouldn't

1 wait. We'd either go back to the voters; we'd figure
2 out new schemes to work together to provide the
3 solution.

4 MR. HEMINGER: Thank you.

5 Commissioner Skancke has the last question.

6 MR. SKANCKE: Thank you, Mr. Chairman.

7 John, what you are telling us is that the
8 Federal Government is basically a minority partner in
9 the deal now that you have passed Prop 1B. I mean,
10 the majority -- let's face it, the citizens of
11 California are going to pay for most of this upfront
12 in Prop 1B money. So the Federal Government's a
13 minority partner, and in any business deal that I've
14 ever been involved in, the minority partner has a lot
15 less to say about the overall outcome of the project
16 than the majority partner. I've very seldom been the
17 majority partner; so I've never had a lot to say in a
18 lot of things. That's changing. But from a logical
19 point of view, if they are the minority partner, why
20 should they have the majority oversight?

21 MR. BARNA: Agreed.

22 MR. SKANCKE: And so if it's this Commission's
23 responsibility to make policy recommendations,
24 although we have spent a lot of time on funding,
25 today has been a discussion of policy. And if what

1 you all are telling us is, from policy point of view,
2 that the Federal Government needs to shift their role
3 and focus on the areas where the entire country is
4 impacted -- movement, freight, mobility -- that the
5 state should be able to take care of themselves in
6 the local aspects but, really, relinquish some of --
7 the Federal Government should relinquish some of
8 their authority on how you get projects completed.
9 Is that kind of what we're hearing today?

10 MR. BARNA: I think so. Let me put it this way:
11 Right now the federal gas tax comes back. California
12 raises \$20 billion from all sources for
13 transportation expense, \$20 billion a year roughly.
14 Of that, about \$12 billion goes to local agencies
15 significantly for transit. That's a mix of federal
16 dollars, state dollars, whatnot. About \$8 billion
17 goes into highway-roadway capital. The federal gas
18 tax portion that comes back to the state of
19 California is now entirely consumed by Caltrans in
20 its maintenance and operations program. There are no
21 gas tax -- and by the way, that's the state gas tax
22 as well. The thirty-six cents that we pay at the
23 pump in California is now -- when it goes to the
24 machine, gets diverted to helping maintain and
25 rehabilitate the state highway system. It does not

1 flow to new capacity. We are entirely dependent in
2 California on the sales tax on gasoline for new
3 capacity on the roadway side and for what we would
4 consider to be transit capital, our own versions of
5 New Starts, where we're matching dollars out of the
6 public transportation account and now Proposition 1B.

7 So it's a situation in which we've had an
8 old motto, as Gary said, "You use somebody else's
9 gold, you play by their rules." Well, the Federal
10 Government's gold is a decreasing proportion of what
11 we do and, in fact, is irrelevant to adding new
12 capacity from the funding standpoint with the
13 exception of some New Starts.

14 And therefore, I think what we're saying up
15 here is, to realign the relationship, the Federal
16 Government needs to get into the policy arena because
17 they don't have the funding to drive how we fund
18 those dollars. And I think we are not going to be
19 the only state that is in that situation.

20 MR. SKANCKE: One more quick thing. And I don't
21 want the answer right now. I would be interested in
22 knowing -- whether all of you could do this or
23 Caltrans could put this together, but I would like to
24 know what the State of California generates in all
25 their measure questions. So what is San Bernardino,

1 Orange County, L.A. County, Riverside. With all the
2 self-help your state is doing, what that number is.

3 MR. BARNA: On an annual basis?

4 MR. SKANCKE: On an annual basis.

5 MR. BARNA: It's -- we estimated it, and I
6 know --

7 MR. SKANCKE: I don't need the answer right now.
8 Don't worry about it. But I'd like to know that.
9 I'd like to know what the State of California
10 invests -- Californians invest in their highway
11 infrastructure.

12 MR. BARNA: We can do that.

13 MR. SKANCKE: Not gas tax. I'm talking about
14 sales tax, what you generate.

15 MR. BARNA: I understand.

16 MR. SKANCKE: Thank you.

17 MR. BARNA: We've done that.

18 MR. HEMINGER: Gentlemen, thank you. It's been
19 an excellent panel. Thanks for hanging in there with
20 us. We kept you quite a bit of time.

21 We will take a break now until 10:50,
22 10-5-0, and then we will reconvene for panel four.

23 (Whereupon the first session was adjourned,
24 and a short break was taken.)

25

1 THURSDAY, FEBRUARY 22, 2007; LOS ANGELES, CALIFORNIA

2 10:50 A.M.

3

4 MR. HEMINGER: Let me say good morning again to
5 our last panel and to the audience. I just learned
6 from the MTA staff -- I wasn't aware of this --
7 Roger, you have a board meeting coming up right after
8 this.

9 MR. SNOBLE: I do.

10 MR. HEMINGER: Yes. Let me break the news to
11 you, Roger.

12 So that means we have a hard deck to get
13 out of here. We are scheduled to conclude at 12:15;
14 so we will have to insist on that. And this is our
15 final panel.

16 Before we conclude, we do have an
17 opportunity for public comment before the Commission.
18 I believe there are cards outside. So if you do wish
19 to comment before we adjourn today and head down the
20 road to Las Vegas, please fill out the card and --
21 for business, I should add -- please fill out the
22 card and let us know.

23 We had a wonderful panel, the first one off
24 today, and we are going to conclude with another
25 doozy because we have four very well-qualified

1 panelists.

2 What I'd like to do is introduce all of you
3 at once and then allow you to proceed. We're working
4 under the framework of five-minute statements. If
5 you could limit it to that and then leave plenty of
6 time for questions and answers. And this is quite a
7 talkative group up here; so they'll have plenty of
8 questions.

9 Let me start with Jim Waltze, who is
10 President and Chief Executive Officer of The Griffith
11 Company, which is a contractor down here in Southern
12 California. He has served as AGC's President in 2004
13 and five and has a lengthy record in that industry;
14 and we welcome him with us today.

15 Roger Snoble really needs no further
16 introduction. He is our host, one of our hosts
17 today, and has been running the MTA here in
18 Los Angeles for some time. His career before that
19 was in Texas at the Dallas Area Rapid Transit
20 District and is one of the leading figures in the
21 transit industry, I think it's fair to say.

22 Sunne Mc-Peak is also a great friend of
23 transportation for many years of long-standing, both
24 as a local-elected official and as the State Cabinet
25 Secretary for Business Transportation and Housing.

1 And she has now moved on to other things and is
2 President and C.E.O. of the California Emerging
3 Technology Fund.

4 And I'll let you describe that to us
5 briefly in your testimony.

6 And Martin Wachs as well, who is now here
7 in Southern California, for a long time was at the
8 University of California, Berkeley, and prior to that
9 at U.C.L.A., has had a truly distinguished career in
10 the academy researching and talking about and
11 engaging on many of the subjects that we're
12 deliberating on. And he is now at the RAND
13 Corporation, and we are very pleased to have him with
14 us as well.

15 So that's the panel. And again, please
16 limit your opening statements to five minutes.

17 And Mr. Waltze, the floor is yours.

18 MR. WALTZE: Good morning. Thank you,
19 Mr. Chairman and the other Members of the Commission,
20 for this opportunity to address you today.

21 Today we are at a critical juncture. The
22 United States relies on its transportation more than
23 ever. The buying power of our trust fund dollar has
24 been significantly eroded by inflation. The Highway
25 Trust Fund is under a precarious financial shape, and

1 just when we need the support of the public for major
2 overhaul of the system, we find the current system is
3 failing the people who depend on it.

4 Pavement conditions are deteriorating, and
5 the complexity of projects continues to increase.
6 According to an FHWA study, the single largest source
7 of motorist dissatisfaction is traffic congestion.
8 Many consider traffic congestion to be the number one
9 quality-of-life issue in the country and look to the
10 Federal Government for leadership in resolving this
11 issue.

12 The needs identified by the Conditions and
13 Performance Report demonstrate the large sums needed
14 to maintain and improve our transportation system.
15 It should be noted that maintaining the system is
16 maintaining the current level of congestion.

17 Improving the system is the minimum needed to
18 actually reduce congestion. The agency believes the
19 C&D report is the best-case scenario and fails to
20 recognize unstable construction and material prices.

21 The cost of construction is unstable and is
22 increasing at a higher rate of inflation. The
23 cumulative change from September, 2003, to September,
24 2006, was 35.9 percent -- nearly quadruple the
25 general rate of inflation over the past three years.

1 A prudent escalation factor for highway construction
2 inflation would be between 8 to 11 percent.

3 Applying this inflation to the current
4 estimates, you would produce the following: The cost
5 to maintain would increase \$40 billion from 73 to
6 113 billion. The maximum economic investment for
7 reducing congestion would increase from more than
8 30 billion per year from 119 to 149.

9 Griffith Company has been improving public
10 transportation for over 100 years. If we have
11 learned nothing else by our many years of involvement
12 in transportation is that if we don't learn from the
13 past, we are doomed to repeat it. A lack of
14 leadership 30 years ago haunts us today. When it
15 comes to meeting our infrastructure needs, less is
16 not better.

17 In the past 30 years, population has grown
18 18 percent and travel has increased 21 percent while
19 lane miles have increased just 1 percent. In 1970,
20 we spent \$170 per capita on transportation. Today
21 it's just \$30. Our parents and grandparents paid
22 their fair share. We are getting a free ride and
23 burdening our children and grandchildren with paying
24 for our lack of vision.

25 The result of our neglect is that we have

1 the most congested roads in the Nation, and we have
2 five out of ten of the worse bottlenecks in the
3 country. And it's getting worse when our population
4 grows by 25 million people over the next 30 years.
5 The \$20 billion transportation bond passed by voters
6 is a good start in addressing our \$125 billion
7 backlog of projects needed to reduce congestion.
8 Together, all of these items are converging to
9 increase the magnitude of the challenge that faces
10 this Commission and the country.

11 There are no easy answers. We have an
12 aging system. The system needs maintenance,
13 reconstruction, expansion, and the construction of
14 components not contemplated in 1956. The Federal
15 Government should continue to have a strong role in
16 the surface transportation to ensure the efficient
17 function of the system. No option should be left off
18 the table. We need to show up the trust fund in the
19 short term and ultimately augment the motor fuel tax
20 in the long term.

21 The Commission should look at new ways and
22 new ideas to create a politician-friendly way to
23 adequately address the needs. One method that worked
24 for the base realignment process and the postal raise
25 increase is an independent Commission that makes

1 recommendations based on research. If a model like
2 this is applied to our road infrastructure, they
3 could adjust the user fee associated with driving or
4 identify new options that may be more appropriate for
5 the nature of our transportation network.

6 Additionally, AGC believes Congress should
7 encourage states to increase and guarantee their
8 funding levels. States should be allowed and
9 encouraged to purchase and preserve as much future
10 right-of-way as possible. This will accommodate the
11 anticipated long-term transportation growth. Based
12 on the growing needs and shrinking resources to
13 address the limited federal -- I'm sorry --
14 resources, to address them, if the Commission does
15 not recommend increased funding, it must recommend
16 limited federal aid eligibility to only key elements
17 of the federal system.

18 No matter which method is used, the needs
19 are growing. Absent full leadership, satisfaction
20 with the system will continue to decrease, and the
21 Government's credibility to deal with this basic
22 responsibility will disappear.

23 The Clay Commission reported in 1955 that
24 the existing system is inadequate for both current
25 and future needs. We are at that point again. Now

1 is the time to act. This Commission must chart a
2 bold strategy for the future.

3 AGC testified before the Clay Commission in
4 October of 1954, and we are honored to be here again
5 today before what we expect will be an equally
6 visionary Commission. Thank you. On time.

7 MR. HEMINGER: So we have had some under and
8 some over, but no one right on the money. That's
9 very impressive.

10 Roger, you're next.

11 MR. SNOBLE: Good morning. Thank you for
12 allowing me to be here today in my own boardroom. It
13 is kind of strange from this particular angle.

14 I would like to spend some time talking
15 about some of the things to look forward to in
16 putting into the new transportation bill,
17 particularly adding to our toolbox the different
18 kinds of issues that will lead us forward.

19 California is not really a stranger to
20 innovation. It's always been an innovator, primarily
21 because of necessity. We have a long history of
22 doing things that have increased mobility throughout
23 the state. This next slide, you have seen before.
24 We are very much a self-help state, and certainly
25 Los Angeles is a self-help county. The citizens of

1 Los Angeles pay an additional whole penny sales tax
2 for their transportation improvements for all the
3 different kinds of transportation improvements that
4 we do. That's a huge investment. That's been a
5 growing piece of the amount of money that we have,
6 but other sources are really shrinking.

7 We have been an innovator all along too,
8 and in Los Angeles we just opened up the Orange Line,
9 which is a phenomenally successful rapid transit
10 busway that is carrying about 22,000 boardings a day.
11 Now it has been really revolutionizing the way we
12 look at rubber-tire uses where we can be a lot
13 cheaper than we realize.

14 We also kind of led the way in the Rapid
15 Bus Program. We now have 15 Rapid Bus routes. We
16 are on our way to having 28 throughout the county.
17 These buses are much faster than the regular buses.
18 They are much more attractive for people to ride. As
19 a result, we have gotten a lot of growth in our bus
20 system because of the Rapid Bus.

21 Highway innovations -- of course, you can
22 see an example of highways in California and here in
23 Los Angeles. We do have the highest number of miles
24 of HOV lanes in Los Angeles of anyplace else in the
25 country, and if you combine us with Orange County,

1 which is just on our tail for having as many --
2 almost as many miles, you can see we have a huge
3 system of HOV lanes and a lot of people car-pooling,
4 van-pooling, and bus-pooling in those HOV lanes.

5 We also like look at other innovative ways,
6 both in the Orange County Area and Bay Area. We have
7 done a lot with toll roads and toll bridges to see if
8 we can increase the ability to improve our mobility
9 and to reduce congestion and particularly air
10 pollution so that our air quality can be enhanced.

11 If you look at the goods movement -- you
12 have already heard an awful lot on goods movement --
13 Metro is very much involved in helping coordinate all
14 the different issues involved with goods movement.
15 It is a big issue to us and to all of California.
16 That's a lot of extra pressure on us. And you can
17 see again this map you have seen many times with
18 those goods that come in through our ports go
19 throughout the country. But as they do so, they
20 really interrupt a lot of our surface transportation.

21 We talked a lot about the Alameda Corridor
22 itself. It's finished. It's a great project. Now
23 we are really focused on the Alameda Corridor East.
24 As we get through the Alameda Corridor East, we have
25 to continue on all the way to the state and beyond

1 the state to make sure that goods can move freely
2 without disruption of the local area. So very big
3 area to us.

4 That also coincides with our commuter rail
5 efforts. Throughout California we have really good
6 commuter rail systems that contribute a lot to taking
7 people long distances. We are very proud of our
8 Metrolink System here in the Los Angeles Area. The
9 Amtrak Service between San Luis Obispo and San Diego
10 is the second highest Amtrak Service in the country.
11 It's been that way for a long, long time -- a very
12 important link to us. So we want to continue to be
13 able to concentrate in good rail improvements to move
14 people long distances.

15 We also have an extensive light rail system
16 throughout the state. A lot of the light rail
17 technology was pioneered in this state, of course,
18 with San Diego starting the Metro Blue Line and has
19 been a model for how to learn what not to do as far
20 as safety is concerned. It's probably the least safe
21 from the standpoint of accidents. However, the Metro
22 Gold Line is the most safe light rail. So we have
23 learned over the years as we have built
24 new facilities. We enjoy light rail in Sacramento
25 and San Francisco as well.

1 I don't want you to forget bikes. Bikes
2 can do a lot, particularly in California where we
3 have better weather. About 2 percent of our
4 workships now are by bikes. We continue to improve
5 on the bike system. It's a very inexpensive way to
6 get people out of automobiles. And we have the
7 biggest expanse of bike systems that there are.

8 Of course, bus technology is a major thing
9 that we look at. There's a lot of new kind of
10 emergent bus technologies, and we think all of those
11 should be included in the federal process.

12 As we look toward the new federal bill, I
13 would ask that we allow for better flexibility and
14 technologies and better tools, choices of tools, in
15 that bill as well because there are many new things
16 we could do to use those monies more efficiently. I
17 will be happy to answer questions later.

18 MR. HEMINGER: Thank you. That's two for two.
19 Well done.

20 Sunne, it's a pleasure to see you back with
21 us in the transportation community. We have missed
22 you, and we look forward to your comments.

23 MS. WRIGHT-McPEAK: Thank you, Mr. Chairman.
24 Thank you for inviting he here to talk about both
25 policy and revenue for the federal transportation

1 investments. You have already heard from Director
2 Kempton and under Secretary Barry Sedlik. They have
3 probably very ably set forth the vision here in
4 California that Governor Schwarzenegger charged us
5 with developing in partnership with all of the
6 stakeholders in this room.

7 To be sure, there's going to need to be a
8 lot of money invested in transportation here in our
9 state and across the country, but if the policy isn't
10 right and if the process to articulate and implement
11 that policy isn't right, we will not get enough
12 return on the investment. We will not get enough
13 increased mobility for the dollars that we spend.

14 When Governor Schwarzenegger charged us
15 with looking at developing first Go California and
16 then his strategic growth plan, the question was what
17 do we need to invest in our state's infrastructure --
18 a question that also is being posed by this
19 Commission. And we looked at the projected
20 congestion across the state and every one of the
21 regions, and it was increasing.

22 As you look at this chart, it is not a
23 prescription for economic prosperity, global
24 competitiveness, or quality of life. Obviously, it
25 has to all be decreased. And he was very clear about

1 having a focus on outcomes. So I want to start with
2 underscoring in policy the need to have a focus on
3 outcomes. Increased through-put and decreased
4 congestion.

5 We have promulgated in this state an
6 understanding of interrelationship of transportation
7 to all the other elements of infrastructure and put
8 together this infamous pyramid. These graphics I'm
9 showing you, are at the risk of oversimplifying a
10 concept, and I've oversimplified them so much that
11 they were on the cake that the staff gave me as a
12 going-away party.

13 But the point here of this particular
14 pyramid is that it takes several policies and actions
15 in order to get the most out of the top of the
16 pyramid, which is the investment in the
17 infrastructure, in the capital improvements, and
18 maintenance of the system.

19 At the very middle you are going see "Smart
20 Land Use," which I'm going to focus on here today.
21 We in California understand that unless the land-use
22 pattern changes and that there is enough housing in
23 the right locations for workers and for population
24 increases, there is no way we can actually come up
25 with enough money to drive congestion levels down

1 below where they are today, and that was the basic
2 outcome that Governor Schwarzenegger asked us to
3 achieve.

4 We think that is entirely possible by
5 embracing also this rather oversimplified notion of
6 integrating the economy with quality environment and
7 social equity and understanding that in this
8 construct housing and enough housing for the
9 population and workforce is linchpin.

10 What does that mean? It means we need to
11 start claiming in a way our land use in order to
12 match the challenge of increased population. So we
13 took an innovative approach that was ultimately
14 approved by the Federal Highway Administration of
15 inviting voluntary proposals from MPO's, from the
16 Metropolitan Planning Organizations, to do regional
17 blueprints with a 20-year horizon. Only with that
18 kind of time frame can you actually plan the land use
19 and particularly the housing to match real estate
20 investment cycles and also the length of time it
21 takes to construct major transportation and other
22 infrastructure facilities.

23 With that pyramid and the strategies,
24 including land use, we can project and provide you
25 all the data that it is possible to drive congestion

1 levels down below where they are today and still
2 manage in California the increase in demand through
3 population, expansion, and also growth in the
4 economy.

5 Each of the MPO's has actually come forward
6 with a plan. They are in the process with
7 stakeholders of developing their 20-year plan, and we
8 think that that kind of planning, from the bottom up
9 but in a state framework, needs to be rewarded with
10 additional money, with relief on NEPA and CEQA and,
11 also, I might add, in the interest of my current job,
12 integrating into all of this the deployment of high
13 speed, fast telecommunications, i.e. broadband.

14 There is an entirely great opportunity in
15 front of the Federal Government to work with the
16 state, such as California, in taking this kind of
17 policy approach to get the most out of any additional
18 money you invest.

19 Thank you.

20 MR. HEMINGER: Thank you, Sunne.

21 Martin, you are hitting clean-up.

22 MR. WACHS: Okay. Thank you very much. And I
23 thought that with only five minutes, I would
24 encourage the Commissioners, before whom I'm honored
25 and delighted to appear, to look at my written

1 testimony for technical details and numbers and
2 support and I would try informally to address just
3 two or three points to you, given the shortness of
4 time.

5 The first is that I would really like to
6 encourage you to take a risk to speak out and to
7 underline the importance of user fees in the future
8 of the financing of our transportation system. When
9 we focus on environmental needs, the best way to get
10 people to behave environmentally responsibly, with
11 respect to the transportation system, is the way we
12 charge.

13 When we talk about the need for revenue, we
14 can raise revenue by charging the user. We can raise
15 revenues through bonds, as we did in California;
16 through sales taxes, which do not charge the user.
17 The problem with nonuser fees, while it addresses the
18 revenue need, is that it doesn't contribute to the
19 more efficient and equitable use of the system.

20 So for example, if we made the Bay Bridge
21 free, we would induce the demand for so much more
22 traffic that we would say we need another bridge.
23 How would we pay for it? We don't have the user fees
24 to pay for it. We would have to borrow money or try
25 sales tax, neither of which would influence the use

1 of that system.

2 The motor fuel tax adopted in the 1920's in
3 most states was a user fee that most of the state
4 legislators who adopted it in the 1920's said should
5 be an interim user fee; that, when we can do so, we
6 should rely more heavily upon tolls, we should charge
7 people directly for the use of the road at the time
8 and the place in which they use it.

9 They couldn't do that because if they tried
10 to do that in 1920, they would have had to have toll
11 booths in a rural area where there might be fifty or
12 a hundred cars a day. The cost of doing it far
13 exceeded the benefits. Today we can do it
14 electronically. We should be transitioning from
15 motor fuel taxes to other forms of user fees.

16 And as I look to the next re-authorization,
17 the first thing I would say is in the short run we
18 must deal with the fuel tax. It is the user fee that
19 works for us. We need in the short run -- ten,
20 fifteen years -- to increase the fuel tax. There are
21 three ways of doing that: Just increase the cost per
22 gallon. That's politically very difficult to do.

23 The second way is to index it. I've heard
24 a lot among earlier panelists, a lot of people
25 advocating for that. Take a look closely at it.

1 Nine states that adopted indexed fuel taxes backed
2 away from them and rescinded them because, in periods
3 of rapid inflation, the price of fuel is one of the
4 most important determinants of the rate of inflation
5 and the indexed fuel tax was one of the major causes
6 of increased inflation, and the states backed away
7 from it. They also backed away when fuel prices
8 lowered, and they lost revenue rather than gaining
9 them.

10 So I prefer either the Commission to set
11 the rate based on scientific evidence or an
12 ad valorem tax changing into a percentage of the
13 sales price rather than indexing it. But any of
14 those three ways is needed.

15 In the long term, however, I think that the
16 next bill and this Commission should address a
17 transition to charging people for travel at the time
18 and place of travel electronically on our roads.
19 That can actually replace the fuel tax, which its
20 days are numbered because we are, in fact, moving
21 toward alternative forms of fuel and we are going to
22 want to reduce greenhouse gas emissions and we're
23 going to aim at higher fuel efficiency. That means
24 that in 15, 20 years the motor fuel tax will
25 certainly be obsolete.