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TESTIMONY OF ROGER SNOBLE
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TESTIMONY
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Good Morning, Mr. Chairman and members of the Subcommittee. My name is Roger Snoble. It is a pleasure to be with you today, and I appreciate the opportunity to provide testimony on the important topic of the implementation of the New Starts and Small Starts programs of the Federal Transit Administration (FTA). I have worked in the transportation industry for almost forty years and have been involved in the construction and implementation of several major new fixed guideway projects, in different cities in the U.S. At the helm of Los Angeles County Metro, and prior to that as the Executive Director of Dallas Area Rapid Transit (DART) and as General Manager of San Diego Transit Corporation, I have been responsible for the planning, financing, design and construction, and regulatory compliance for many large capital projects -- rail, bus, and highway.

LA Metro is the third largest public transit agency in the United States and is responsible for transportation planning, coordination, design, construction and operation of bus, subway, light rail, Bus Rapid Transit (BRT) services, and, in partnership with Caltrans, carpool lanes. Metro also works in partnership with Caltrans on carpool lanes and with MetroLink on its expansive commuter rail system. Metro has a $3 billion annual budget, 9,000 employees, and serves a 1,433 square mile service area in one of the Nation's largest and most populous counties of 10 million people. Metro has approximately 200 bus routes, 73 miles of rail lines, and over 400 miles of carpool lanes that crisscross Los Angeles County. We fund a vast array of surface transportation improvement projects, including street widening, bikeways, synchronized traffic lights, and busways. Metro's transportation network is extensive, and we are a leading innovator in improving the mobility of the community we serve.

HISTORY AND EXPERIENCE WITH NEW STARTS PROJECTS

Over the past of 20-25 years, Los Angeles has probably had the most ambitious and aggressive program of new fixed guideway construction in the United States. During that time period, we have spent over $8.6 billion building nine new fixed guideway projects in Los Angeles County. Over 60% of that funding has come from State and local sources. See Metro's Major Construction Program Summary in Exhibit 1. Metro has extensive experience with the FTA New Starts project development process. Four of our projects -- MOS-1 & MOS-2 of the Red Line, the MOS-3 North Hollywood Red Line, and the Eastside Gold Line -- were developed and implemented under the New Starts process, and all four of these projects were the subject of a Full Funding Grant Agreement (FFGA) with the FTA. Since each of these Federal projects went through the New Starts process at a different point in time, we have directly experienced the changes and evolution in that process. In addition, five Los Angeles transit projects -- the Long Beach Blue Line, the Green Line, the Pasadena Gold Line, the San Fernando Orange Line, and Phase 1 of the Exposition Line -- have been designed and constructed without any Federal New Starts funding. In addition, the entire Metrolink commuter rail system, consisting of 512 route miles of commuter rail service, has been developed without any Federal New Starts funding. As a result, we have also directly experienced the differences -- and they are significant -- between developing a project under the Federal New Starts process and developing a project without the encumbrances associated with that process.

CHANGES/EVOLUTION IN THE FEDERAL PROCESS

Growth in Demand for Projects -- In the initial years of the FTA grant program, there were a fairly limited number of New Starts projects around the country, and the Federal process for funding and implementing those projects was relatively straight forward. New projects were built by MARTA in Atlanta, BART in the Bay Area, and Washington Metro in D.C., and projects were being planned in cities like Miami, Portland, San Diego, and Los Angeles. Overall, however, public transit in the United States in the early days of the FTA program consisted primarily of extensive capital infrastructure in what are referred to as the "old rail cities" (Boston, New York, Philadelphia, and Chicago), and bus systems, often with little infrastructure or capital investment, in the rest of the country.

By the early 1980's, however, that picture began to change, and since that time, the interest in New Starts projects nationwide has dramatically expanded. This may be due in part to increases in the size of the Federal program; it may also reflect an enhanced public and political awareness (particularly in western and southern States) of ever-increasing mobility problems and the key economic role that transit capital investments can play in ensuring the vitality of our cities. Whatever the combination of reasons, few would dispute that the landscape has shifted dramatically.

The State of California -- a State famous for its love of the automobile -- may be the most striking example of this phenomenal growth in transit capital investment. New Starts projects have been constructed from one end of the State to another in the past 20-25 years—San Diego, North County, Los Angeles Metro, Santa Clara, Sacramento, BART extensions, and Muni in San Francisco. In terms of nationwide interest, the growth has also been dramatic -- by 2004 there were almost 80 proposed projects in the New Starts "pipeline". SAFETEA-LU provides an even more astounding picture of the level of demand -- in that law, over 250 New Starts projects were authorized for alternatives analysis and preliminary engineering.

Given this magnitude of demand, it should come as no surprise that there is not nearly enough Federal assistance available to help build all -- or even most -- of the potential New Starts projects being developed across the U.S. For several years, there have been simply too many projects nationwide chasing too few Federal dollars. To illustrate this point, if only 100 of the 250 SAFETEA-LU authorized New Starts projects were constructed, at an average cost of $500 million, the total demand would be $50 billion in public funding. To address this demand, the current New Starts funding program, even if it grew by 5% per year over the next 10 years, would provide only about $18 billion.

Development of the New Starts Evaluation and Rating System -- This imbalance between supply and demand has led, inevitably, to intense competition for the relatively limited amount of Federal New Starts funds. It has also led, at the Federal level, to a fundamental policy question -- what should be the basis for determining which projects receive Federal funding?

For the past two decades, successive Administrations and the Congress have wrestled with this question, with the goal (ideally) of selecting the "best" projects on the basis of merit, and also of identifying which projects do not warrant Federal investment. Since FTA's initial Policy Statement on Major Capital Investments in 1984, both the New Starts evaluation system and the Federal project development process have become increasingly complex and detailed – with greater and greater Federal involvement in the local project development process. The burdens placed on local project sponsors have increased, the Federal oversight has become significantly greater -- to the point of micro-management -- and the time required to complete the Federal process has grown significantly.

The goals of the Federal New Starts process, and the objectives of the congressional and Department of Transportation efforts to develop evaluation criteria and a rating system for New Starts projects, are well intentioned as a matter of public policy. The New Starts program represents a unique effort to award Federal dollars on the basis of merit and to direct public investment to the best projects. The system has also fostered several management tools that are valuable to local agencies in designing and building new transit projects. The fundamental problem is that the New Starts process is unreasonably onerous for New Starts grantees. In its effort to exercise due diligence over Federal funds and the New Starts program, FTA has developed a system so complex, so replete with reports and analyses, and so fraught with delays and schedule uncertainty, that it now obstructs one of the agency's fundamental goals -- to assist urban areas in building critically needed transit systems in a cost effective manner. The result is delay and frustration for New Starts project sponsors, and even in some cases decisions by grantees to design and build new fixed guideway projects without Federal discretionary funding.

To put this in some perspective, the FTA New Starts Program consists today of the following key elements:

First, project sponsors (the local agency grantee) must make detailed New Starts submittals to the FTA on an annual basis providing extensive information on their proposed project. Based on these submittals, FTA evaluates and rates the projects under two statutory/regulatory criteria:

- ***Project Justification,*** which evaluates cost effectiveness, land use, environmental benefits, mobility improvements, economic development, and operating efficiencies.

- ***Local Financial Commitment,*** which evaluates the grantee's local financial commitment (State and local funds) in terms of stability, reliability, and availability, and also the extent of the local "overmatch" (i.e., the grantee's contribution in excess of the statutorily required 20% local share).

The most complicated and controversial element of this evaluation is FTA's effort to measure a project's cost effectiveness through use of the Transportation System User Benefit or "TSUB", which is intended to show the incremental transit "user benefits" per dollar of transit investment. Local grantees are responsible for developing this TSUB "number" using complicated and often confusing modeling systems. The value of the TSUB number generated, as an indicator of project merit (both independently and in comparison to other projects), remains a subject of considerable debate. Because of this TSUB element, potential subway alternatives are all but eliminated from consideration, even if it is the most pragmatic solution in a densely populated urban corridor. As one of the more densely populated regions in the country, this places Los Angeles at a disadvantage.

Second, New Starts projects must be developed and proceed in discrete stages (alternatives analysis, preliminary engineering, final design, etc). FTA acts as a "gatekeeper" in the project development process. A project cannot advance from one stage to the next -- such as from alternative analysis to preliminary engineering -- without receiving the "green light" from FTA. Project sponsors must submit detailed documentation to FTA that their project is "ready" to enter the next stage. Projects are essentially on hold while they wait for the necessary FTA gateway approval, which often takes several months.

<u>Third</u>, almost all projects must obtain full clearance under the National Environmental Policy Act (NEPA). This means preparation of a Draft and Final Environmental Impact Statement (EIS) and issuance of a Record of Decision (ROD) by FTA. While clearly justified as a matter of public policy, the EIS process as administered by FTA is extremely time consuming, with frequent delays and the resulting schedule uncertainty.

<u>Finally</u>, in order to be eligible for construction funding and receipt of a Full Funding Grant Agreement (FFGA), a project sponsor must make its way through a time consuming FTA "due diligence" and project review process. The project sponsor must develop a lengthy series of project reports and documents, and provide detailed project cost, revenue, scope, and schedule information to FTA. These materials are subject to exhaustive review and analysis by FTA and its consultants. Again, the grantee spends weeks and months waiting for FTA to complete its reviews. FTA's two outside consultants (the PMO and FMO) must also produce detailed "independent" reports on the project. Finally, the grantee must then negotiate and execute a Full Funding Grant Agreement (FFGA) with FTA. There are over 20 steps in the current checklist to obtaining a FFGA, and the required documents take months to generate, review, refine, and finalize. Once a FFGA is in place, a similarly onerous process is undertaken each year to ensure that the necessary funds are appropriated by the Congress.

<u>Comparison of Federal and Non-Federal Projects</u> -- Given this extensive Federal process, there are obviously significant differences between advancing a project under the Federal new starts process and developing a new fixed guideway project outside that process, using only State and local funds.

The most significant differences we have experienced are in schedule and cost. First, we estimate that the Federal New Starts process can add one to two years to the project schedule. We have experienced this impact in a comparison between the actual timelines in Los Angeles for Federal and non-Federal projects. For example, on the federally funded Eastside Project, Metro received a ROD in June 2002 and executed a FFGA two years later in June 2004, which allowed us to start construction. By contrast, on the non-federally funded Exposition Project, we received a ROD in February 2006 and started design and construction that March.

Second, we estimate that the Federal process adds 10-15% to the overall project costs. This added cost has two elements. There are significant "soft" costs – primarily the staff and consultant time required to prepare and revise the extensive documents and reports required by FTA, consult and meet regularly with FTA and its consultants, submit New Start reports on the project, etc. In addition, there are escalation costs incurred simply because the engineering, design, and construction process takes longer under the Federal process. Even if escalation is relatively modest -- 5% per year, for example -- the cost of a one year delay on a $1 billion project would be $50 million in taxpayer dollars. In particular, over a two-year period like that noted above in the comparison of the Eastside and Exposition projects, the costs of construction materials (such as steel) can increase significantly. Given that providing sufficient revenue sources to build a major project is always a challenge, these extra costs can have a substantial negative impact on a local agency's ability to meet a project budget.

One critical aspect of this comparison bears emphasis. No one can really take issue with the idea that projects should be carefully managed and reviewed, or that FTA should be a conscientious steward of the Federal funds it provides. However, we have not found in Los Angeles that the current micro-management level of Federal oversight has any actual, demonstrable yield in terms of project success or performance. Our Federal New Starts projects do not have a better record, for example, of being completed on time and within budget than our non-Federal projects. In fact, due to the delays and added costs of the Federal process, actually the opposite seems to be true. One of the primary reasons for this, I believe, is that agencies like Metro have developed sound project management systems and tools that have greatly enhanced our ability to build projects on time and within budget. Certainly the FTA should be credited with assisting us in achieving that goal, through its technical assistance and its emphasis on project management. We believe that is an appropriate role for the Federal Government. However, I am not aware of any empirical evidence, on a nationwide basis, that the ever increasing levels and layers of Federal review and micro-management have actually resulted in better performing projects, in terms of adherence to schedule and budget.

SPECIFIC RECOMMENDATIONS FOR CHANGE

In a nutshell, FTA's elaborate project development and "due diligence" structure creates enormous problems in terms of time and resources for grantees trying to build New Starts projects. New Starts projects are multi-million dollar public works projects, and as such require development and adherence to a strict critical path schedule. The unfortunate fact is that in the implementation of a New Starts project, one of the biggest risk factors has become the Federal Government's well intentioned but inefficient rules governing the New Starts process.

If the New Starts program continues in its present form, the future will be increased frustration for project sponsors, delay in project development and completion, and deferred benefits to those dependent on transit. Cities with the resources to build projects outside the FTA New Starts system will do so; cities without those resources will either struggle through the Federal process or in some cases perhaps forego needed projects. However, there are steps that can be taken collectively to address the current problems and improve the program. Here are five suggestions for how the New Starts program can be improved.

1. *Recognize True Allocation of Risk*

The New Starts program could be improved by reducing the Federal due diligence role and making the local project sponsor responsible for its own risk assessment and related tasks.

While the New Starts process has a legitimate public policy goal of assuring that Federal transit funds are directed toward the best transit investments and that project cost estimates, revenue projections, and transit user benefit estimates are realistic and achievable, there is a serious question of whether the actual value of this oversight has become outweighed by the extensive and time consuming burden it places on local agency project sponsors, and also whether this oversight is consistent with the actual allocation of project risk.

One of the most time consuming aspects of the New Starts process is the preparation of extensive reports and documents by the project sponsor, reviews and analysis of those reports by FTA's consultants (the PMO and FMO), and the preparation of detailed analysis by those two FTA consultants. The preparation of these various plans and documents by the grantee, following by extensive review by FTA and its consultants, adds months of time to the process.

A significant deficiency in this current risk assessment approach is that it does not seem to provide any basis for evaluating the type or degree of risk based on the scope and complexity of the project involved (i.e., a BRT project as compared to a subway tunnel). More importantly, the current FTA approach fails to take into account the actual level of risk to the Federal Government, and the extent to which that risk has been transferred to the local project sponsor/grantee.

Specifically, for a number of years FTA has utilized the FFGA to limit its financial exposure in New Starts projects, by placing an absolute limit or "cap" on the amount of Section 5309 New Starts funds that will be provided for the Project. This shifts *all* of the risk for cost increases, overruns, scope changes, and schedule delays to the grantee. Moreover, in the FFGA the grantee expressly commits to paying all project cost increases, and thereby by contract assumes *all* of the financial risk. The current New Starts model is fundamentally counter-intuitive, in that it requires that the Federal Government perform an extensive and time-consuming due diligence and risk assessment role, but it places essentially no financial risk on the Federal Government.

In light of the actual allocation of risk, a far more justifiable approach would be to place the primary burden for risk assessment and due diligence on the party actually bearing the financial risk, and for the FTA to limit the amount and scope of the Federal Government's review. In exchange, FTA could require the grantee to be responsible for conducting its own risk assessment and preparing and validating its own financial plan for the project, and providing FTA with guarantees or self-certifications in those areas.

2. ***<u>Streamline and Simplify the New Starts Rating Process</u>***

The New Starts program could be improved by simplifying and streamlining the evaluation and rating process.

One of the areas in significant need of reform is FTA's New Starts evaluation and rating process. Both the amount of information submitted and the FTA review process itself need to be streamlined. In its heavy emphasis on the TSUB "number", FTA is seeking a quantitative evaluation that will permit highly refined differentiations in the comparison of projects. As the Los Angeles County Metro stated in prior written comments to FTA, "analytical perfection should not be the goal". A more reasonable approach would seem to be to develop a more streamlined, easier to use rating system that would simply identify the best and worst projects.

It would also be beneficial for FTA to develop a simple rating method for each of the statutory criteria established by the Congress. Currently, the extensive information on environmental benefits, operating efficiencies, and mobility benefits submitted by a project sponsor in the annual New Starts submittal is not actually scored by FTA in the overall Project Justification rating. (The only factors scored are cost effectiveness and land use.) Adoption of a simple scoring methodology for *all* criteria would be much more consistent with the Congressional intent, particularly given that in SAFETEA-LU the Congress mandated that New Starts projects be evaluated based on a "comprehensive review" of all of these factors. <u>See</u> 49 U.S.C. 5309(d)(2)(B).

Finally, in the local financial contribution evaluation and rating, it would be far more equitable for FTA to take into account all of the project sponsor's new fixed guideway investments in its transit system, and not just its share of the individual project being rated. In Los Angeles, for example, Metro's capital investment in non-Federal new fixed guideway projects in its transit system is over $5 billion, but this contribution goes totally unrecognized in the current FTA rating system. A change in this element of the evaluation would not only recognize the true level of local financial commitment, but would also provide a tangible incentive for increased levels of State and local funding.

3. *Establish a Bilateral Commitment to Timeframes*

The New Starts program could be improved by FTA committing to a schedule and milestones for its actions and approvals.

The combined effect of the due diligence reviews, the NEPA process, the requirement for FTA approval to advance from one stage to the next, and the FFGA process creates havoc for the grantee's project schedule, both in uncertainty and in the amount of time taken to make it though the process to FFGA execution.

One fact is quite startling -- the Federal Government is the only participant in the New Starts Project development process that does not have to make any commitments regarding the schedule for its actions. The project sponsor, local funding partners, and the engineering, design, and construction firms involved must all agree to and comply with specific timetables for their actions.

The New Starts process would benefit greatly if FTA were simply to adopt a more disciplined and time sensitive approach for its actions in each of the steps in the process, and were to make the type of milestone and schedule commitments that other participants in the process are already obligated to make. For example, FTA and the New Starts grantee could agree to a bilateral schedule for the processing of the NEPA documents and the multiple other plans and reports required in the New Starts process, as well as for the preliminary engineering and final design approval processes.

4. *Reduce Time Frame From ROD to Construction*

The New Starts program could be improved by reducing the time between the issuance of the Record of Decision and the start of design and construction.

FTA needs to take some specific actions to reduce the amount of "dead time" between issuance of the ROD and the start of final design and construction. As a general rule, when a

ROD is issued by a Federal agency, the underlying Federal action may proceed. However, under the FTA New Starts process, there are additional and time consuming post-ROD steps and approvals that must occur before a grantee may actually commence design and construction of its project -- specifically, the often lengthy process of obtaining FTA's approval to enter final design, and the detailed and time consuming development of the FFGA package and accompanying reports.

The net result is that the time from issuance of the ROD until the execution of the FFGA is typically well over a year, and frequently is two years or more—which means that actual construction of the project is delayed for that period of time. FTA could greatly improve the New Starts process, and save time and public funds, if following the issuance of the ROD the grantee were permitted to proceed with design and at least limited construction activities.

5. *Provide Increased New Starts Funding to Address the Nationwide Demand*

The New Starts program could be improved by increasing the amount of Federal New Starts funding.

A bigger, more robust New Starts program is needed in order to meet the growing demand for transit investments nationwide. It is true that to address this demand would require several billion dollars in Federal funding. However, this would be an investment in infrastructure in this country that would yield a huge return -- in job growth, in the economic vitality of our cities, in congestion relief, and in air quality. Without venturing into an area beyond this Committee's jurisdiction, if the Federal Government can contribute billions of dollars toward rebuilding and improving the infrastructure in foreign countries, it seems reasonable to pursue a higher level of funding for the substantial transportation infrastructure needs we have in the United States. Many State and local governments -- California is a notable example -- have dramatically increased their funding for transit capital investments in recent years, but the Federal program has not kept pace with this growth. To meet the substantial and growing capital needs throughout the United States, it is critical for the Federal Government to increase its role as a funding partner.

In addition, a more robust funding program, allowing more projects to receive Federal assistance, would also help to reduce the pressure on FTA to select "perfect" projects and subject those projects to unnecessary and redundant levels of review and analysis.

CONCLUSION

That concludes my testimony. I will be happy to answer any questions that you might have. Again, I appreciate the opportunity to provide the views of Los Angeles County Metro on these important transit issues.