

Testimony of:

**Will Kempton**  
**Chief Executive Officer**  
**Orange County Transportation Authority**  
**Orange County, California**

Before the

**United States House of Representatives**  
**Committee on Transportation and Infrastructure**  
**Subcommittee on Highways and Transit**

Hearing on:

**Accelerating the Project Delivery Process: Eliminating  
Bureaucratic Red Tape and Making Every Dollar Count**



Tuesday, February 15, 2011  
10:00 a.m.  
2167 Rayburn House Office Building

Chairman Duncan, Congressman De Fazio, members of the subcommittee, my name is Will Kempton and I am the Chief Executive Officer of the Orange County Transportation Authority (OCTA), located in Orange County, California. I am very pleased to have with me this morning, Peter Buffa, a past Chair and current member of the OCTA Board of Directors. Mr. Buffa has been the chief architect of the Breaking Down Barriers initiative and has championed the initiative on the OCTA Board, with our Orange County business community and here in Washington.

We both thank you very much for the opportunity to describe our efforts regarding this initiative and provide a look at the preliminary findings, some of which we hope will become a part of any transportation reauthorization legislation, but others of which can be implemented with changes to current regulations or procedures.

The Orange County Transportation Authority was formed in 1991 by the consolidation of seven separate transportation agencies. This consolidation created a multi-modal authority, which eliminated duplicate transportation functions and increased efficiency in providing transportation services for the more than 3 million residents of Orange County

OCTA has an annual budget of more than \$1.2 Billion and operates a county-wide bus system which is among the top twenty busiest in the nation, providing more than 52 million rides annually. In addition, OCTA is one of the funding partners for the Southern California Commuter Rail Authority (SCCRA) which operates three Metrolink commuter-rail lines in Orange County, carrying more than 4 million passengers per year.

On the highway side, OCTA oversees all of Orange County's major investment studies and manages the funding and planning for all future transportation infrastructure improvements in the county. In addition, OCTA is the owner and operator of the State Route 91 Express Lanes toll road which carried more than 12 million vehicle trips in fiscal year 2009-10.

At OCTA we are more than equal partners in the funding of transportation infrastructure projects. This year will mark the successful completion of \$4.1 billion in transportation improvements promised to Orange County voters in 1990, when they approved Measure M, a twenty-year half-cent local sales tax program. At the same time, we are beginning implementation of a renewed Measure M, that was approved by 70 percent of our voters in 2006, and is projected to provide more than \$15 billion in new local funding for freeway, regional/local streets and roads, and transit improvements by 2041.

As hopeful as we are about the future, there is no denying that the economy in Orange County, the State of California, and the nation, is still in critical need of economic activity and job creation in order to climb out of the current recession.

The Breaking Down Barriers initiative grew out of a combination of the current recession, where scarce capital investment has led to double digit unemployment, coupled with the long-held knowledge that federally funded projects often take an extraordinary length of time--as much as 14 years-- from the time of funding availability to project completion. In early 2010, OCTA began discussions with top United States Department of Transportation officials and key Congressional leaders regarding the opportunity to unlock the jobs tied up in the federal project delivery process and create jobs in Orange County and throughout the nation. This earlier creation of jobs can be accomplished without the expenditure of massive amounts of federal funds.

The infusion of construction jobs into the economy at this particular time has an added benefit. Right now, bids on construction projects at OCTA, throughout California and around the nation are coming in at between 25 and 40 percent below engineering estimates. This means if we can build it faster we can receive more benefit for the dollars spent. In the past year alone, OCTA has saved \$138 million from construction bids below engineering estimates. This savings will be put to work to pay for other unfunded projects in the county.

OCTA's discussions with Congress and the Administration over the past months have revealed that others in Washington share the view that now is the time to expedite federal funding and reduce the burdensome requirements long associated with major federal projects. The Federal Highway Administration's (FHWA) "Every Day Counts" initiative seeks to identify and deploy innovation aimed at shortening project delivery. The 437 Plan of House Transportation and Infrastructure Committee Chair John Mica (R-FL) is seeking to apply the goal which was achieved in the shortened timeframe it took to rebuild the collapsed Interstate 35W bridge in Minneapolis, to all federally funded projects. President Obama recently authored an op-ed piece in the Wall Street Journal criticizing "absurd and unnecessary paperwork requirements that waste time and money" and issuing an Executive Order to review existing rules that stifle job creation.

OCTA has been in contact with the United States Department of Transportation, FHWA, Mr. Mica's office and the White House Office of Intergovernmental affairs to coordinate our efforts with them.

The Breaking Down Barriers initiative has been a process of listening and collecting the experiences of OCTA counterparts in California and across the nation. OCTA has reached out to state and local governments, as well as key transportation industry and business associations such as the American Association of State Highway Transportation Officials (AASHTO), the American Public Transportation

Association (APTA), and the U. S. Chamber of Commerce for their assistance in this initiative. These efforts have yielded broad support and specific suggestions regarding ways to improve and expedite the delivery of federal transportation projects.

In addition, OCTA has contracted with the firm of Cambridge Systematics, which is using Susan Binder as their principal investigator, to conduct in-depth interviews with transportation providers and coordinate these results to find the most promising areas to seek specific changes in statutes or regulations to expedite project delivery. Together, we have conducted over 40 confidential interviews over the past four months with project implementers and trade associations in an effort to collect the widest sampling of recommendations as to where changes in the status quo can expedite project delivery.

The OCTA final report is still in development, but to date we have identified more than 22 changes in existing federal law, regulations, or practices which could speed up the project delivery process. The interviews found that delay in project delivery can be attributed to the following causes:

- a. A misplaced federal focus on **micromanaging** in the name of good project control;
- b. A misplaced reliance on **document length** in the name of **quality**;
- c. A focus on **processing** in place of **advancing** projects;
- d. A failure to adopt a federal, state, and local **partnership** effort to replace the highly **risk-averse attitude** presently associated with federal oversight,
- e. An erroneous belief that **delay** is evidence of **diligence**.
- f. A failure to **penalize delay** and **reward innovation** at the federal and state or local level.

The recommendations flowing from these interviews are grouped into three general areas. The first set of recommendations is intended to shift the federal focus to the outcome of delivery of a transportation benefit. Actions supporting this goal include: providing for universal pre-award spending to state and local entities; clarifying the transportation improvement program amendment process; extending the NEPA delegation authority; removing redundant steps in the environmental review process; and providing for modular or scenario-based conformity determinations.

The second set of recommended actions would encourage federal and state or local project managers to team together for project performance. Actions supporting this goal include: the ability to enter into project and program delivery partnering plans; establishment of "prompt action" provisions at key decision points in the project approval process; establishment of a partnering award program to positively reinforce prompt project action; creation and funding of liaison positions to move projects through decision chokepoints; and expansion of use of the joint permitting process.

The third set of recommendations focus on strategies that recipients can employ internally, in conjunction with federal funding agencies, to reap time and cost savings. Actions supporting this goal would include the development of transportation program data bases and project information that can be universally accessed; the establishment of a federal grant program for innovative contract management; and investment in the internal capabilities to use innovative contracting mechanisms effectively.

There is one point that needs to be clear regarding all of these recommendations. OCTA has specifically reassured the environmental community in California and at the national level that none of the recommendations from the Breaking Down Barriers initiative are intended to eliminate necessary environmental protections related to federal projects. Instead, they are designed to expedite those projects in an environmentally responsible way. OCTA will continue to inform and involve the environmental community as this initiative progresses.

We plan to complete our analysis in the very near future and begin to advocate for changes in legislation and through the regulatory process. We will continue to work with the sponsors of similar efforts to advance all of our identified process improvements. OCTA is committed to pursuing these changes to create the jobs needed in our economy now and to build for better transportation infrastructure in the future.

Thank you once again for the opportunity to testify today. Director Buffa and I would be pleased to answer any questions from the subcommittee regarding the Breaking Down Barriers initiative.

**Peter Buffa**  
**Director, Orange County Transportation Authority (OCTA)**  
**Curriculum Vitae**

As a Member and former Chair of the OCTA Board of Directors, Director Buffa serves on the Executive Committee and is a member of the Finance and Administration, Legislative and Communications, and Transportation 2020 Committees.

Director Buffa served as a Council Member and Mayor of Costa Mesa, California from 1986 to 1998. From 1987 to 1998, Director Buffa served as a Director of the Transportation Corridor Agencies, including two terms as Chair of the San Joaquin Hills Corridor Agency.

In 1998, Director Buffa received special recognition from the American Road & Transportation Builders Association for his work on innovative transportation projects.

Director Buffa's firm, Petrone' Communications, has provided consulting services to numerous public agencies on the development and implementation of public outreach and consensus-building programs, including the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency and the National Water Research Institute.

**COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE**  
*Truth in Testimony Disclosure*

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Pursuant to clause 2(g)(5) of House Rule XI, in the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include: (1) a curriculum vitae; and (2) a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness. Such statements, with appropriate redaction to protect the privacy of the witness, shall be made publicly available in electronic form not later than one day after the witness appears.

**(1) Name: Peter Buffa**

**(2) Other than yourself, name of entity you are representing:**

**Orange County Transportation Authority (OCTA) – Orange County, CA**

**(3) Are you testifying on behalf of an entity other than a Government (federal, state, local) entity?**

**YES**

**If yes, please provide the information requested below and attach your curriculum vitae.**

**NO**

**(4) Please list the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by you or by the entity you are representing:**

**NONE**



February 9, 2011

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Signature

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Date