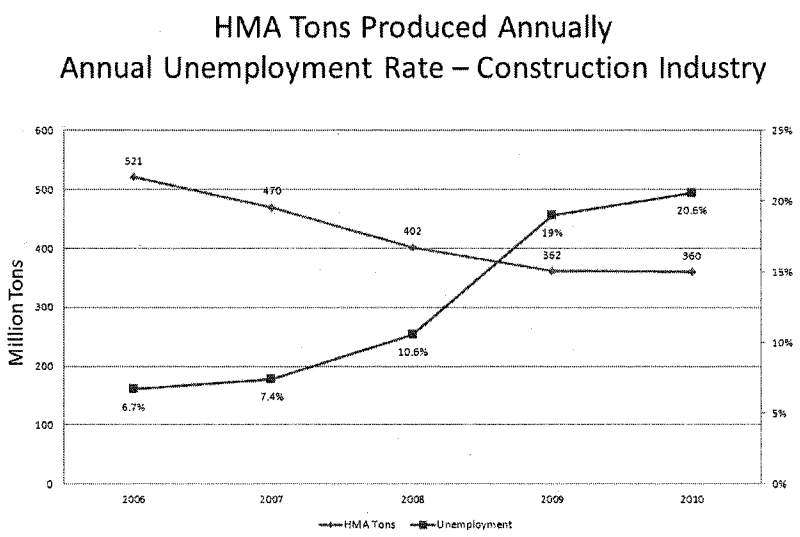
Testimony of Larry Lemon
Haskell Lemon Construction Company
Before the House Transportation and Infrastructure Committee
Field Hearing on
Improving and Reforming our Nation's Surface Transportation Programs
Oklahoma City, Oklahoma
February 24, 2011

My name is Larry Lemon, Chairman of Haskell Lemon Construction Company, a family-owned and operated business that has specialized in the construction of roads and highways in the State of Oklahoma for over 60 years. I want to thank Chairman John Mica, Congressman James Lankford, and the other members of the House Transportation and Infrastructure Committee for holding this important hearing on improving and reforming our Nation's surface transportation programs.

Oklahoma has always enjoyed strong representation in the House and Senate Committees charged with the establishment and oversight of our Federal surface transportation programs. Senator James Inhofe was a member of the House Transportation and Infrastructure Committee before serving our state as Senator and is now the Ranking Member of the Senate Environment and Public Works Committee. We value his leadership as well as the leadership Congressman Lankford and the members of the House Transportation and Infrastructure Committee bring to this critical issue.

Today, I come before you not only as a practitioner in the construction of highways and roads, but as the most-recent past Chairman of the National Asphalt Pavement Association (NAPA) and as a member of the Associated General Contractors of America. As Chairman of NAPA this past year I travelled around the country meeting with contractors and suppliers in the highway construction industry and learned a great deal regarding the issues they face as well as the technologies being implemented that will revolutionize highway construction. Many of my comments in this testimony are reflections of those discussions and I am very happy to share these with you today.

The main concern for our industry is the unpredictability of funding which is making it extremely difficult for state transportation departments and companies to prepare for the construction season. With the current federal program operating under a series of short-term extensions, and state and local government funding reductions in the maintenance and construction of highways and bridges, this has been a very difficult period for the employees of the companies in our industry. From 2006-2010, production of construction materials declined on average 38 percent and construction unemployment increased 200 percent.



Timely enactment of a multi-year surface transportation reauthorization bill with dedicated and predictable levels of funding towards the maintenance and construction of our highway system is the key to restoring confidence in the industry and providing the foundation for our country's future economy and job creation potential. We also agree that the Federal government must get its fiscal house in order. This is essential not only to our current economy, it is also critically important to future generations of Americans.

Asking Congress to invest more in our nation's highways, roads and bridges as it reduces spending in other federal programs is a very difficult situation and I know you have received many reports and testimony saying we should do just that.[1,2,3] We fully and wholeheartedly agree with those recommendations. But I am before you today not to talk about how much we should invest in our highways and bridges, rather how we are spending Highway Trust Fund dollars. I also want to challenge the members of this Committee to assist us in fully implementing several exciting breakthroughs in pavement technologies that which fully employed will revolutionize the construction and maintenance of our nation's pavements.

Highway Trust Fund Optimization

As I mentioned previously, we support the priority Congress and the American people have identified in reducing the national debt and balancing the federal budget. This also means aligning spending out of the Highway Trust Fund with revenues going into the fund. Mr. Chairman, you have announced that you will draft a reauthorization bill based on current revenues into the Highway Trust Fund and, as part of the legislative process, the committee will consider proposals to consolidate the program. We are very pleased that Congress will be looking at how the funding from the Highway Trust Fund is directed in an effort to eliminate unnecessary, duplicative, and non-transportation programs from funding under the Highway Trust Fund.

When the Highway Trust Fund was established in 1956 it was used principally to finance the construction and maintenance of the Interstate Highway System. I think we can all agree that the Highway Trust Fund performed as was intended by creating a national highway network that was the envy of the world and powered America's economic growth over many years.

However, over the years the federal role in surface transportation has expanded, and as a consequence there are many new programs that the Highway Trust Fund has funded. As the growth in revenues increased, Congress added more goals and programs for which the Highway Trust Fund may be used including many instances where these activities are not related to, nor do they contribute to the construction and maintenance of highways, roads, and bridges.

---

1. The Moment of Truth, The National Commission on Fiscal Responsibility and Reform.

2. Transportation for Tomorrow, The National Surface Transportation and Revenue Study Commission.

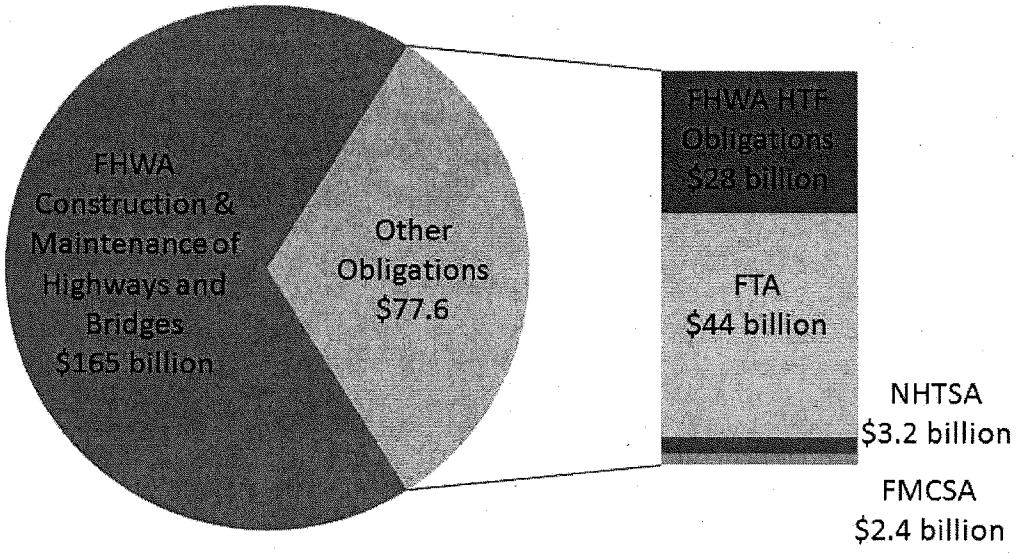
3. Paying Our Way: A New Framework for Transportation Finance, The National Surface Transportation Infrastructure Financing Commission.

We are clearly in a situation where the Highway Trust Fund, funded by the users of the system, is spread so thinly, it cannot even perform its core function of constructing and maintaining highways and bridges. By any metric, whether it's the American Society of Civil Engineers Report Card on America's Infrastructure, The Road Information Programs (TRIP) report on America's roughest roads or the Texas Transportation Institutes report on mobility and congestion, we are rapidly falling behind in even maintaining the current highway system. Something has to give because the current trajectory of Highway Trust Fund revenues and spending is not working.

The General Accountability Office issued an 18-page report (GAO-09-729R) on June 30, 2009 entitled: Highway Trust Fund Expenditures on Purposes Other than Construction and Maintenance of Highways and Bridges during Fiscal Years 2004-2008. The report provides a condensed version of how Highway Trust Fund monies have been obligated for purposes, other than construction and maintenance of highways and bridges. During 2004 through 2008, a total of $78 billion – or about $15.5 billion annually - was obligated for other purposes. In other words, about 32 percent of Highway Trust Fund dollars were diverted for activities such as landscaping, restoration of buildings, and transportation museums. In addition, large portions of funding are directed to agencies other than the Federal Highway Administration.

HTF Expenditures 2004-2008

Source: GAO



Annual Average
$33b for Highways and Bridges - $15.5b Diverted

NAPA
NATIONAL ASPHALT PAVEMENT ASSOCIATION

While many of these programs and agencies have merit, it is important for the Committee to look at where the funding is going and ask whether there is another way to fund these programs outside of the Highway Trust Fund. For too long the Highway Trust Fund has been all things to all people. The Highway Trust Fund should not be treated like an ATM machine dispensing cash to satisfy an immediate need. According to the Congressional Budget Office, the balance in the Highway Trust Fund will approach zero sometime next year. Congress needs to re-establish the purpose of the Highway Trust Fund and fund only those programs and activities related to that function. The GAO report is an excellent menu of potential programs and activities Congress should evaluate and consider not funding or fund outside the Highway Trust Fund.

All Vehicles Pay into the "Highway Trust Fund"

When President Eisenhower proposed our great Interstate Highway System, he recommended a pay-as-you-go user fee of 3 cents per gallon on gasoline and diesel to fund all of the construction and maintenance. This user fee concept is a good system, and it has worked well for the American Citizens. Today the user fee is 18.3 cents per gallon on gasoline, and our purchasing power of the Highway Trust Fund has substantially diminished. It is interesting to note that in 1955 at the time this new user fee was proposed, the cost of a stamp was 3 cents, now the cost of a stamp is 44 cents. What a difference our Highway Trust Fund would be in, if it could have been given the same increases as our Postal System.

The vehicle user fee concept has been a very effective system to pay for our highway needs, and the concept that each vehicle that uses our highways pays an equal user fee needs to be continued. We suggest that THIS reauthorization bill include a comparable user fee for electric vehicles, natural gas vehicles, hydrogen vehicles, and any and all alternative fuel vehicles. If we do not begin to extend the user fee to all forms of power, we may find significant resistance to include them in the future. I also think it is important that the Highway Trust Fund receive the same user fee for ethanol and bio-diesel, as it does for pure fuels. The concept and need for a subsidy for ethanol and biodiesel is long since over. We are hurting ourselves with an ethanol subsidy by reducing the funds to build our highways.

If we re-establish the funds going into the Highway Trust Fund to include all vehicles, and use them strictly for highways and bridges as intended, we will be able to bridge the tough economic times we are in, and generate more construction projects and jobs going into our national highway program. Ultimately, we must address the funding needed to construct and maintain our great highway system with increased user fees.

Doing More With Less

Even though the construction industry has been challenged by the current economic situation, there is a technological revolution underway in the way we design, test, and build our asphalt and concrete pavements. While we have made significant progress, the pace of implementation has been too slow and the next reauthorization bill can be a real catalyst in implementing these new technologies.

The asphalt pavement industry has a proven record of technology and innovation. These include the use of reclaimed asphalt pavement (RAP) and recycled asphalt shingles (RAS). We have developed perpetual pavements, polymer modified binders, stone matrix asphalt, warm mix asphalt (WMA), thin overlays, and porous asphalt pavements. These new technologies provide numerous benefits including reduced costs, conservation of materials and energy and emission savings.

Let me give you two examples to demonstrate the important benefits these technologies mean for our country. Asphalt pavement consists of asphalt binder (about 5 percent in volume) and aggregate. There are about 18 billion tons of asphalt pavements on our highways and roads today. While asphalt pavements are the most recycled material in the world today with about 100 million tons recycled back into the pavements, we could do better.

A recent NAPA survey of the industry indicates that in 2008 the percentage of RAP incorporated into new pavements was 12.5 percent. In 2010, the percentage of RAP into new pavements increased to 19 percent.

Warm mix asphalt is another innovative technology that has created a tremendous opportunity to be sustainable and economical for the owner. Warm mix asphalt technologies reduce the temperature of the asphalt pavement which results in reduced fuel use and emissions, and improved working conditions for workers. Additional benefits include longer hauling distances, cold-weather paving, and use of higher RAP mixes.

NAPA estimates that in 2009, 13 million tons of warm mix asphalt was produced. In 2010, 46 million tons of warm mix asphalt was produced. So far, these pavements have performed well and state transportation departments are pleased with the results.

As good as these results are, we must do better. NAPA has set an industry goal of 25 percent RAP in asphalt pavements and the majority of the industry's asphalt tonnages be warm mix asphalt within three years. If we are to achieve these goals we need your help. For example, there are 10 states that still do not allow for RAP in surface mixes. We need performance testing of these technologies to get innovative products such has RAP and warm mix asphalt into the hands of the state DOT's and other customers faster. We also need the owners of these projects to share the risk of these new technologies with the contractors. The use of lab results and test track data will help us understand these risks and lead to the further development of these new technologies that are implemented quicker.

This month, the National Center for Asphalt Technology (NCAT) located in Auburn, Alabama entered into a partnership agreement with the Asphalt Research Consortium (ARC) led by the Western Research Institute. ARC brings together the premier asphalt research institutions under one umbrella and has been authorized by Congress in both TEA-21 and SAFETEA-LU. ARC has focused its research on, among other things, alternative binders for asphalt pavements. This is critically important for the industry, and the test track and research capabilities at NCAT will help implement these new technologies to industry and into the pavements faster.

In the next reauthorization bill, Congress should help support the rapid implementation of these new technologies including higher RAP mixes, the further development of warm mix asphalt, and the implementation of alternative binders by reauthorizing ARC and providing funding for this program.

Mr. Chairman, we all recognize the current condition of our infrastructure and the uncertain economic climate that currently exists. We absolutely must include all vehicles and maximize the effectiveness of the Highway Trust Fund so we can save lives and build more miles of safe highways with only the money going into the Highway Trust Fund. In addition, the increased use of RAP and warm mix asphalt in combination with other technologies will have a profoundly positive impact. The construction industry in Oklahoma is committed to supporting the rapid implementation of these new materials and processes, and pledge to help you meet your goal of "Doing More with Less."

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Truth in Testimony Disclosure

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:

Larry H. Lemon

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

Haskell Lemon Construction Co.

(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:

Haskell Lemon Construction Co. is a Govenment Agency paving contractor specializing in contracts with the Oklahoma Department of Transportation. Most contracts have funding from the FHWA.

Haskell Lemon Construction Co. will contract for $60 to $70 million dollars worth of contracts each year. A detail listing can be provided upon request.

Larry H. Lemon

Signature

2-24-11

Date

Larry H. Lemon Biography

Larry H. Lemon graduated from the University of Oklahoma in 1966 with a B.S. in Business Management, and earned a Masters of Business Administration in 1967. He has worked for Haskell Lemon Construction Co. all of his career, starting as scaleboy at the asphalt plant in the summer of 1960, and is presently Chairman of the Board. Larry is an active member of the Oklahoma Asphalt Pavement Association, the National Asphalt Pavement Association, the Oklahoma Associated General Contractors of America, and several other local Oklahoma Contractor groups. Larry served the highway industry as the National Chairman of the National Asphalt Pavement Association in 2010. He attends United Methodist Church Of The Servant, and serves on several committees. When he is not promoting High Quality Asphalt Construction, he likes to spend time on warm sandy beaches with his wife Suzy, his Golden Retriever Molly, and their 5 grandchildren.