



Testimony of

Kathryn Phillips
Director, California Transportation and Air Initiative
Environmental Defense Fund

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Committee on Transportation and Infrastructure

And the

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Committee on Environment and Public Works

Joint Field Hearing on

**“Improving and Reforming Our Nation’s Surface Transportation Programs
to Support Job Creation and the Economy”**

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11301 Wilshire Boulevard

Chairwoman Boxer, Chairman Mica, Representative Hunter, and members of the committees, thank you for inviting me to testify today. My name is Kathryn Phillips and I direct Environmental Defense Fund's transportation policy work in California and at the federal level. Environmental Defense Fund, or EDF, is one of the leading organizations dedicated to protecting and preserving our nation's air, water, and natural resources. We do this by relying on science, economics, law and policy advocacy and we partner with a range of other entities, including businesses, in our efforts to develop and apply workable solutions to some of the toughest environmental challenges.

EDF is also a member of Transportation 4 America, a coalition composed of more than 400 organizations, including many represented by members of the audience. While my remarks today may not reflect those of every member of the T4 coalition, I can accurately say that all of us in T4 are united in our desire to see a better, more efficient transportation system in this country.

Today I will address ways to get to that better system through surface transportation policy, especially the federal transportation bill. I will specifically address freight policy, and also the National Environmental Policy Act (NEPA). As an environmentalist and transportation policy analyst, my focus, of course, is on how to improve the environmental performance of the system. While my professional background is essential to this discussion's framing and substance, you should be aware that my thoughts are also informed by my experience growing up in a car-dependent Southern California town with a father who was a long-distance truck driver and a mother who did not have a driver's license. I understood early that a reliable freight transportation system is essential to the economy, and that the availability of good public transit can make or break access to every sort of opportunity.

Freight Transportation

Economic and Environmental Impacts

Surface freight transportation—from rail to trucks to ships and barges—is the backbone of America's economy. It is nearly impossible to pass a single day in this country without touching something that benefited from that system. Our food, our clothing, the electronic gadgets we love and hate—all of it came to us through that system.

The system also provides a plethora of jobs, from the people who help load and unload ships and trucks, to the people who work in logistics and figure out how to make sure a load gets where it needs to go. The Port of Los Angeles alone takes credit for producing about 1 million jobs in the Southern California region, and 3 million jobs nationally through its direct and indirect impacts.¹

¹ Port of Los Angeles. Accessed February 19, 2011:
http://www.portoflosangeles.org/finance/economic_impact.asp.

The cargo delivery has come with heavy environmental costs. Today, the freight system in this country is responsible for about half the smog-forming oxides of nitrogen pollution and more than a third of the fine particulate matter pollution. The freight system is the leading source of toxic diesel soot pollution. It also stands as one of the fastest growing sources of greenhouse gas emissions.

Just as the freight system helps drive the economy, the system's pollution saps the economy. In the Los Angeles Air Basin where we sit today, economists estimate that not meeting ambient air quality standards costs the people living in this basin about \$22 billion a year through health costs, premature death, lost days at work and school.² In this basin, emissions from ships, trains, trucks and equipment at the port of Long Beach and Los Angeles represent "the largest single fixed source of air pollution in the Los Angeles Basin."³

Demand Overwhelms Infrastructure

Despite the freight system's economic importance and environmental impacts, the system has been allowed to deteriorate. Today it carries more than 60 million tons per day, or the equivalent of about 2.4 million truckloads of goods, and has grown substantially in the last 15 years or so.⁴ For instance, in the decade beginning in 1997, trucking ton-miles grew by 22 percent, and rail grew by 25 percent.⁵ By 2020, that number is expected to grow to more than 90 tons per day.⁶ Yet the infrastructure and operations have not kept pace.

Our freight system's reliability, especially in urban hubs, is uneven at best, nonexistent at worse. You've probably heard the common complaint that it can take longer for a train of goods to cross Chicago than it takes to cross the country. In this Southern California region, the system's congestion is evident on nearly every freeway, but especially on those surface streets and freeways running between the ports and the inland rail yards and distribution centers. A 2009 study of freight modernization needs by the Rand Corporation found that most freight users interviewed cited reliability "as a key attribute in their transportation choices, sometimes more important than speed."⁷

² Hall, Jane and Vic Brajaer. *The Benefits of Meeting Federal Clean Air Standards in the South Coast and San Joaquin Valley Air Basins*. November 2008. Accessed February 18, 2011: <http://business.fullerton.edu/centers/iees/reports/Benefits%20of%20Meeting%20Clean%20Air%20Standards.pdf>.

³ South Coast AQMD. "AQMD to Hear Public Concerns About Ports' Air Pollution During Two Special Meetings at Long Beach City Hall." October 24, 2006. Accessed February 18, 2011: <http://www.aqmd.gov/news1/2006/mobileboardmeetingPR.html>.

⁴ Hillestad, Richard, Ben D. Van Roo, and Keenan D. Yoho. *Fast-Forward: Key Issues in Modernizing the U.S. Freight-Transportation System for Future Economic Growth*. Rand Supply Chain Policy Center. Rand Corporation. 2009. Accessed February 18, 2011: <http://www.Rand.org>.

⁵ Ibid.

⁶ Phillip R. Herr. Approaches to Mitigate Freight Congestion. Government Accountability Office. November 20, 2008. Accessed October 2009: <http://www.gao.gov/new.items/d09163r.pdf>.

⁷ Hillestad, op. cit.

Despite freight transportation's economic and environmental impacts, until recently, the freight system—as a system—has not received the attention it deserves in federal transportation planning and funding. In the federal transportation bill in the past, it has been assumed that by providing funding for highways and roadways, freight transportation will be effectively addressed. In fact, this approach hasn't worked to effectively modernize the system so that it works better and cleaner.

Modernize the Freight System While Reducing Environmental Impacts

It is possible to simultaneously modernize America's freight system, improve its efficiency AND reduce its environmental impacts, especially its air pollution and greenhouse gas emissions. Not only is it possible, it is necessary. This is an opinion that I can confidently say is shared by a range of people who work within the freight industry. It is not just the opinion of the environmental community. And it is an opinion based on what we have seen in the United States and abroad: When communities, businesses, freight system operators and governments make simultaneously cleaning up and modernizing the freight system a priority, it has happened, and the ability to continue operating freight without work-stopping community conflict is improved.

Just one example: The Clean Air Action Plan adopted in 2006 by the ports of Long Beach and Los Angeles laid out a multi-year, multi-step program to reduce those ports' emissions while growing its business. To date, the ports have cut port-related emissions by a third to more than a half, depending upon the source, and they have continued to update their air cleanup plans to incorporate new innovations to reduce emissions.⁸ Port activity continues to be robust and is showing good recovery from the economic downturn.

The federal government cannot solve or pay for all of the modernization needed in the freight system. However, the money the government does invest can be spent to get more benefit from limited dollars. It can also influence how and where others invest, and ensure that national goals for the economy and the environment are met through freight system improvements.

Federal Transportation Bill Improvements

The federal transportation bill reauthorization provides an important opportunity to make our freight system work better. The new bill can help make America's freight system meet demand while reducing the systems air pollution, water pollution and noise through targeted provisions. These include:

- **Define project eligibility for Highway Trust Fund spending in a way that emphasizes system performance outcomes, including freight movement reliability and environmental performance.** This will encourage applying the most

⁸ Port of Los Angeles. "2010 Clean Air Action Plan Update Approved." News Release. November 22, 2010. Accessed February 19, 2011: http://portoflosangeles.org/newsroom/2010_releases/news_112210_CAAP_update.pdf.

appropriate approach to improve bottlenecks, including intermodal approaches. Research shows that the conflict between freight trucks and passenger cars in urbanized areas is one particularly insidious freight system slower. The best way to improve the system in these cases can include providing more reliable public transit options to commuters to reduce roadway congestion and conflict on key freight corridors. In other cases, investing in on-dock rail terminals or grade separations where rail and roadways meet would reduce conflicts between truck traffic and rail traffic.

- **Require the Secretary of Transportation, in consultation with the Environmental Protection Agency, to establish freight reliability and environmental performance standards to help inform project eligibility for federal funding.** This will help ensure that the most serious bottlenecks are addressed in a way that delivers lasting—not temporary--benefits.

- **Require the Secretary of Transportation to develop within one year a national freight plan that identifies key hubs, ports, corridors and gateways whose improvement is essential to simultaneously meet pressing reliability and environmental and public health goals.** This planning will help establish where special attention should be directed.

- **Create an Office of Multimodal Freight within the office of the Secretary of Transportation.** The mission of the office should be to advance simultaneous improvements in freight transportation reliability and environmental impacts. Among other things, this office's duties would include working closely with U.S. EPA to identify and implement ways to reduce freight system impacts on local communities.

- **Establish technical assistance funds for states and regions to distribute to appropriate entities to develop port, gateway and corridor clean-up plans.** Clean-up plans help freight system operators thoughtfully consider the best way to modernize their system. To get the best plan, though, often requires technical knowledge beyond the operators' normal range.

- **Establish a competitive grant program that recognizes innovation and encourages projects that simultaneously deliver system reliability and emissions and other environmental impacts reductions.** Funding competitions established through the transportation bill have proved effective in driving transportation planners and engineers to work with other entities to develop better ways to address problems. This could be a new stand-alone

freight improvement competitive grant program. Or the same effect could be achieved through spending criteria assigned to formula funds.

- **Direct funding toward better data collection on freight system needs and impacts.** DOT has improved its freight data collection and analysis, but there are still gaps and needs. The gaps include data on the system’s environmental, community, economic, job and trade impacts.

- **Develop grants for testing and deployment of cleaner freight system technologies.** This would be an appropriate inclusion in the bill’s research and development section. For instance, American-made electric heavy-duty trucks suitable for port drayage have been developed. Broader in-the-field experience and demonstrations is needed to help test and develop greater acceptance and reduce vehicle costs. Incentives to employ these trucks would provide this in-field experience and help develop a market. Likewise, incentives to accelerate replacement of other freight-system equipment powered by older, high-polluting diesel engines—such as gantry cranes, yard hostlers and switcher locomotives—would help modernize while reducing emissions.

- **Encourage operational improvements.** Operational improvements are “the most effective near-term source of increased capacity” according to the Rand Corporation.⁹ They simultaneously improve efficiency and reduce environmental impacts. They include such measures as congestion pricing on freight corridors to better manage existing infrastructure; time-of-day port access pricing; reducing or changing packaging to carry more goods per trip; and improving intermodal access to allow use of the most efficient mode for the length of trip or type of cargo handled. There are various ways to encourage operational improvements through the transportation bill, including grants to demonstrate the feasibility of or to deploy certain operational improvements (e.g. congestion pricing), or establishing funding criteria that gives preference to project applicants who have demonstrated they have employed a suite of operational improvements.

The list I have just presented is not exhaustive. I do hope, though, that it will provide some assistance as you look for ways to improve the transportation system while reducing its environmental and public health costs.

National Environmental Policy Act

The Causes of Project Delay

⁹ Hillestad, op. cit.

I would like to turn to the National Environmental Policy Act (NEPA) and the continuing discussion about its role in transportation project delay.

First, it's important to note that NEPA is a coordinating tool. That is, it doesn't set environmental standards; other laws do that. NEPA provides a way to make sure that transportation projects are consistent with our nation's environmental and public health protection goals. It essentially makes sure that the agencies charged with enforcing environmental laws, and the public that will live with the consequences of the project, are brought into the project planning earlier than experience showed happened before NEPA was adopted in 1970.

Second, I think it's fair to conclude that few are interested in delaying good transportation projects that simultaneously offer better transportation options while also improving a community's physical and public health environment. Nevertheless, there is some evidence that some projects are taking longer to complete than what appears reasonable.

It is hard to pin down exactly how many projects are unreasonably slow or how long is too long because the literature and data neither broad nor deep. Estimates for project lengths seem to average around 4 to 7 years, with some outliers averaging twice as long. A few key studies completed in the last decade identify a list of reasons for excessive project length, and the most common reasons tend to vary a bit among the studies.¹⁰ However, reasons that seem to rank high for delaying or adding time to projects include:

- project redesign or design additions;
- the need to relocate businesses;
- project complexity;
- lack of funding for the project;
- local objections to the project; and
- interagency communications problems.

While environmental review makes it onto the extended lists, review isn't the most frequently cited cause. This makes sense because, in reality, very few projects are actually required to complete an Environmental Impact Statement (EIS)—the full analysis possible under NEPA. In 2001, of all highway projects that received federal funds, only 3 percent of projects, accounting for 9 percent of funds, had an environmental impact significant enough to require preparation of an EIS.¹¹ Nearly all

¹⁰ For a good overview of two recent studies, plus her own, see Dill, Jennifer. *What Influences the Length of Time to Complete NEPA Reviews? An Examination of Highway Projects in Oregon and the Potential for Streamlining*. Paper Submitted for Presentation to the 85th TRB Annual Conference (January 2006). Paper revised and submitted November 2005. Accessed February 19, 2011: <http://dot.alaska.gov/stwddes/desenviron/assets/pdf/resources/nepareviewtime.pdf>. Also, for a fourth and most recent study, see Keck, Dennis, et al. *Accelerating Transportation Project and Program Delivery: Conception to Completion*. National Cooperative Highway Research Program, Report 662. Transportation Research Board. 2010. Accessed February 19, 2011: http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_662.pdf.

¹¹Dill, Ibid.

federally funded transportation projects have been eligible for Categorical Exclusions or Findings of No Significant Impact (FONSIs),¹² both of which substantially abbreviate any environmental review requirements.

Dangers Inherent in Weakening Environmental Review

Some people have suggested that removing environmental review requirements or substantially scaling back the requirements for transportation projects will significantly hasten project completion. Again, this isn't borne out by the limited evidence. What appears to be more successful in speeding good projects is an increased emphasis on bringing experts from resources agencies into the project planning phase early, before the project's formal environmental review begins. SAFETEA-LU Section 6001 has encouraged transportation agencies to routinely invite environmental, land management and natural resources agencies to participate in all the planning studies early, and this appears to be helping reduce time-delaying conflict later. At least 20 of 27 state DOTs reported that they have revised their practices to include earlier consultation and engagement.¹³

As one researcher concluded after reviewing other studies and interviewing agency staff responsible for completion of 12 Oregon-based highway projects:

Efforts to streamline the process may not alter overall timelines significantly simply because deadlines are set. Instead, the most significant improvements to the process are likely to come from better communication and information, along with earlier involvement. If a streamlining effort can succeed in these areas, the formal review process may be shorter. Perhaps more importantly, the process could result in better projects and better environmental outcomes.¹⁴

NEPA is not perfect. But it has too often been the focus of debates about project delays when it hasn't been the culprit. Bad planning, poor communication and a range of other issues—including lack of funding for resource agency staff to produce the analyses needed—are also in play, and must be addressed.

The Orange County Transportation Authority has been working to develop a proposal for ways to reduce barriers that add unnecessary time to project delivery. One reason I am very interested in this effort is that it promises to fairly address the range of issues involved in delay. As Will Kempton, executive director of OCTA recently testified, he “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.”

¹² U.S. General Accounting Office. *Highway Infrastructure: Perceptions of Stakeholders on Approaches to Reduce Highway Completion Time*. April 2003. Accessed February 20, 2011: <http://www.gao.gov/new.items/do3398.pdf>.

¹³ National Cooperative Highway Research Program. *Legal Research Digest 54: Practice Under the Environmental Provisions of SAFETEA-LU*. Transportation Research Board. December 2010.

¹⁴ Dill, Op Cit.

That said, we have just witnessed a range of attacks on basic environmental protections moved through the House through the budget process. This has been profoundly disappointing to the environmental community and put most of us—and lawyers who work on environmental issues—on high alert. I worry that regardless of OCTA's or others' good intentions, there may be further attempts to weaken environmental review through the transportation bill. If that occurs, the result will be a resurgence of lawsuits to stop projects—the type of lawsuits that are relatively rare today because environmental review requires agency and community consultation. We'll get stuck in a cycle that feeds the court but doesn't help deliver the kind of transportation system America needs.

Conclusion

There is no doubt that Americans want clean air. We all want clean water. We want to be confident that future generations will be able to know the joy of discovery that nature offers. We also want the practical benefits that a good transportation system offers. We want to fix our local sidewalks, streets and bridges. We want better, more innovative public transit to help us manage our budgets as fuel prices rise. We want a freight system that provides good jobs, but doesn't poison us with toxic emissions.

The challenge now is to push beyond the charged political atmosphere and deliver both a clean environment and an effective, efficient transportation system. I remain optimistic that can be done. I look forward to working with all of you as you develop the next federal transportation bill to help deliver such a system.