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HOW FREIGHT TRANSPORTATION CHALLENGES IN URBAN AREAS IMPACT THE NATION

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FIELD HEARING

BEFORE THE

PANEL ON
21st-CENTURY FREIGHT TRANSPORTATION

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

JULY 26, 2013 (New York, New York)

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† The written statement and report entitled, "Does Road Pricing Affect Port Freight Activity: Recent Evidence From the Port of New York and New Jersey" can be found online at the Government Printing Office's Federal Digital System (FDsys) at http://www.gpo.gov/fdsys/pkg/CPRT-113HPRT85538/pdf/CPRT-113HPRT85538.pdf.

Committee on Transportation and Infrastructure
U.S. House of Representatives

Washington, DC 20515

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July 23, 2013

SUMMARY OF SUBJECT MATTER

TO:	Members, Panel on 21st Century Freight Transportation
FROM:	Staff, Panel on 21st Century Freight Transportation
RE:	Panel Hearing on "How Freight Transportation Challenges in Urban Areas Impact the Nation"

PURPOSE

The Panel on 21st Century Freight Transportation will meet on Friday, July 26, 2013, at 1:30 p.m., at the Alexander Hamilton U.S. Custom House, located at One Bowling Green, New York, New York, to receive testimony related to the ways in which urban freight challenges impact the Nation. At this hearing, the Panel will receive testimony concerning the operation of the freight network in urban areas, the unique challenges that impact the performance of the freight network in these areas, and how these issues resonate throughout the rest of the Nation's freight system. The Committee will hear from:

- Patrick J. Foye, Executive Director, Port Authority of New York and New Jersey
- William J. Flynn, President and Chief Executive Officer, Atlas Air Worldwide Holdings
- Stephen Edwards, President and Chief Executive Officer, Global Container Terminals
- Gerry Coyle, Vice President for Environmental & Sustainability, Evans Network
- William Goetz, Resident Vice President for NYC, NJ, and Philadelphia, CSX Transportation

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BACKGROUND

Every year, the Nation's freight transportation system moves billions of tons of goods valued at tens of trillions of dollars.[1] Because the United States supply chain is so interconnected, issues that impact one region of the country inevitably have a ripple effect through the entire network. For a variety of reasons, freight transportation through urban areas is a complex endeavor and has a dramatic impact on the efficiency of the Nation's freight system. Congestion, the fact that many ports and large freight facilities are located in urban areas, the density of the population consuming and producing goods in these regions, and the number of governmental entities present in urban areas and their surrounding regions all contribute to the complexity and sensitivity of urban freight transportation challenges.

Congestion

The Texas Transportation Institute's (TTI) *Urban Mobility Report* found that congestion in 498 of the Nation's cities cost the economy $121 billion in 2011, or nearly $750 for every commuter in the country. This figure is up from an inflation-adjusted $24 billion in 1982. Furthermore, congestion is becoming a problem that transcends "rush hour," with about 40 percent of the Nation's delay occurring in the mid-day and overnight hours, creating an increasingly serious problem for businesses that rely on efficient production and delivery. TTI estimates that by 2015, the amount of fuel wasted in congestion will reach 2.5 billion gallons – enough to fill more than 275,000 gasoline tanker trucks.

In its recent Traffic Scorecard, INRIX found that 61 of the Nation's 100 most congested cities have experienced increased traffic congestion. This is a dramatic shift from 2012, where only 6 cities experienced increased congestion and 94 saw decreases in congestion levels. Each day, approximately 12,000 miles of the highway system slow below posted speed limits, and an additional 7,000 miles experience stop-and-go conditions.

The congestion challenges in Southern California provide a sobering example of the tangible harm that congestion inflicts on the Nation's economy. More than 43 percent of the Nation's containerized imports enter the country through Southern California. The import and export traffic of the Southern California ports benefit the residents of every region of the United States. Goods imported and exported through Southern California make their way to and from each state, supporting billions of dollars of local economic activity and millions of jobs.

When congestion, bottlenecks, and other inefficiencies hinder the Southern California region's ability to import goods through its maritime ports and international border crossings or its ability to move these goods through the region, costs rise and transit-times increase. These costs are often passed on to consumers. Consequently, the level at which the freight network functions in Southern California tangibly impacts the lives of consumers all across the Nation.

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[1] Statistics used in this memorandum are taken from materials published by the Texas Transportation Institute, INRIX, the Federal Highway Administration, the Journal of Commerce, the Port Authority of New York and New Jersey, the Port of Los Angeles, the Port of Long Beach, the Southern California Association of Governments, and Mobility 21.

Furthermore, according to a recent study, more than 16 million jobs in the United States depend on imports. This study does not even take into consideration the millions of domestic manufacturing jobs that rely on an efficient freight transportation network to export American-made goods. In 2011, the Nation's transportation system moved 17.6 billion tons of goods, valued at over $18.8 trillion. Given the connected nature of the Nation's supply chain, the issues that impact the freight systems in urban areas have a direct impact on the economic competitiveness of the entire Nation.

Urban Freight Planning

Generally, state departments of transportation, metropolitan planning organizations (MPOs), and rural planning commissions work together to create a statewide transportation improvement plan (STIP) listing all of the transportation projects that are eligible for funding. In addition to the STIP, these organizations may also work together to create a long-range transportation improvement plan with proposals for future consideration.

While the general transportation planning process is the same for projects that directly impact freight movement and those that do not, freight projects often have difficulty competing with other projects. There are a number of possible reasons for this difficulty, including difficulty accounting for the public benefits of these projects and concerns over providing funding from one jurisdiction for projects that may primarily benefit another jurisdiction. Large freight projects often add additional layers of complexity. Many freight projects are located in urban areas, and city governments or port authorities often take a leading role in developing plans for these projects. Furthermore, freight projects often cross state boundaries, implicating multiple state departments of transportation and MPOs. Given that planning bodies are responsible for focusing on the needs and issues of their specific jurisdiction, planning for and advancing multi-jurisdictional projects requires significant coordination.

The Chicago Region Environmental and Transportation Efficiency Program (CREATE) is an excellent example of the planning of a large freight project with coordination from many different stakeholders. CREATE was developed ten years ago as a public-private partnership between the Chicago Department of Transportation, Illinois Department of Transportation, freight railroads, U.S. Department of Transportation, Metra, and Amtrak to help mitigate the rail-related congestion in the Chicago region. CREATE consists of 70 individual projects including 25 highway-rail grade separations, 6 passenger-freight rail grade separations, rail infrastructure improvements, technology upgrades, viaduct improvements, grade crossing safety enhancements, and signalization.

As of May 2013, there are 17 projects completed, 11 projects under construction, 21 projects in design and environmental review, and 21 projects yet to begin. To date, over $1.2 billion has been committed to CREATE, but the total estimate for completion is $3.3 billion. When complete, CREATE will enhance passenger rail service, reduce motorist delays, increase public safety, improve air quality, create and retain jobs, and strengthen economic competitiveness. CREATE demonstrates how many organizations and interest groups can come together to effectively plan and fund a large freight project that will improve the efficiency, safety, and performance of the freight system in the region and across the Nation.

New York City Region

The New York City metropolitan area is the most densely populated region in the United States and is home to almost 19 million residents. As a result, this area experiences some of the most critical freight challenges of any region in the Nation. The Port Authority of New York and New Jersey is a bi-state government agency that was established in 1921 to manage the freight and transportation facilities in the region. The Port Authority network consists of America's busiest airport system, a rail transit system, marine terminals and ports, six tunnels and bridges between New York and New Jersey, the Port Authority Bus Terminal in Manhattan, and the World Trade Center.

This region of New York and New Jersey supports 8.6 million jobs with an estimated gross regional product of almost $1 trillion. A 2010 study found that the Port Authority supports over 200,000 jobs and nearly $30 billion in business activity in New Jersey, and over 46,000 jobs and nearly $7.6 billion in business activity in New York. The Port of New York and New Jersey is the busiest port on the East Coast and the third-busiest port in the Nation, by container volume. The port has the ability to reach 20 percent of the Nation's population in fewer than 8 hours, serving one of the largest consumer regions in the United States.

New Jersey / New York Cross Harbor Freight Movement

One of the major freight mobility challenges facing the New York City metropolitan area is the ability to move goods efficiently across the Hudson River. Much of the port, rail and air freight facilities have been developed to the west of the Hudson River. As a result, the region is heavily reliant on trucking goods over a limited number of ageing and congested crossings to the heavily populated region east of the Hudson River, while non-highway freight modes remain largely underdeveloped and underutilized.

Currently, there are limited options for freight to cross east of the Hudson by rail. Rail freight crosses New York Harbor on barges carrying railcars from Greenville Yard, New Jersey to float bridges located in Brooklyn, New York. The only other rail link across the Hudson River is operated by CSX, and is located 100 miles to the north of New York City. Using this route adds over 200 miles for rail freight goods traveling to and from the south and west.

To explore both near-term and long-term options for addressing this concern, the Federal Highway Administration and the Port Authority of New York and New Jersey are preparing an Environmental Impact Statement. This study will evaluate a range of alternatives to improve the movement of goods in the region by enhancing the transportation of freight across New York Harbor.

WITNESS LIST

Patrick J. Foye
Executive Director
Port Authority of New York and New Jersey

William J. Flynn
President and Chief Executive Officer
Atlas Air Worldwide Holdings, Inc.

Stephen Edwards
President and Chief Executive Officer
Global Container Terminals, Inc.

Gerry Coyle
Vice President for Environmental & Sustainability
Evans Network

William Goetz
Resident Vice President for NYC, NJ, and Philadelphia
CSX Transportation

HOW FREIGHT TRANSPORTATION CHALLENGES IN URBAN AREAS IMPACT THE NATION

FRIDAY, JULY 26, 2013

HOUSE OF REPRESENTATIVES,
PANEL ON 21ST-CENTURY FREIGHT TRANSPORTATION,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The panel met, pursuant to call, at 1:37 p.m., at Alexander Hamilton U.S. Custom House, One Bowling Green, New York, New York, Hon. John J. Duncan, Jr. (Chairman of the panel) presiding.

Present: Representatives Duncan, Hanna, Webster, Mullin, Nadler, Lipinski, Sires, and Hahn.

Also Present: Representative Grimm.

Mr. DUNCAN. If everyone will please take their seats, I want to first of all welcome everyone to this hearing, this field hearing before the Transportation and Infrastructure Committee's Panel on 21st-Century Freight Transportation.

Before we begin, I would like to ask unanimous consent that Representative Michael Grimm be permitted to join the panel for today's hearing. Without objection, that will be so ordered.

This special panel, as most of you know, was created by Chairman Shuster and Ranking Member Rahall of the Transportation and Infrastructure Committee to examine the current state of freight transportation in the United States and how improving freight transportation can strengthen the United States economy. We have been given special cross-panel jurisdiction to cover all the different panels of the committee. So we have a real opportunity to do something good or some good things with this panel.

As I have said before, the purpose of the panel is to provide recommendations to the committee on ways to modernize the freight network and make the United States competitive in the 21st century. We have been working hard towards this goal, holding multiple hearings and roundtable discussions and visiting critical freight facilities in southern California and the Greater Memphis area, as well as here in New York and New Jersey.

We have traveled here today because this region is one of the most important trade gateways in the entire country. What goes on here in the transportation field is important to everyone in this Nation. There are many facilities in this area that are very critical to the efficient movement of goods into, out of and around the Nation.

The purpose of today's hearing is to examine freight transportation challenges in urban areas and how those issues resonate

throughout the Nation's freight system. Freight transportation through urban areas is a complex endeavor and has a dramatic impact on the Nation's freight system for many reasons: congestion; ports and large freight facilities are often located in urban areas; the density of the population; the number of governmental entities present in each of these regions.

We have an excellent panel of witnesses before us today. I am confident that they will be able to help us understand the unique freight transportation challenges facing urban areas and how those issues impact the rest of the Nation.

I will introduce the witnesses in just a few minutes, but I would like to first introduce the panel. We have a good cross-section on this panel. I have the privilege of serving as the Republican chair. The Democratic chair of this committee, the ranking member, is Jerrold Nadler from this city, and most of you know him.

We have Richard Hanna, who represents a district that covers a pretty big area in upstate New York, around Syracuse. He represents Binghamton and many areas from upstate New York down to the Pennsylvania line.

We have Congressman Dan Lipinski from Chicago, and we have Daniel Webster, who represents a part of Orlando in the suburbs of Orlando.

We have Albio Sires, also from this area, who represents a district just across the Hudson. We have been over there some today. He represents Bayonne and part of Jersey City and some other places.

We have Congressman Markwayne Mullin, who is from rural Oklahoma, representing a district that throughout history has been referred to as Little Dixie and once was the home of Congressman Carl Albert, who was the Speaker of the House at one point.

I haven't done this intentionally, but we have saved the best for last, Janice Hahn, who is from southern California, and we visited her district. She represents the ports of Long Beach and Los Angeles and has many issues that we deal with in our committee.

At this time, I would like to call on Congressman Nadler for his opening statement or any remarks he wishes to make.

Mr. NADLER. Thank you, Mr. Chairman. Let me begin by welcoming everyone to New York, and thank you for holding this hearing in my district, this hearing on how freight transportation challenges in urban areas impact the Nation.

Urban areas across the country share many common challenges such as congestion, limited space, dense population, pressure to commercially develop industrial land, and environmental justice concerns. But New York is unique in certain respects. New York and New Jersey never built a rail freight connection across the Hudson River, cutting off all of the population centers on the east side from the mainland rail transportation network. As a result, New York City, Long Island, Westchester, and southern Connecticut are completely dependent on trucks.

There is an often-cited statistic that about 43 percent of intercity freight moves by rail in the United States. In our region, east of the Hudson, that figure is less than 1 percent. That means about 99 percent of all goods coming into the city come by truck, most of that, almost all of that across the George Washington Bridge.

As we saw on our tour this morning, there is a small percentage of rail that travels by barge where we literally float the railcars across the harbor between New Jersey and Brooklyn. The rail barges provide a valuable service, but they really represent the latest and pinnacle of 19th-century technology. The barges are subject to the tides and the weather and are generally insufficient for moving large quantities of freight by rail. Since this is the committee's Panel on 21st-Century Freight Transportation, I think that my colleagues will agree that this is an obvious place to start making improvements.

Our region's complete dependence on trucks exacerbates all of the normal urban challenges New York City faces such as pollution, a disproportionate impact on low-income and minority communities, and a loss or degradation of underutilized rail transportation assets. But it also creates adverse impacts for the rest of the country. This bottleneck between northern New Jersey and New York causes congestion all along the I–95 corridor. It increases the cost of doing business throughout the global supply chain, and it places an artificial lid on economic growth in one of the largest economic centers and consumer regions in the country.

New York is also somewhat unique in that most freight movement in our region is a bi-state effort. So I am pleased that Port Authority Executive Director Pat Foye is here today. I want to thank him for the Port Authority's hospitality in hosting the panel's tour this week, and I look forward to his testimony.

The Port Authority, along with FHWA, is currently completing the environmental impact statement for the Cross-Harbor Freight Movement Project, which is looking at a number of alternatives for improving goods movement across New York Harbor. It is no secret that I believe the evidence will show that the preferred alternative will be to finally build a rail freight tunnel connecting Greenville Yard, New Jersey, which we visited this morning, to the Bay Ridge line in Brooklyn, a portal which we also visited this morning.

The Port Authority was created in 1921 specifically for this purpose, so I look forward to Mr. Foye's update on this centuries-old project. We are about 100 years behind schedule, but thanks to the Port Authority's leadership and a strong partnership with the Federal Government, we are finally making progress.

Of course, the $1 million, or perhaps the $1 billion, or perhaps the several hundred billion dollar question, is how do we pay for necessary freight improvements. While there are willing private partners, it will not be nearly enough to meet the immense needs all around the country. State and local governments cannot shoulder the burden alone, nor should they, when interstate commerce is inherently a Federal responsibility. We will have to commit Federal funding, or else we will continue to have plans and projects remain on the shelf while our economy sputters.

It is my hope that through this panel we can offer some solutions to address the many freight bottlenecks across the country such as that which exists in New York City. Thank you again, Chairman Duncan, for holding this hearing today and for bringing the panel to New York. I look forward to hearing from the witnesses. Thank you.

Mr. DUNCAN. Well, thank you very much, Mr. Nadler.

It occurred to me that as I was telling everyone about all the districts that are represented here today, that I forgot to tell you that I am from Knoxville, Tennessee, a very popular, fast-growing area in east Tennessee.

I did ask for unanimous consent, and it was granted, to allow our friend Michael Grimm to sit as a member of the panel today. I did not see that he had come in while I was introducing everybody, but we are certainly honored and pleased that Congressman Michael Grimm, who is from Staten Island, as I remember—is that correct? Staten Island is, what, about 80 percent of your district?

Mr. GRIMM. Two-thirds.

Mr. DUNCAN. Two-thirds, and the rest in Brooklyn.

We are certainly pleased to have Congressman Grimm here.

Does anyone else want to make an opening statement? Anyone else at all?

All right. Well, we will move right on into the hearing.

We have a very distinguished panel here today, starting with Mr. Patrick Foye, who is the executive director of the Port Authority of New York and New Jersey. We certainly appreciate the treatment that we have been given by the Port Authority during our time here.

We have Mr. Bill Flynn, president and CEO of Atlas Air Worldwide Holdings.

We have Gerry Coyle, who is the vice president for environmental and sustainable operations of the Evans Delivery Company.

And we have Mr. Bill Goetz, who is head of the operations for CSX for New York City, New Jersey, and Philadelphia, and points in-between.

Certainly, we are pleased to have all of you here today.

And, Mr. Foye, we will let you begin.

TESTIMONY OF PATRICK J. FOYE, EXECUTIVE DIRECTOR, PORT AUTHORITY OF NEW YORK AND NEW JERSEY; WILLIAM J. FLYNN, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ATLAS AIR WORLDWIDE HOLDINGS, INC.; GERARD J. COYLE, VICE PRESIDENT FOR ENVIRONMENTAL AND SUSTAINABLE OPERATIONS, EVANS DELIVERY COMPANY, INC.; AND WILLIAM G.M. GOETZ, RESIDENT VICE PRESIDENT FOR NEW YORK CITY, NEW JERSEY, AND PHILADELPHIA, CSX TRANSPORTATION, INC.

Mr. FOYE. Chairman Duncan, thank you. Chairman Duncan, Ranking Member Nadler, and members of the committee, welcome to New York and thank you for holding this critical hearing on freight transportation challenges.

My name is Pat Foye, and I am the Executive Director of the Port Authority of New York and New Jersey. Under the leadership of our Governors, Andrew Cuomo and Chris Christie, the Port Authority operates the most important and diverse multimodal portfolio of any transportation operator in the world. I welcome your visit to see firsthand what the Port Authority is doing to support the Nation's economy and its global competitiveness.

Efficient freight service in the New York City region is critical to job creation and retention in our region, and indeed to our country's sustainable and prosperous future. First, permit me a quick

profile of the Port Authority and our role in the national freight network.

The Port Authority operates the Nation's busiest metropolitan airport system. Last year, that system handled 109 million passengers, with 1.3 million tons of international air cargo, and three-quarters of a million tons of domestic air freight. We are the largest maritime port on the east coast, handling over 5 million containers, which is more than a 60-percent share of the North Atlantic market. Our six international bridges and tunnels handled 14.8 million truck crossings last year, and nearly half of them used the George Washington Bridge, a critical link on the I–95 corridor.

Other Port Authority facilities include the Nation's busiest bus terminal, the PATH Rapid Transit System, ferry and rail freight facilities, as well as the ongoing redevelopment of the 16-acre World Trade Center site, including One World Trade Center.

Let me speak about ports. Our port assets and associated freight rail movements are critical to the health of our region and that of the Nation. Today, freight passing through our port can reach 20 percent of the U.S. population or more than 62 million people in fewer than 8 hours, and more than 30 percent or over 94 million people in fewer than 48 hours.

All of our facilities play a distinct role in the delivery of goods within the region and beyond. For example, the Red Hook container terminal in Brooklyn, in Congressman Nadler's district, is the only international maritime terminal with a direct land connection to Long Island and is uniquely positioned to receive and distribute international cargo to the approximately 11 million residents east of the Hudson River. We work every day to meet the needs of the Nation's largest consumer market. Any slowdown of operations can result in an economic blow not just to the regional economy but that of the Nation. Studies indicate that a closure of our ports for only a day would cost the Nation $1 billion a day.

At the Port Authority, we recognize the impact our facilities have on the efficient movement of freight throughout the region and the country. In the past decade, we have made major investments to maintain our global competitiveness and ensure that we meet the demands of the region. Over the last 10 years alone, the Port Authority and our private-sector partners have invested approximately $2.6 billion to promote efficient movement of freight. Over the last decade, we have also provided more than $688 million in local matching funds for the harbor deepening project which will deepen the main harbor channel to 50 feet to improve navigational safety and pave the way for larger cargo vessels.

Earlier this year, we broke ground on a $1.3 billion project to raise the roadway of the Bayonne Bridge in Congressman Sires' district to increase the navigational clearance above the main harbor channel to 215 feet to accommodate the new generation of larger and cleaner cargo vessels.

We have committed $600 million to the development of our ExpressRail intermodal network at our port terminals to support expanded on-dock service by long-haul railroad serving inland markets. ExpressRail reaches up to 90 million customers within 24 hours in markets throughout the Midwest and eastern Canada. Through this service, it takes only 10 days to move cargo from

Hamburg, Germany, to Chicago by vessel and rail combined. Today we have the capacity to handle more than 1 million containers at our on-dock rail facilities, and by the end of the decade we will have increased our capacity to 1.5 million containers. Thanks to the support of Governor Cuomo and the tireless efforts of Congressman Nadler, the Port Authority, in partnership with the U.S. Department of Transportation, will expand cross-harbor railcar barge service between Jersey City and Brooklyn. I know you have seen that on your tour.

We are modernizing float bridges and barges that will speed the service, as well as providing new low-emission locomotives for use in both States. But we were interrupted by damage from Super Storm Sandy this last October. This operation continues to grow. Sixteen-hundred rail cars were carried in the first half of this year alone, equivalent to removing more than 6,500 trucks from the area's roads. This represents the volume equal to all of last year.

In the coming months, the Port Authority will approve a 10-year capital program that will invest billions of dollars in our freight infrastructure. In addition to the capital investment we are undertaking to improve the efficient movement of freight, we are implementing measures to ensure that our investments benefit truckers who use Staten Island crossings to access the Howland Hook facility, thereby improving the movement of freight at this facility. The Port Authority will also invest in an expansion of ExpressRail in Staten Island to enhance that facility's competitiveness. Since 2000, we have made $375 million in Howland Hook alone.

The Port Authority is proud to be a leader in multimodal freight movement, but there are opportunities at the Federal level to address our Nation's freight needs. The Port Authority is strongly supportive of efforts to redirect revenues from the Harbor Maintenance Trust Fund to the harbor operations and maintenance dredging in order to protect our investment in deepened channels. We are also strongly supportive of innovative Federal financing and competitive grant programs such as TIFIA, RRIF, and TIGER, in order to leverage public and private capital investment locally.

The Port Authority, we are proud to say, has been approved for up to $500 million of a low-cost TIFIA loan for the replacement of the Goethals Bridge, a $1.5 billion project connecting Staten Island and New Jersey. The Port Authority is utilizing an innovative public-private partnership structure for the Goethals, the first cruise surface transportation PPP in the northeast region to access private capital.

We are also working on goods movement improvements at our airports. The Port Authority recently completed a joint study of JFK cargo activity with the city of New York to zero in on strategies to preserve and expand this globally important cargo center. We are also working to address obstacles for efficient truck access, as well as to modernize our facilities and better accommodate current industry needs.

There are many additional challenges to address. As Congressman Nadler said, urban centers like the New York City region will be the frontline of any national campaign to implement an effective and efficient national freight strategy. Metropolitan areas' share of the Nation's economic activity is only growing. Most of the Nation's

gateway ports, major air cargo centers, and other intermodal hubs are in metropolitan areas, where the movement of freight faces obstacles such as chronic congestion, obsolete infrastructure, and competing land uses. Any initiative must take into account potential community impacts.

Finally, this year the Port Authority expects to complete a comprehensive regional goods movement plan for the greater metropolitan region in partnership with the New Jersey and New York State Departments of Transportation. Our aim is to coordinate a strategic approach to improvements across the region. As we progress on this effort, I look forward to working with this committee on a national approach for multimodal freight movement. Thank you.

Mr. DUNCAN. Thank you very much, Mr. Foye.

Mr. Flynn?

Mr. FLYNN. Thank you, Mr. Chairman. Chairman Duncan, Ranking Member Nadler, and members of the committee's Panel on 21st-Century Freight Transportation, thank you for the opportunity to testify, and I too commend you for focusing on freight transportation.

I am testifying today as the CEO of Atlas Air, the world's largest operator of Boeing 747 freighter aircraft. We are a New York-based company, and we operate aircraft for the U.S. Department of Defense, DHL, UPS, and major international airlines such as British Airways, Qantas and Etihad.

Holding this hearing in the Alexander Hamilton U.S. Customs House I think is quite appropriate. The first Congress, which established the Customs Service in 1798, also faced serious transportation problems. An inadequate waterway system and sectional rivalries created commercial chaos that threatened our Nation. Fortunately, the first Congress and President Washington provided the leadership necessary to shape an American waterways policy into a potent force serving the public good. We need that kind of leadership today. Our national freight networks are not adequate to meet the challenges nor the opportunities that we face, which is why I believe these hearings are so important.

In conducting regular flights through major U.S. airports, Atlas has faced a number of challenges, particularly in urban areas. In looking at these on a systemwide basis, I have identified a number of constraints that hinder the ability of Atlas and other cargo providers to efficiently and effectively transport freight, and they fall into three categories: physical, informational, and financial.

Let's start with physical constraints. When Atlas considers worldwide freight networks, a significant constraint is the severe congestion that exists in urban hubs, including the New York-New Jersey metroplex. This congestion substantially impairs just-in-time supply chains and could cause companies to divert their traffic flows away from New York and New Jersey. In fact, a recent MITRE study confirms that air traffic delays in the New York-New Jersey metroplex have a profound ripple effect on the entire air traffic network, costing hundreds of millions of dollars every year in lost productivity and certainly citizen and shareholder frustration.

We must address this constraint, and that is why Atlas strongly supports the FAA's NextGen initiative and to focus in the near-term on improving efficiency by using existing modern technology and controller training to reduce airport and air space inefficiencies.

NextGen also has the added benefit of reducing the industry's carbon footprint, thereby positively impacting the environment. From our view, there is no reason to prolong the implementation of NextGen. Atlas and many airlines already have the equipment and utilize the procedures necessary for NextGen.

While Atlas fully supports the full implementation and funding of NextGen, we hope the U.S. Government will focus in the near-term on aspects such as performance-based navigation which do not require the development of new technologies nor substantial monetary investment by the Nation or its airlines but do require the regulatory approval of new procedures. In order to accomplish this, we need effective leadership which this committee can help provide.

As for informational constraints, a systematic problem that Atlas and other carriers have experienced is that of the inefficiencies with the U.S. Customs and border protection procedures. Although there is no doubt that this process is necessary, Atlas' global customers depend on on-time arrivals and departures, but they also depend on the efficient processing of our aircraft, aircrews, and cargo. More needs to be done to modernize and streamline Customs and border protection facilities, particularly with the inspection and clearing of cargo.

Atlas strongly supports the TSA's risk-based approach to transportation security, which we view as the only effective way to address cargo security. The TSA and U.S. Customs joint effort to implement the Advanced Cargo Air Screening Program enables the collection of as much shipment information as possible for the Government to identify at-risk cargo. TSA's approach simultaneously addresses efficiency concerns by developing a trusted shipper mechanism to identify and allow for expedited processing of cargo from repeat reputable shippers who pose less of a threat than the occasional single shipper.

Cooperation is critical to the success of the risk-based approach. Atlas applauds TSA Administrator Pistole's commitment to working with industry to identify security and efficiency problems and solutions. We look forward to continued Government and industry collaboration.

As I have already explained, our national aviation system is in need of modernization. Such improvements are critical to growing the U.S. economy, workforce, and global competitiveness. It is imperative that we as a Nation ensure stable and secure financing. In doing so, I urge policymakers not to adopt tax policies that would contribute to industry instability.

Thank you very much for giving me this opportunity to present my views, and I welcome your questions. Thank you, Mr. Chairman.

Mr. DUNCAN. All right. Thank you very much.

Mr. Coyle?

Mr. COYLE. Chairman Duncan, Ranking Member Nadler, and panel members, thank you for the opportunity to testify on behalf of Evans Delivery Company and the American Trucking Association. Evans Delivery Company is a national provider of trucking and transportation services, handling or transporting about 500,000 containers, intermodal containers per year. The New York and New Jersey metropolitan area presents some unique challenges for both motor carriers and shippers. As Congressman Nadler and Congressman Sires know all too well, the New York-New Jersey metropolitan area has some of the worst traffic congestion in the Nation. Congestion in the region increases freight transportation costs by $2.5 billion and slows the movement and delivery of nearly half-a-trillion dollars' worth of goods. Congestion also imposes significant public health costs due to air pollution caused by vehicles sitting in gridlock.

Map-21 requires DOT to identify the most costly highway freight bottlenecks but does not provide separate funding to eliminate them. We urge you to support a set-aside of funds to fix these very costly barriers to efficient freight transport.

Tolls are another significant challenge, one that threatens the razor-thin profit margins of many trucking companies and puts New York ports at a serious competitive disadvantage. In 2011, the toll cost for a five-axle truck crossing one of the Port Authority bridges was $40. In December 2015, the cost will be $105. This is a whopping 163-percent increase. A recent study found that for short-haul trucks serving New York port terminals, tolls may represent up to 59 percent of the total cost of delivery. This compares with a nationwide average of about 1 percent.

Currently, Evans Delivery Company pays $247 in tolls to transport a container from the Port of Philadelphia to Brooklyn. In 2015, this cost will be $277. I was pleased to learn, however, that the New York Container Terminal has reached an agreement with the Port Authority to reduce the tolls at Howland Hook. However, my understanding is the tolls will increase once volume threshold is reached. And even at the reduced rate, Howland Hook is still at a competitive disadvantage in the market.

One of the tolling strategies being considered by New York City is congestion pricing where tolls will vary by time of day or level of congestion in order to facilitate the travel mode and time of travel. Congestion pricing will not necessarily work or be effective for commercial traffic since shippers, not the trucking companies, determine the pickup and delivery schedules. In addition, many of the terminals are generally open between Monday and Friday from 6 a.m. to 6 p.m. This means the transit companies will not be able to take advantage of the lower toll rates during off-peak.

Increasing toll rates are particularly troubling when revenue is used to subsidize projects unrelated to efficient movement of traffic on the toll facilities. It is Congress' responsibility, therefore, to protect the public from unfair and destructive toll-setting practices, as Congressman Grimm has proposed.

Another key issue of concern is efforts by ports to improve air quality by outlawing older trucks and incentivizing motor carriers to buy newer trucks with lower emissions. In some cases, these efforts have also included new operational mandates. Of particular

concern was the Port of Los Angeles program which mandated only employee drivers and banned owner-operators from the port. Responding to the ATA challenge, the U.S. Court of Appeals ruled that these requirements are preempted by Federal law. It is important to note, however, that ATA litigation did not in any way challenge the ports' ability to impose clean truck programs. In fact, ATA was a staunch supporter of the Port of New York and New Jersey Clean Truck Program.

We also support a new EPA Port Drayage Truck Initiative under the SmartWay Transport Partnership that provides technical assistance, emission assessment tools, and partnership recognition to port drayage companies that commit to upgrade their truck fleet.

As you can see, there are many constructive, industry supported, clean port initiatives that will have a real impact on the environment. Efforts to eliminate the owner-operator model will have a decidedly negative impact on the ports and will not necessarily result in cleaner air.

Recently, the container terminals in the Port of New York and New Jersey have been experiencing worse than usual truck lines and cargo delays. While these delays are somewhat unusual, similar gate-related delays regularly plague this region and many other ports around the country. While ports struggle to address these problems, Congress can assist by addressing congestion outside the gate on highway intermodal connectors that exacerbate poor transportation flows around the Nation's ports.

Mr. Chairman, thank you once again for the opportunity to testify. HAA looks forward to working with the committee to craft a transportation reauthorization bill that addresses urban freight transportation challenges.

Mr. DUNCAN. Thank you very much, Mr. Coyle.

Next we will hear from Mr. William Goetz.

Mr. GOETZ. Chairman Duncan, Ranking Member Nadler, and members of the committee, thank you for this opportunity to participate today. My name is William G.M. Goetz, and I am the resident vice president for this area with CSX Transportation. CSX is a common carrier freight railroad providing surface transportation solutions for our customers. Our 21,000-mile rail network is the largest in the eastern United States.

I am delighted that you included New York City among your visits. The unique character of this area provides excellent examples of 21st-century railroading, effective public-private partnerships, and success in times of crisis. These projects also surface some issues that suggest consideration in future transportation legislation.

This is a region whose population is very large and growing. New York City's population grew 4 percent in the current century, and those people want the same standard of living as the people who are already here. In short, they want their stuff. But much of the region's freight transportation activity funnels into specific locations where infrastructure bridges water. It is no accident that the time you spent here earlier today, you spent on a boat. These assets are heavily used, operate at capacity for many hours each day, and in some cases need replacement. This region simply cannot overlook any alternative to more trucks on this infrastructure.

You have heard from other cities about freight rail's ability to shoulder more of the burden that would otherwise be on the Nation's interstates. You may have seen or heard that one train can carry as many as 280 trucks, while a railroad can carry 1 ton of freight nearly 450 miles on a single gallon of fuel. Those are impressive statistics, but here in New York we can animate them with actual solutions. I would like to now share two with you.

The first involves a very basic municipal activity that occurs in every community in the United States, trash disposal. As environmental considerations eliminate older methods of waste disposal in this area, such as dumping waste in the ocean or into one big hole on Staten Island, waste found itself in trucks using those limited crossings I just spoke of. Frankly, some of it still does, but much less so in recent years. Today, all of the waste collected by New York City sanitation on Staten Island is loaded into containers that leave the region by train rather than by truck. And rather than consume highway capacity on the heavily used Goethals Bridge, Staten Island's waste leaves the island on a train using an adjacent railroad bridge that had been unused for many years. Similar solutions are serving the Bronx and portions of Brooklyn.

A second example involves the region's seaport and the challenge of densely developed regions. A growing trade for the port is the movement of containers to and from the North American interior. The challenge is that the port is separated from interior markets by densely populated northern New Jersey. Constrained highway capacity prompted examination of alternatives, and freight rail provided those alternatives and then improved them further. Today, vessels calling at New York-New Jersey marine terminals discharge cargo for numerous destinations in North America that are loaded on rail cars within the marine terminal complex and leave the port on a train. They never see a New Jersey public roadway.

In April 2013, the New York-New Jersey Port Authority's ExpressRail terminals processed 37,631 containers in this port rail system, and 3 years ago the system was improved by confronting another barrier, this time a geological one. A railroad route connecting the port to the national rail network had tunnels passing underneath the New Jersey Palisades that were too low to accommodate trains that stacked one container on top of another. One tunnel, 4,200 feet long, had been dug through solid rock when Abraham Lincoln was President. It was enlarged as part of a Federal public-private partnership in less than 1 year.

Using freight rail as a transportation solution has another benefit that was tested in 2011 and again in 2012, resiliency. In the aftermath of Hurricane Sandy, containers destined for the New York-New Jersey Seaport were diverted to other ports and promptly became stranded in those ports, with over 7,000 containers in Virginia and smaller numbers in Baltimore and Philadelphia. Moving them back here became a monumental challenge. Evacuation using special CSX trains brought thousands of containers back into this market for distribution here.

These local successes point to some important public policy points. First, it is important to preserve existing freight corridors for present and future freight use, and that seems almost like a self-evident statement. But this can become complicated when the

proposed nonfreight uses are popular. One example is inadequately funded passenger rail projects. Freight railroads are not opposed to the expansion of passenger rail provided that the new passenger services are adequately funded and do not come at the expense of good freight service, compromise future freight capacity, or impose new risk without adequate economic consideration.

I have two examples where CSX has advanced initiatives where passenger rail and freight rail both benefit, instead of one at the other's expense. Master planning in Massachusetts, for example, expanded commuter rail service between Worcester and Boston and brought a modern freight terminal to the State. In Florida, new passenger services are planned in the Orlando market and a modern freight terminal will be developed on a different line in Winter Haven.

The second transportation public policy point deals with reducing the time and cost of bringing a project to a state of shovel-readiness. Public transportation investment scrutiny should do two things, stop poor projects from advancing and promote good projects to completion. These two forces should operate in tandem in an atmosphere of shared urgency. Current processes simply take too long to weed out bad ideas and too long to approve good ones. An approval delayed is an approval denied.

One of the specific challenges railroads encounter in our public-private partnerships is securing approvals from State historic preservation offices. Disconnects can occur when regulators begin to regard railroads as museums. While many railroad assets were well designed, are noteworthy, and are worthy of preservation focus, care must be taken to avoid freezing every railroad asset into a 19th-century image. Positive train control provides a current example. As railroads begin the process of permitting antennas and cell towers necessary for our PTC communication, certainly we hope the FCC approval process, which includes consultation with State historic preservation offices, amongst other requirements, can be handled expeditiously.

Mr. Chairman, thank you for this opportunity to participate today. I am happy to answer any of your questions.

Mr. DUNCAN. Well, thank you very much, Mr. Goetz.

I want to thank all the witnesses.

We have the greatest transportation system in the world. But I don't care what your job is or your industry is, if you are not always constantly trying to do more and do better, you are going to fall behind. We have more competition from around the world than ever before, and many countries, even several that are much poorer than ours, seem to realize even more than our Nation today the importance of improvements in transportation and infrastructure. So we have got to keep pushing. We have got to keep moving ahead.

I am going to go first to Mr. Hanna for any comments or questions that he has because he is going to have to leave shortly to go to the airport, and certainly he has been a very valuable member of our panel.

Mr. Hanna, I will recognize you at this time.

Mr. HANNA. Mr. Chairman, thank you very much.

Mr. Foye, Greenville Yard, when do you expect to have an agreement between yourself, your organization, and Conrail? And do you

think, if you have that process underway, do you believe you will have it done under the current administration with Mayor Bloomberg?

Mr. FOYE. Congressman, we have been at work in negotiating with the city with a private company which has been preselected by the city of New York, and with the railroads. We made a great deal of progress. A meeting with the railroads is scheduled for next week. I think a great deal of progress has been made towards that aim.

We will keep the committee briefed as to how those discussions go. I personally am optimistic that an agreement will be reached. The city of New York and the mayor are very focused and committed to the project, as is the Port Authority. I am hopeful that an agreement can be reached before the end of the Bloomberg administration.

The other thing I would say is a great deal of work has been completed already on a draft environmental impact statement which will be ready for release in the fall of 2013. We have done that in partnership and consultation with the FHWA, which has provided valuable input into that draft EIS, and draft chapters are available for review.

So I am hopeful that before the completion of the Bloomberg administration on December 31st, that we will be able to have an agreement in principle with the railroads.

Mr. HANNA. Without divulging anything that might be in negotiations you won't want to talk about, what are the obstacles that you have up to now and that you see going forward?

Mr. FOYE. Well, Congressman, there are a couple. It is probably not going to surprise you that one of the obstacles is funding and financial. I have made a proposal to the city and, through my colleagues, to the railroads, and I am hopeful that we will be able to reach agreement on that. There are also technical and logistical issues on the New Jersey side related to the layout of the track in Greenville that is a very precious and limited resource. And there is also a private company, Tropicana, which has an interest, and we have to make sure that their legitimate commercial interests aren't compromised.

So it is a combination, Congressman, of financial and funding issues and logistical and what I will call railroad real estate issues which are in the process of being worked out.

Mr. HANNA. And CSX has similar concerns in the same yard, I understand.

Mr. FOYE. Yes, sir.

Mr. HANNA. Thank you for that. I appreciate it very much.

Mr. Coyle, hours of service. One of the things is that you are about to come under a new rule, right? You are aware of that, the new hours-of-service rule?

Mr. COYLE. Yes. That started July 1st.

Mr. HANNA. Right. And one of the interesting things about that rule, as I understand it, it was initiated or put in place before the study was complete.

Mr. COYLE. Yes.

Mr. HANNA. Which I take tremendous exception to. But in terms of what you spoke about earlier, with the delays at some of these

ports, which are understandable in so many ways—we need to do what we can to change that—would you give me some idea of how the hours-of-service rules, under the new rule, affect your profitability and how they affect your drivers and just generally break that down for me?

Mr. COYLE. Well, the 30-minute rule requires a driver to take a 30-minute break. It requires him to go park the truck somewhere. So he can't take his break while he is unloading or while he is on duty in any way. So basically, it adds another half-hour to their day. If they are waiting in line, they can't take their break.

Mr. HANNA. So they can be resting, waiting in line, watching the traffic go nowhere, and yet using up their time, you are paying for the truck, paying for everything that goes into that.

Mr. COYLE. Yes.

Mr. HANNA. And then the person has to pull off someplace and rest again based on—these are mostly local deliveries. Not all of them, of course, but a lot of them are just moving from a very short distance.

Mr. COYLE. Yes.

Mr. HANNA. So maybe you can give me an idea what that costs you.

Mr. COYLE. We have 2,000 drivers, so the cost could be significant in terms of what it will cost them per day, per driver. I don't have an estimate, but I know it would be significant.

Mr. HANNA. Any idea, if you could do something immediately to change that, what would you do?

Mr. COYLE. Well, I think one of the issues that we had was the 34-hour restart after 5 days. What I have seen is that this has affected now customers who occasionally need weekend service. You need to keep your drivers in the cycle. So what this does, it gets them out of cycle, and I just really had to say to a customer if you want to do weekend service, you have to do it every weekend. You can't do it this weekend and not next, because the drivers get out of sync, and then they have no available hours.

Mr. HANNA. Thank you. My time has expired.

Thank you, Chairman.

Mr. DUNCAN. Congressman Nadler?

Mr. NADLER. Thank you.

Mr. Coyle, you state in your testimony that, "It is important to note that the ATA litigation did not at any time challenge the ports' ability to impose clean truck program mandates." Yet, the Federal preemption statute is very broad, and I believe that it could be read to tie the hands of local jurisdictions from remedying the public health and safety concerns created by port trucking operations.

That is why I have introduced legislation in the past, and plan to again this Congress, to ensure that ports can adopt clean truck programs without running afoul of Federal law. Do you agree that without a change in Federal law, polluting truck bans could be successfully challenged in court, although the ATA has not yet chosen to challenge them?

Mr. COYLE. Our feeling is that the most effective programs would be voluntary programs, that we would get stakeholders to agree to programs, as has been done in other ports. It has been done in Vir-

ginia; it has been done in Savannah, in Charleston, to help clean up the drayage trucks. So we do not believe——

Mr. NADLER. You may prefer a voluntary program, but the question is do you agree that without a change in Federal law, polluting truck bans could be successfully challenged in court?

Mr. COYLE. They could be.

Mr. NADLER. They could be. So, you agree with that.

Mr. COYLE. Yes.

Mr. NADLER. Thank you. Now, last month the Supreme Court ruled that certain enforcement provisions of the Port of Los Angeles clean truck program were preempted by Federal law, including a requirement that trucks have off-street parking. The Court declined to comment on the authority of the ports to use concession agreements to enforce provisions of the program that remain in place. The ATS previously testified before the Transportation Committee that concession agreement requirements are unnecessary and anti-competitive.

Do you agree that without a change in Federal law, polluting truck bans have very little teeth?

Mr. COYLE. I'm sorry, I didn't hear that last part.

Mr. NADLER. Do you agree that without a change in Federal law, polluting truck bans have very little teeth?

Mr. COYLE. Only from an enforcement standpoint, not from a voluntary standpoint.

Mr. NADLER. Well, very little teeth means they cannot be enforced, and obviously you don't have to enforce them if they are voluntary.

Mr. COYLE. Yes.

Mr. NADLER. OK. Under current law, in what ways can a port enforce regulations to remedy public health and safety concerns created by port trucking operations without affecting the price, route, or service of a motor carrier, which is the Federal standard at present?

Mr. COYLE. I don't know the answer to that.

Mr. NADLER. OK, which is consistent with what you said a moment ago, because you said that really they probably couldn't. So, let me ask you one final question.

Would you oppose—I know you prefer voluntary compliance, but not everybody is—a lot of trucking companies, all kinds of operations, sometimes voluntary isn't sufficient. Would you oppose legislation to allow ports to impose requirements, in effect to get the Federal Government out of the way of preemption? To loosen the Federal preemption.

Mr. COYLE. Yes.

Mr. NADLER. You would oppose it.

Mr. COYLE. Yes.

Mr. NADLER. Why?

Mr. COYLE. The Federal laws were enacted for a reason, and to abandon those I don't think would be productive. I think Federal laws were enacted to create a uniform system throughout the Nation, and I don't believe that by letting a mechanism by which each port could decide what rules and regulations they were going to have would be productive. I think it needs to be—if you wanted to do something——

Mr. NADLER. It wouldn't be productive to let each port decide that because it would interfere with something? In what way?

Mr. COYLE. For example, we have trucks in most ports, and we would not like to see different rules and regulations in each one of the different ports. I think it interferes with interstate commerce.

Mr. NADLER. Because the same trucks would have to have different standards at the beginning and end of the trip?

Mr. COYLE. Correct.

Mr. NADLER. OK. Thank you.

Mr. Foye, what is the status of the Cross Harbor Project EIS now?

Mr. FOYE. Congressman, draft chapters have been prepared. They are being reviewed internally by the Port Authority and FHWA. A great deal of progress has been made. I think we have tried our best to keep your office informed, and there should be a draft EIS later this fall into the winter.

Mr. NADLER. I'm sorry?

Mr. FOYE. Later this fall into the winter months.

Mr. NADLER. Into the winter. Thank you.

And what kind of infrastructure improvements in New York and New Jersey would you think are needed to make the Cross Harbor Freight Project a viable reconnection of the Southern Rail Gateway for freight transport?

Mr. FOYE. Well, I think, Congressman, many of you saw the barge. The barge is a fairly fully depreciated piece of property. I will say it that way. Obviously, Super Storm Sandy exacted significant damage on the Greenville facility. So I think that infrastructure, both in Brooklyn on the Bay Ridge line, as well as new, more efficient, energy-efficient barges, as well as infrastructure on the Greenville side, would be helpful in terms of maximizing this opportunity.

As I noted, in the first 6 months of this year, we have already carried 1,600 railcars, which is equivalent to volume for the entire year last year, which takes into account the period after Super Storm Sandy when, frankly, the facility was not operating.

So there will be a significant amount of infrastructure investment on both sides of the Hudson that will be required.

Mr. NADLER. Thank you. My last question is, if you had a say, what are the biggest challenges and obstacles to making the Cross Harbor Freight Project a truly successful freight transport option in this multilayered, multi-island, multimodal urban environment?

Mr. FOYE. Well, Congressman, I think first the Port Authority has made a significant financial investment. Obviously, we are thankful for your efforts in terms of the $100 million Federal commitment. We have tried to be wise custodians of that. Getting to the volumes that we think are possible over a period of years—and that number would be 45,000 to 55,000, years out—will require——

Mr. NADLER. 45,000 years out?

Mr. FOYE. No, 45,000 to 55,000 containers, years out.

Mr. NADLER. Oh.

[Laughter.]

Mr. FOYE. That is what I would expect the EIS—it is a long time——

[Laughter.]

Mr. FOYE [continuing]. What I expect the EIS, the draft EIS will indicate. A significant amount of money is going to be required for that. I think, frankly, this is a project that is regional in nature. I think it should be supported by the Federal Government. I think it is an example of the States of New York and New Jersey, and the Governor of New York and the Governor of New Jersey, working together on this project, and I think that the regional focus that USDOT has taken on other projects like the Alameda Corridor, et cetera, is being replicated in the Cross Harbor situation, and I would hope that USDOT would take that into account as it makes funding reviews and funding decisions going forward.

Mr. NADLER. Thank you. I just might add that hopefully we will have in the next bill, as we did in the last, although it wasn't funded, I hope in the next bill we will have a funded version of the Projects of National and Regional Significance section that might impact that.

Thank you. My time has more than expired.

Mr. DUNCAN. Thank you very much.

Mr. Webster?

Mr. WEBSTER. Thank you, Mr. Chairman.

And thank you, presenters, for giving us good insight on what is going on here.

I had a question for Mr. Foye, because we have, as we have gone around and had different hearings in other places, and also in Washington, one of the things we have discussed is the fact that we are working on sort of a national freight movement program, and yet many of us do not want to interfere with the fact that there are local communities and their NPOs, and they build programs for transportation in their State, and then their State adopts a program, and that is normally the case, and yet freight lines go beyond that and go multistate.

You are in a particular situation which is unusual, that I have not seen, in that not only do you do airport but seaport, and it is multistate, and certainly multicity. When we were in Los Angeles, there is the Los Angeles Port Authority owned by the city, and then right next to it is the Long Beach Port Authority, and they are both big, and they do work together, but they are not combined.

I guess my first question is, how many NPOs do you work with?

Mr. FOYE. Congressman, basically two, one on the New York side, one on the New Jersey side.

Mr. WEBSTER. And you have Governors, you have multijurisdictional areas in that seaport and airport. How does that all work?

Mr. FOYE. Sometimes, Congressman, it doesn't, but often it does. New York, for instance, is a home rule State. The primary jurisdiction that we deal with on the New York side is, obviously, the city of New York, but also the port district extends beyond the city. On the New Jersey side, obviously with the New Jersey Governor's Office, the New Jersey Department of Transportation, and a series of cities on the western side of the Hudson.

I have to say that between the States and the State Departments of Transportation, there has been a great deal of collaboration and cooperation. One of the issues that I think frustrates many who are focused on Federal infrastructure issues and building and replacing infrastructure—and obviously, in this part of the country, the pri-

mary focus is on rebuilding, maintaining, and replacing existing infrastructure—is that the current permitting process at all levels of Government is slower than it should be, that it is unduly expensive and uncertain, and especially with projects that involve, for instance, replacement of existing infrastructure. Surely, there must be a way in which the legitimate interests that are so important to all of us of protecting the environment can be balanced in an appropriate way with economic growth and job creation and retention.

Mr. WEBSTER. Do you have any suggestions on what may be done to streamline that?

Mr. FOYE. Well, I do, Congressman. One thing I will note that was important to the Port Authority on the Bayonne Bridge project was President Obama's announcement of a Federal Dashboard with respect to certain important infrastructure projects around the country. The Port Authority, I am proud to say, was the first agency in the country to file for treatment under the Dashboard on the Bayonne Bridge, and we were granted that treatment by USDOT, and I think it helped accelerate the project.

I will also note that Governor Cuomo achieved similar expedited treatment with respect to the Tappan Zee Bridge. I will note that both the Tappan Zee Bridge and the Bayonne are replacements of existing infrastructure assets, and I think that type of expedited approach is something that, frankly, ought to be applied to important infrastructure projects around the country, especially given the uncertain economy that we live in and the levels of unemployment that are unacceptable to all of us.

Mr. WEBSTER. Would that be for new and replacement projects?

Mr. FOYE. Congressman, I would submit yes. I think the case is clearer on a project in Bayonne, and let me just take a couple of seconds to tell you about the Bayonne Bridge. On the Bayonne Bridge, we are not building a new bridge. We are not knocking a bridge down. We are raising the roadway of the Bayonne Bridge to allow larger container ships to access the harbor following the completion of the Panama Canal. Given the fact that we are not building a bridge or knocking a bridge down, it seems to me the environmental impacts are relatively limited. I think the President took that into account in including the Bayonne Bridge project on the Federal Dashboard.

There is infrastructure around the country that needs to be replaced, updated, modernized, et cetera, and I think a more streamlined approach that took that reality into account, along with the fact that the state of the Nation's infrastructure is currently a drag, a burden on economic activity and job creation, and lifting that burden would not only expedite projects but I also believe would result in increases in employment and economic activity.

Mr. WEBSTER. Thank you, Mr. Chairman.

Mr. DUNCAN. Thank you very much.

Mr. Lipinski?

Mr. LIPINSKI. Thank you, Mr. Chairman. It is good to be here in Congressman Nadler's district. I certainly look up to Congressman Nadler, and we share maybe not the same exact types of projects but, coming from the Chicago area, there are a lot of things that

we have in common because our areas share some of the same issues when it comes to transportation.

I have to say also, when thinking about coming here, good luck to the Yankees with Alfonso Soriano.

[Laughter.]

Mr. LIPINSKI. And please, Yankees, please send Joe Girardi back in 2015 to Chicago so he can manage the Cubs in the World Series.

But moving on, Chicago, about 1.5 million tons of freight moves through Chicago annually. About 5 percent of that either comes into or comes from this area. We certainly have great transportation needs there to move freight. We have the Chicago Regional Environmental Transportation Efficiency Program, or CREATE, which is updating from the 19th century the rail lines in the Chicago area. It is a public-private partnership, and that is one question before I move on.

Mr. Foye, is there private investment involved with the tunnel project?

Mr. FOYE. With the tunnel project, Congressman?

Mr. LIPINSKI. Yes.

Mr. FOYE. Let me begin——

Mr. LIPINSKI. Well, I was just wondering, just quickly.

Mr. FOYE. Well, the tunnel project is an option that is going to be studied in the Cross Harbor EIS. Certainly, private capital is something that ought to be considered. As I mentioned, we are using private capital on the Goethals Bridge, and I think it would be premature to comment on the availability of private capital.

Mr. LIPINSKI. Yes, I was just wondering. It is great to see, after hearing Mr. Nadler talk about it for a number of years, it is great to see where this would go. But I just wanted to really raise what Mr. Nadler had there at the end of his questions about the Projects of National and Regional Significance.

In SAFETEA–LU in 2005, I was able to get $100 million for CREATE out of that pot of money. Unfortunately, in MAP–21 it was authorized for 1 year and not appropriated any funding. I want to get you on record, Mr. Foye, as saying this is something that you certainly do support for these mega-projects.

Mr. FOYE. Congressman, enthusiastically, yes.

Mr. LIPINSKI. Very good. It is very difficult to move forward with any of these projects that are really of national and regional significance without having the Federal Government involved there, and I think that is one of the things I want to make sure comes out of this freight panel.

I wanted to ask Mr. Goetz—actually, let me move on to Mr. Flynn. Let me ask Mr. Flynn a question here.

Something that we have heard in a couple of these hearings but we don't hear as much about his NextGen. I certainly think that is critical for air transportation systems. We hear about it mostly for passenger transportation, but it is also significant for freight movement.

Are your aircraft equipped for NextGen?

Mr. FLYNN. Thank you, Congressman. Yes, our aircraft indeed are, and we are using performance-based navigation, a feature of NextGen, already. Working jointly with the FAA and with UPS and FedEx, we were able to develop the procedures to use performance-

based navigation into Anchorage. We also use it here depending on time of day and conditions in New York into JFK, and we think that, based on what we have seen in Los Angeles and the successes we have had with performance-based navigation there, that there are real successes, a real basis to expand, and we think airports like Miami and Cincinnati and indeed Chicago would be good candidates to move performance-based navigation forward.

Mr. LIPINSKI. Do you have any studies or could you give us any sense of the difference that it would make in terms of the way that freight is moved, how it would ease congestion and other modes of freight transportation?

Mr. FLYNN. Sure. So, performance-based navigation, as you pointed out earlier, or NextGen, benefits passenger and air freight alike, and cargo alike, and I think there are three areas of benefits.

First, it will increase capacity. So where we have limited airspace or limited ground space, such as in JFK for landings and takeoffs, performance-based navigation will increase capacity without having to pour more cement and develop infrastructure. When we think about budgetary constraints, that should be compelling.

Performance-based navigation also limits the communication that is required between the airplane and the tower, and that goes to limiting what could be communication congestion.

And then finally, performance-based navigation will allow us to reduce fuel burn. Not only does that save operating costs, but when you think about the environmental impact of just simply burning less fuel to arrive at the airport, it is significant. For a smaller company like Atlas—we have 100 to 120 international arrivals a week into the United States—the impact of PBN across the network we fly probably would save something on the order of 10 million tons of carbon when measured from carbon emissions. When you think of 100 or 120 arrivals for just Atlas, magnify that again by UPS and FedEx, and then across our domestic passenger airlines, it is a very significant environmental impact.

Mr. LIPINSKI. Thank you.

Mr. FLYNN. Thank you, sir.

Mr. DUNCAN. Thank you very much.

Mr. Mullin?

Mr. MULLIN. Thank you, Chairman. Thank you for allowing me to be here. As you can tell, I am from rural Oklahoma, and I would have put a suit on but I had a wardrobe malfunction this morning, meaning I didn't pack a suit.

[Laughter.]

Mr. MULLIN. I still think it is an honor to serve here and an honor to have such a great opportunity to be in your city. But as I hear people talk, coming from the business world, my biggest headache was Federal regulation. It was the biggest competition I had in business, period, and trying to adjust for the new Federal regulations that were coming into our company, it was constantly causing us challenges. I looked around one day and I figured out, you know, the biggest threat to my business is Federal regs and trying to compete at the same time and trying to grow causes conflict.

Mr. Foye, you had heard the same testimony that Mr. Coyle had mentioned about the charges for the trucks that are coming

through the tunnels going from $40 to $105. Where is that good for the local economy? When you think about it—I have a trucking company too, and what I basically do every time a new reg hits me is I don't have a choice but to pass it on to my customers. And knowing the state of the economy, knowing how everybody is just literally scratching at the bottom of all of our pockets trying to get by, and we are taking charges from $40 to $105, which at least the trucking industry in a way can pass it on to their customers, but at the same time it is the cars that are passing through there, the commuters, how do their costs grow?

Mr. FOYE. Well, Congressman, the tolls that are generated from the Port Authority's bridges and tunnels, primarily the George Washington Bridge, are dedicated to the Port Authority's Interstate Transportation Network, and the Interstate Transportation Network is comprised of the George Washington Bridge, the Lincoln and Holland Tunnels, and the three Staten Island crossings that Congressman Grimm is very familiar with, as well as PATH, which is a commuter rail system between New York and New Jersey.

Mr. MULLIN. I am well aware. The Port Authority has done just a wonderful job taking us around and showing us, and I am grateful for it. But I am still floored by the fact that since 2005, just trucks alone has raised from $40 to $105, and I am still trying to figure out how that is good. I understand the infrastructure needs. I understand the investment that is needed, and I understand the tremendous task that you guys have. But the end result is that it is the consumer that is paying for that. It is everybody that goes and picks up a bottle of water, everybody that goes to Starbucks and buys their coffee. They are the ones that are having to pay for this.

Mr. FOYE. Well, Congressman, that is correct. The reason I mentioned PATH, for instance, is it is part of the Interstate Transportation Network. Like most mass transit, frankly, around the world, but certainly mass transit in the United States, PATH loses $300 million a year from operations because there is a subsidy for commuter riders, just as there is at the MTA and every mass transit system in the United States. That is one.

Two, the tolls, the revenue from bridges and tunnels is the basis for the reinvestment. I mentioned that we are investing $1.5 billion in the Goethals Bridge.

Mr. MULLIN. I understand that. So the cost has risen that much? I mean, it has tripled basically, to keep up with the infrastructure needs? Because your tolls have gone up that much. What you are charging people has gone up that much. Or is it because of the cost of doing business, because you have to comply with all these different Federal agencies out there?

Mr. FOYE. Well, certainly, Congressman, the cost of compliance and regulatory issues has increased.

Mr. MULLIN. So what do you think you are spending on that? In your all's budget, just roughly, what do you think you are spending to comply with the Federal Government?

Mr. FOYE. Congressman, I don't have a number. I will say this. I think the cost of compliance with regulation at the Federal level is a significant cost.

Mr. MULLIN. Does it outweigh actually the costs you are spending for actual infrastructure needs?

Mr. FOYE. No, sir, but it is a significant amount of money. I don't want to make a number up. I would be happy to come back to the committee with a number.

Mr. MULLIN. I would be curious to see what you are spending to comply with Federal Government regs and local regs versus what you are actually even spending on payroll.

Mr. FOYE. Congressman, I will make a note and come back to you and the committee with that number. It is a significant number. I think, frankly, it is for any governmental or public sector or private sector employer or company.

Mr. MULLIN. Any business owner.

Mr. Flynn, I know you know what I am talking about, too, and the other companies that are here. That is a challenge we all face. The point that I am trying to make is we are continuously passing this on, one after the next, and we are costing the economy money when we have true infrastructure needs. It is not just New York. It is not just this area that we have infrastructure issues. It is all across the United States, and we need to start showing this, because everybody else is having to pay for it.

But I thank you for your time.

Mr. DUNCAN. Thank you very much.

Some people in the audience might be interested to know that 42 percent of the House is new, in the last 2½ years, the last two elections. That is the greatest turnover in history, and Mr. Mullin is a representative of the freshman class, but he is kind enough to be joining us today on his birthday. So, we are pleased to have him with us at any time.

Mr. MULLIN. I am 25. I am finally old enough to serve, by the way.

[Laughter.]

Mr. MULLIN. I am kidding.

Mr. DUNCAN. Mr. Sires?

Mr. SIRES. Happy birthday, Congressman. I noticed you had a New York hotdog for your birthday.

Mr. Chairman, thank you very much for bringing us all together to New York, and I thank all the Members for being here.

Mr. Goetz, I know you have been very quiet there in the corner, so I have a question for you. I know that your company, CSX, has received a TIGER grant for your National Gateway Project.

Mr. GOETZ. That is correct, sir.

Mr. SIRES. I just wonder if you can talk a little bit about your experience with TIGER grants and the project you have undertaken. Can you talk a little bit about what appropriate role the Federal Government should be in the freight investment business?

Mr. GOETZ. I would be happy to. It is correct that we did receive a TIGER grant for our National Gateway Project, which basically replicates a couple of hundred miles south of here what is already in place here in the New York-New Jersey area, a full double-stack-compatible rail network into waterfront ports. We already have that here in New York and New Jersey, and it is running right now as we speak. But in some of the ports south of here such as Baltimore and Hampton Roads, shippers do not have that dou-

ble-stack option. That money is being used to bore out tunnels, build new terminals, do the things that a 21st-century freight network requires.

To answer your question, what we find is that when Federal money, either through TIGER or through a Project of National and Regional Significance, is applied, it definitely ramps up the administrative process that goes with that, and it definitely takes a lot more time. I mentioned in my testimony that it immediately triggers NEPA, and ultimately it triggers—because railroad assets tend to be old, it triggers activity from State historic preservation organizations.

Not that any of that is bad, but it is slow, and oftentimes there isn't a specific mandated timetable for these processes to be completed. So, Congressman, they can drag on forever, and I can give you an example in your own district with the tunnel that I spoke of, boring that out. That had a very thorough review by the State historic preservation office. One aspect that took time, which seemed rather incomprehensible to us, was the color of the bricks inside the tunnel. This is a tunnel that is not open to the public, is unlighted, and is pitch dark.

Mr. SIRES. It is cultural.

[Laughter.]

Mr. GOETZ. So the answer to the story is we picked the right color, and I am glad we did. But the question is, is that really a good use of time?

Mr. SIRES. I certainly agree with you. I make fun of it, but I certainly agree with you, having served in local office and having to deal with some of the EPA and other agencies.

Mr. Foye, let me just preface this. Sometimes in Washington, people question the money for dredging and some of the money that is spent in this region because they think it is too local. And I know you talked about a little bit the impact nationally. Can you just elaborate on the impact nationally when we do a dredging and the Federal Government gives us $70 million or $80 million to do the dredging per year? What is the national impact?

Mr. FOYE. Well, Congressman, the dredging is something that has been done in this harbor, frankly, going back to revolutionary days. It is critical to maintaining the competitive posture of this harbor. The Harbor Maintenance Tax in 2012 in this region generated $192 million. And shockingly, Congressman, only 6 percent of that was spent in the harbor in 2012, about $14 million.

The dredging, Congressman, is a little bit like painting the George Washington Bridge, which is when you get to the end, you have to start all over again because there is silt and there is material that has accumulated over a period of years.

One of the things, Congressman, that I think is critical is that ports around the Nation be allowed access for proper investment and dredging, but also maintenance of wharves and harbors, et cetera, and that more of the harbor maintenance user fee, which is really what it is—it is paid by the beneficial owners, beneficial freight owners—be reinvested not only in the New York-New Jersey Harbor but harbors around the country.

To answer your question directly about the national impact, the Federal economy is about $16 trillion, and fully $1 trillion of that

economic activity is attributable to the New York-New Jersey region. Our ports on both sides of the Hudson account for about 500,000 direct and indirect jobs, many of them high-paying union jobs, the ILA, et cetera. And continued investment in dredging and other uses of the harbor maintenance user fee I think is critical, Congressman.

Mr. SIRES. Thank you.

And for anyone who wants to answer this, do you think that freight planning would benefit from a mandate that States develop State freight plans, rather than the incentivized approach taken by MAP–21? I know that New Jersey and New York, they do a great deal of freight planning. But do you think it should be mandated, that each State have their own freight planning?

Mr. FOYE. Congressman, I will speak to that. I think that a national freight policy, given the importance of freight issues to the national economy, is something that is critical. Clearly, that policy should be developed in consultation with States across the country; agencies, frankly, like my own, which is a bi-state agency. But the absence of a national freight policy I think contributes to the current burden that inadequacies, inefficiencies and congestion, and infrastructure of all types currently impose on the national economy.

Mr. FLYNN. And if I could just build on your last theme there, Patrick, I had the opportunity to review some of the testimony from other folks who have testified in Los Angeles and Memphis and DC, and I think the next step beyond the national freight policy is that integrated look, that intermodal look at how the modes come together and how we remove constraints or impediments for that intermodal connectivity. I think Mr. Abney from UPS talked to that at some length. I think Fred Smith did as well, and certainly that was discussed in California. Thinking about the Los Angeles metroplex is really an example of what could be done, but also what needs to be done. I think that is national freight policy.

Mr. SIRES. Mr. Coyle?

Mr. COYLE. I think that if you look around the country, there are many, many NPOs engaged in freight planning. There are many State organizations. I think what is most important is that there is coordination between them to make sure that you are developing a uniform policy across all the States. I think that would be important.

Mr. SIRES. What is the issue with trucking that you can drive in New Jersey during the day, you can't drive in New York during the night, or vice versa? Are you aware of that, something like that?

Mr. COYLE. A number of the cities, particularly New York metro in particular, have developed congestion plans which mandate that deliveries are conducted at night. Don't put the trucks into traffic at rush hour. Get them in there at 1 a.m. Get them to be out of the city by rush hour. And it is one of the things that we were confounded with in the FMCSA hours-of-service regulations, because what that does with the restart provisions, it puts the trucks into rush hour. It stops fleets from engaging in delivering during the night. So it was really counterproductive.

Mr. SIRES. Thank you very much, Chairman. Thank you.

Mr. DUNCAN. Thank you very much.

Ms. Hahn?

Ms. HAHN. Thank you, Mr. Chairman. I just wanted to also add my thanks to our chairman and Ranking Member Nadler for holding these hearings all across our country. It is really eye-opening, I think, for all of us, and I am loving being in New York and New Jersey. We learned a lot today.

May I say I was a big fan of the Los Angeles Dodgers. Sorry, Brooklyn.

[Laughter.]

Ms. HAHN. We took the Dodgers 50-some years ago, but we love them, we have loved them.

I do represent the Port of Los Angeles and have for about 12 years, first when I was a member of the City Council in Los Angeles, and now as a congresswoman, and I am one of the new ones. I just passed my 2-year anniversary in Congress.

And one of the first things I did was to form a bipartisan PORTS Caucus. So it is kind of the first time in the history of Congress that we have a caucus that is solely dedicated to our Nation's ports, and we are about 90 Members strong, both Republican and Democrats, and we are hoping to focus on issues surrounding the ports, raise awareness with the rest of our colleagues in Congress about how important our ports really are to the Nation's economy, really to the global economy, to job creation, security issues. I really feel like it is a great vehicle to bring a lot of these issues forward in Congress.

I know we Democrats are considered tax and spend folks, and I will tell you one tax I think we should spend is the Harbor Maintenance Tax. I have been a big proponent and would like to hear the panel's take on this. We have about an $8 billion or $9 billion surplus in our Harbor Maintenance Trust Fund. We have ports in this country that still haven't even been dredged to their authorized level.

Three principles that I am pushing is, one, we should fully utilize our Harbor Maintenance Tax; two, I think I would like to see a guaranteed minimum of that tax going back to the ports where it is collected; and three, if the ports have already finished their authorized dredging levels, would you be in favor of seeing an expanded use of that tax as it related to goods movement, speaking to Mr. Flynn's idea that the biggest reason for diverting cargo is landside congestion. So we are hearing a lot about the last mile that comes into our ports, and if the ports have used that money properly for dredging, would there be a feeling that we could use some of that tax to, again, just improve the infrastructure for moving these goods. I would like to hear your feelings on if that ought to be something that we really put forward as a part of our national freight policy, that that fund, the tax be used for the purpose for which it was collected.

Mr. FOYE. Well, Congresswoman, let me start by saying that I have no official position today on either the Cubs, the White Sox, or the Dodgers.

[Laughter.]

Mr. FOYE. I want to make that clear.

With respect to the harbor maintenance, I characterize it as a user fee because it is paid by beneficial owners of freight, and it

is really a charge for their use of the harbor, whether on the east coast or the west coast or throughout the country, and for the vast amounts of money that governments or agencies like the Port Authority have to invest to maintain the safety of navigational channels working with the Coast Guard, the Army Corps of Engineers.

As I mentioned earlier, the harbor maintenance user fee in the New York-New Jersey port harbor raised $192 million in 2012, and only $14 million, about 6 percent of that, was dedicated to dredging by the Army Corps. I can't speak with respect to other ports around the country, but I know my own port. And with respect to the port of New York and New Jersey, there are clear, legitimate, and appropriate uses for the entire amount of that harbor maintenance user fee in the Port of New York-New Jersey. The amounts that are going to be required for dredging on an annual basis, year in and year out, are going to be substantial. Beyond that, there are investments that have to be made on both sides of the Hudson, and I think that on an annual basis, that user fee could be appropriately used.

My own opinion, if this was a suggestion for other areas of infrastructure, and given the fact that beneficial cargo owners have paid it, I believe it would be inappropriate. But surely we owe it to the men and women who are employed in the Port of New York and New Jersey and to the container terminal operators that have invested literally billions of dollars in those operations, as well as agencies like the Port Authority, that that user fee, which is paid, frankly, by beneficial cargo owners throughout the entire world, ought to be dedicated to appropriate uses in our harbor.

Mr. FLYNN. If I could just add, I work in aviation now but spent 23 years in the container shipping industry, and so I have a background and a perspective. But I would like to come back to something that the chairman mentioned in his opening remarks. The lack of adequate investment in our infrastructure from a global perspective does put us at a competitive disadvantage.

So whether it is the funds that exist in the Harbor Maintenance Tax, and whether they get reinvested or not in infrastructure, or other funds that exist for rail or truck or aviation, the failure to have a policy and to invest does create competitive disadvantage. In the 1990s, I was working for Sea-Land Service. I was their head of Asia based in Hong Kong, but worked on a number of projects in China in joint infrastructure developments around ports and marine terminals. That is what we did. If you look at the sheer number of airports, with extensive freight facilities that are being built in Asia, in China today, there is a strategic prioritization for logistics, freight, and infrastructure, and investments therein, and that is why the panel exists.

How do we move forward, and how do we catch up? I think all the modes have made, I would hope, compelling arguments that help shape the policy recommendations that you will come up with.

Ms. HAHN. Thank you. Being in the Customs House here today, I also, Mr. Chairman, think we ought to take a look at using a percentage of the customs fees that are collected. I know in Los Angeles, we collected $14 billion last year just in customs fees. And again, that is based on commerce. But I think for every container that comes into these ports and harbors, that also represents risk.

It represents risk to our infrastructure, risks to our security, risks to our environment, and I think a percentage of that could also be redirected towards investing in our infrastructure.

I know I am over my time but, Mr. Coyle, just based on the comments of congestion and the new rules on service hours, I champion the off-peak movement at Long Beach and Los Angeles called PierPASS. I wonder, if we had to look at that while we are coming up with a national freight policy, would that be an advantage if we had our gates opened off-peak hours for our truckers?

Mr. COYLE. I think that if the structure made sense. And I know there are all sorts of labor considerations and those kinds of things. But most of the cargo owners have structured their operations to deal with the current situation. Generally speaking, the terminals are open about 30 percent of the time.

Ms. HAHN. Yes, it is crazy.

Mr. COYLE. So it is not good utilization of assets, billions and billions of dollars of assets, and you are only open 30 percent of the available time. So an approach to looking at the traffic flow and looking at how cargo owners are receiving that, it is not going to do any good to have a truck leave the Port of New York at 3 a.m. and you can't deliver into Dayton, New Jersey, until 7.

So it would make sense to get all the stakeholders involved and look at designing a system, maybe something similar to PierPASS in California, and look and see how that would work in this area.

Ms. HAHN. Thank you.

Thank you, Mr. Chairman.

Mr. DUNCAN. All right. Thank you very much. Very good suggestions, Ms. Hahn.

I am especially pleased that Mr. Grimm is here with us because he is not a member of the panel and he is going above and beyond the call of duty to be here today with all the demands that he has on his time. So I would like to call on him for any comments or questions that he has at this time.

Mr. GRIMM. Thank you very much, and I want to thank the chairman, Chairman Duncan, for having me, and the panel for having me. I also want to thank those testifying today.

Mr. Foye, to follow up on my colleague, Mr. Mullin asked you—I guess he couldn't fathom a $105 toll for a five-axle truck, and he was saying why is it so expensive, and you mentioned the PATH train and infrastructure and so on. But today in the Post, there was an article that the Port Authority, your agency, may have spent as much as $80 million on insurance that it didn't need. The FIA recently had fined the Port Authority and wants you to bifurcate your fire department and your police department for failing to properly document various things, including training. That could cost almost $60 million. And then you have the World Trade Center project and other real estate projects that are grossly over budget. I think the World Trade Center at this point is almost $9 billion over budget.

Isn't it true that all of these things, these excesses, the mismanagement and the over budget, are major factors to raising tolls also?

Mr. FOYE. Congressman, in short, no. The insurance matter that you referred to occurred in 2009–2010. When I learned about it last

year, I fired those involved. We did an Inspector General review of that, and that has been discussed with our board.

Mr. GRIMM. So it won't cost the Port Authority any money?

Mr. FOYE. It will cost the Port Authority money.

Mr. GRIMM. But that doesn't affect, then, the revenue of the Port Authority?

Mr. FOYE. No.

Mr. GRIMM. It is an expenditure.

Mr. FOYE. It is an expense item, of course. The reason tolls were raised is because, one, we have an Interstate Transportation Network which includes the PATH and the Port Authority Bus Terminal. We lose $300 million a year on PATH. That is a published number. We lose $100 million on the Port Authority Bus Terminal. Those are each critical pieces of moving people and goods back and forth——

Mr. GRIMM. I have very limited time. I have very limited time. Let me ask you this.

Mr. FOYE. Hang on, Congressman. With all due respect, there is another item which I think is critical. As I mentioned in my remarks, the Port Authority board is, in the next month or two, going to approve, I expect, a 10-year capital plan which will be pretty near $30 billion. That is going to be funded with respect to the bridges and tunnels, $1.5 billion for the Goethals, $1.2 billion for the Bayonne, $1 billion for the suspender ropes on the George Washington Bridge, on and on. It is going to be funded in large part by bridge and tunnel tolls.

The other thing I ought to say is Congressman Nadler noted that the Port Authority was created in 1921. Many of our facilities are 50 and 60 and 70 and 80 years old, have decades of wear and tear; and, frankly, I will note that we do not——

Mr. GRIMM. OK, I have limited time, I have limited time.

Mr. FOYE [continuing]. We do not receive any Federal aid with respect to operations——

Mr. GRIMM. But there are port authorities and agencies throughout this country——

Mr. FOYE [continuing]. Or taxpayer aid——

Mr. GRIMM. If I could reclaim my time.

Mr. FOYE. Yes, Congressman.

Mr. GRIMM. There are port authorities and other agencies similar to yours throughout this country and they don't have tolls that are $105. So I want to ask you a question, because you do have significant real estate holdings, and a lot of them do lose money.

Does any of the toll revenue go towards those real estate holdings like construction of the World Trade Center, either directly or indirectly through financing the debt? Yes or no?

Mr. FOYE. No. Toll revenue goes——

Mr. GRIMM. So when you raise money, you float bonds, you float bonds for capital money to invest in the World Trade Center.

Mr. FOYE. Yes, sir.

Mr. GRIMM. The toll revenue does not go to service that debt at all?

Mr. FOYE. Toll revenue goes to the Interstate Transportation Network, bridges, tunnels——

Mr. GRIMM. So it does not service the debt? It doesn't pay to service the debt?

Mr. FOYE. Bridge and tunnel revenue——

Mr. GRIMM. It is a yes or no question. Does it service the debt or not?

Mr. FOYE. Bridge and tunnel revenue is dedicated to the bridges and tunnels, the PATH, and the Port Authority Bus Terminal, period, full stop.

Mr. GRIMM. So the answer is it does not service—that revenue does not go to service the debt that funds all these other projects.

Mr. FOYE. Congressman, the Interstate Transportation Network, which is the bridges, the tunnels, the PATH, and the Port Authority Bus Terminal, operates on a deficit. It does not generate funds that go to other parts of the Port Authority.

Mr. GRIMM. So where does the money come from to service your debt? You have half-a-billion dollars a year in debt. I went through your financials, your 2012 financials and your other financials. You are running at a loss. If you take toll revenue out, there is no money to service your debt. Where does that half-a-billion dollars come from?

Mr. FOYE. Well, Congressman, with all due respect, the Port Authority is a AA credit. The Fitch rating agency earlier this week reaffirmed our credit. In the world that we live in, where so many institutions have been downgraded, we are financially strong. We are a AA credit, without a doubt.

Mr. GRIMM. That was not my question. I know you are credit worthy. I am asking you how you actually pay the interest on that debt if you are not using the revenue from your tolls. Where does it come from?

Mr. FOYE. Well, Congressman, as I noted, we run airports, we run other——

Mr. GRIMM. And I added them all up in your financials, and they do not add up to enough to service your debt.

Mr. FOYE. Well, Congressman, I can assure you, the AA credit and the Fitch affirmation of our rating this week speak to our financial stability and strength.

Mr. GRIMM. OK. So you are saying that toll revenue does not go to service any debt for the Port Authority.

Mr. FOYE. Toll revenue from the bridges and tunnels and the Interstate Transportation Network is dedicated to the operation and maintenance and investment in those assets, period.

Mr. GRIMM. And that doesn't include debt service.

Mr. NADLER. Will the gentleman yield for a moment?

Mr. GRIMM. I don't have much time.

Mr. NADLER. Just to clear up a little ambiguity, because you are talking past each other.

I think what Mr. Foye is saying is that revenue from these tolls do go to service debt, but only debt for the transportation facilities and not for the other things like the World Trade Center.

Is that correct?

Mr. FOYE. Yes, sir.

Mr. NADLER. OK. I just wanted to clear that up.

Mr. GRIMM. OK. Moving on, because I am just about out of time, my last part of the question is you mentioned in your opening

statement how you are very concerned, how important your role is, the Port Authority's role with job creation and the economy.

In Staten Island, New York, after you announced the massive toll hike, never before seen such a massive toll hike, the New York Container Terminal lost one of its largest customers. Then after it was implemented, they lost two of their other customers. Fifty-seven percent of their business was gone. They are right now down to approximately 25 percent of the business they once did. They are on life support, basically. They are on life support. And they are the third largest employer in my district.

You say you are coming out with a toll relief plan that is the best thing since sliced bread, but it limits them at almost half of their capacity. Why is there a cap on the toll relief based on their capacity? Why at 350,000 lifts when they can do almost 700,000 lifts? And it is the tolls that put them on life support in the first place.

Mr. FOYE. So, Congressman, let me do this. Let me read a letter from Jim Devine to customers in the New York Container Terminal.

Mr. GRIMM. I am going to reclaim my time. I have read the letter, so I am going to reclaim my time.

Mr. FOYE. No, but you raised an important question, and I think it is important. Let me just quote Jim Devine very briefly.

Mr. GRIMM. I am going to ask you not to do that because then I am going to have to be honest and tell this panel what I believe really happened. Would you rather me do that, Mr. Foye? I was trying to be nice. But the truth is I have done a thorough investigation of the involvement between the Port Authority and the container terminal, and as a former FBI agent I can tell you as a fact, there is no question in my mind that the container terminal is on life support.

Mr. FOYE. I don't agree.

Mr. GRIMM. They are down to 25 percent of the business they used to do. They would not get their lease extended and they wouldn't get any help if they didn't acquiesce and button their lips. They couldn't speak to their elected officials, and they were told not to say anything adverse to the press or the deal wouldn't go through. When someone is on life support, when basically they have a gun to their head, they are going to say whatever you need them to say. And as someone who investigated the Gambino crime family and the Mafia, I can tell you I know what mob tactics are, what gangster tactics are, and I don't appreciate it, and neither did they.

Mr. FOYE. Well, Congressman, if you have evidence of wrongdoing, you should go to the D.A., please.

Mr. GRIMM. No, not like that. You know what I am saying. It is very simple. If a private company is on life support and you say to them we are going to play hardball so that you go out of business or you take this deal and shut your lip, that is what they are going to do.

Mr. FOYE. So, Congressman——

Mr. GRIMM. So the letter doesn't mean much to me. And lastly, let me say this. That is why they are not here today, Mr. Foye. They are not here to testify today when they originally were going

to come because they didn't want to have to lie to Congress or have to sit there and say no comment. That is why they are not here.

Mr. FOYE. Well, Congressman, that company is controlled by a $130 billion Canadian pension plan, which is the largest single professional pension plan in Canada. That company paid $2.6 billion in 2006 for the New York Container Terminal, for Global on the Jersey side, and for a facility in Vancouver, near Vancouver. That company cannot be pushed around. That $130 billion pension plan cannot be pushed around. And Jim Devine and the people at New York Container Terminal have told their customers that they are extremely pleased by the deal that has been made.

We think it is a fair deal. I believe it is a literal lifeline for the survival of New York Container Terminal.

Mr. GRIMM. Why do they need the lifeline in the first place? And again, I am going to yield back my time. I totally disagree. They made millions of dollars of investments, and if they couldn't recoup those investments, the people who own that container terminal had to answer to those pension funds, and that is why they had no choice but to acquiesce, and they were put in a position where they had a gun to their head, and it is a despicable act, in my opinion.

I yield back.

Mr. DUNCAN. All right, and thank you very much, Mr. Grimm. Thank you for being here.

Let me get back to some questions that may not be quite as exciting.

[Laughter.]

Mr. DUNCAN. Mr. Foye, let me ask you this. The most recent study by the Texas Transportation Institute of congestion of 498 cities around the country said that congestion is costing this Nation six times more than it did 30 years ago, and that is an inflation-adjusted figure. What is the Port Authority doing to prepare, since you operate in one of the most congested areas in the country, what are you doing or what do you need to do to keep that from getting worse in the future?

Mr. FOYE. Chairman, that is an important issue. Let me also note that that same study said that the economic cost of congestion in this region is $12 billion a year. About $2.5 billion of that is related to truck congestion issues alone.

Here is a short answer, Chairman. We are working with the States of New York and New Jersey, the Departments of Transportation in both States, as well as the New York City DOT, to come up with a regional freight plan. As I mentioned briefly in my testimony, that is going to include issues like access to the Van Wyck, which I know is important to Mr. Flynn's business because Atlas operates at JFK. The congestion on the Van Wyck is a current burden on the economy.

We believe that there are a number of regulatory steps that can be taken without significant amounts of capital that can, in the short term, in the relatively short term, address this. Beyond that, Chairman, there is going to be a need for infrastructure at JFK, at Newark Airport, at the ports on both sides of the Hudson. Part of it is going to be continued investments like the Port Authority has made in ExpressRail.

As I noted in my testimony, the Port Authority over the last decade has spent $600 million on ExpressRail both in Staten Island and New Jersey. Each container that is carried by ExpressRail is a container that doesn't have to transit the highways of New York or New Jersey.

I think that the Cross Harbor Project that you saw in the last day or two will provide an answer. The draft environmental impact statement—I am going to be very careful to make sure I state this right this time. The draft environmental impact statement will suggest that over a period of 10 or 20 years out, that between 45,000 to 55,000 containers could be carried by the Cross Harbor Project.

So, Chairman, it is a combination of raising awareness on the issue, taking administrative and other steps, and also investments, hopefully by Federal partners as well as State and private partners on both sides of the Hudson.

Mr. DUNCAN. All right. Thank you very much. I want to get to some other topics as well.

Mr. Flynn, we have 6-year limits on the Republican side on chairmanships. I chaired the Aviation Subcommittee for 6 years, from January of 1995 to January of 2001, and fortunately I got out 9 months before 9/11. But back then, there was talk—the Clinton administration had put forth a proposal on an air traffic control corporation, a Government corporation, and then we even had some discussions about totally privatizing the air traffic control system such as in New Zealand and a few other places. And, of course, now we have been working on the so-called NextGen, which seems to have some promise.

But what do you see for the future of aviation, let's say over these next 5 or 10 years? Where do you see us going, and what do you see as the main problems or challenges?

Mr. FLYNN. Thank you, Mr. Chairman. I would like to, in fact, go back to the discussion we had been having about NextGen and how do we take NextGen forward, because at one level NextGen requires a very substantial investment by all parties, by the Government, by the airlines themselves in new equipment and new technology, as well as fairly substantial process changes both in the tower and potentially in the cockpit.

We have been talking about NextGen for some time, and when looking at the magnitude of what may ultimately be required, I think we are not moving forward because they are developing a cost-benefit analysis and developing a clear line of sight of what the outcomes are going to be. It is challenging.

The Inspector General of the DOT testified at Mr. LoBiondo's committee just, I think, last week or the week before and talked about NextGen, and the recommendations that he was holding forth are the same recommendations that Atlas endorses, and I would believe that my colleagues in cargo and freight, as well as the passenger airlines, would endorse as well.

There are things we can do now. There are things we can do now in performance-based navigation that have real bottom-line benefits in terms of cost, have real benefits in increasing capacity where we are congested, have environmental benefits by reducing the amount of fuel that is consumed. For the flying public, to step away

from cargo, for the flying public it should result in more on-time arrivals and more on-time departures.

To implement performance-based navigation in most airports, not all but in most, it is really about changing processes and procedures and doesn't require substantial dollar investments to go forward. If we can act on those regulatory processes and move forward on that, I think then we have real tangible, bottom-line dollar benefits that all stakeholders—the policymakers, the FAA and DOT, the airlines themselves, and the communities and airports themselves—can see, which would create, I believe, the momentum and a bias for action for the larger investments that are going to be required moving downstream.

We are working today with air traffic control from the 1960s. We have more technology in the GPS in your car than we are effectively using today. And as we fast-forward, using what we have today, I think we really create bias for action, Mr. Chairman.

Mr. DUNCAN. All of these things, unfortunately, take much more time for discussion than we have. I want to get to the other two witnesses as well in a little different areas.

Mr. Coyle, Fred Smith from FedEx earlier testified in front of our panel early on, and they have made a request—you know, one of the most controversial issues that we deal with in our committee is the issue of truck weights and sizes. He has requested on behalf of FedEx Ground that we don't increase the weight limits but at least let them increase—I am sure he would like an increase in weight limits, but he has requested that we at least allow an increase in the links without increasing the weights. What do you think about that? Would that help your company in any way? What would be your position on that?

Mr. COYLE. It would not do anything with respect to the intermodal containers. They are 20 foot, 40 foot. There are some exceptions to that. You may see some 45-footers. But generally speaking, the vast majority come in those two increments. So basically, that wouldn't really have any impact.

Where it may have some impact is in the rail trailers, which generally are 53-foot rail trailers. I don't know if, with regard to the railroad—Bill might be able to answer that—if you increase the length of the trailer, will that still work on current railroad equipment. So it is difficult to say until you have looked at that piece. But generally speaking, for what we do, I don't see it as having a big impact.

Mr. DUNCAN. What is the average load or the average weight limit, the weight in your trucking company on the things that you carry?

Mr. COYLE. The 40-foot container, the maximum that I think we can do is about is 42,000, maybe 43,000.

Mr. DUNCAN. I am not talking about what is the maximum you do. I am talking about in your trucks, I am sure some trucks are filled to the limit with very heavy material, but probably other trucks don't carry materials that are quite as heavy as some trucks. Do you have an average weight? Are 90 percent of your trucks under such and such a weight? What would be the information on that?

Mr. COYLE. I would say that with respect to our particular business, the ocean containers tend to be a little on the heavier side, where you may look at a domestic carrier, over-the-road trucks, their average weight might be 25,000 pounds. But on the container side, particularly when containers are being loaded in other countries, they will load them up as much as they can. So you do see those weights.

On average, if I had to sort of pick a number, I would say probably 40-foot containers are in the upper 30s.

Mr. DUNCAN. How many trucks do you have?

Mr. COYLE. We operate about 2,000 tractors.

Mr. DUNCAN. 2,000 tractors?

Mr. Goetz, I have heard a lot about this positive train control, and I have heard that the cost-benefit is probably 20, maybe as high as 25 to 1. How much has CSX spent on that thus far, and what do you think about that? Do you think the costs far outweigh the potential benefits?

Mr. GOETZ. Well, it is a mandate, so we have to do it, and it has a very firm deadline. I can tell you that for our company and for this industry, this represents probably one of the largest technology and economic challenges that we have, for a couple of reasons.

This technology for us is brand new. So we are faced with a situation where we have to invent something, test it, install it and make it work, in a very time-definite period. It also means that these components, these electronic components need to be manufactured, and there needs to be manufacturing capability to create all these units, and we need to buy them and get them installed.

We need to train and hire installers to do this work. Again, we are layering on technology onto various levels of signaling systems and train control systems that vary throughout our network.

Mr. DUNCAN. Let me ask you something else. Freight rail is already a heavily regulated industry. Are there any other regulations that you feel are particularly burdensome? And also, in MAP–21 we tried to emphasize environmental streamlining because we had such long delays on these projects in all the areas that we deal with in our committee. Do you think it would be helpful if we could have more environmental streamlining on rail projects as well?

Mr. GOETZ. Yes, I do, sir. Again, for example, with positive train control, that is a cellular-based technology. That means cell towers. People don't like cell towers. Communities can voice strong opinions about that. And that is an example where, again, put into the actual devil in the details of permitting these out, we are very concerned that we may get held up with environmental concerns with the basic installation of new technology.

Mr. DUNCAN. We all have some planes to catch, so we have to bring this hearing to a close. But I wanted to call on Mr. Nadler for any closing comments you wish to make at this time.

Mr. NADLER. Well, thank you, Mr. Chairman. I will simply say that it has been a very informative hearing, a very informative tour, and I want to thank the chairman for bringing this hearing here, and I want to thank the Port Authority for hosting us, and all the witnesses for participating.

I would invite the witnesses, if they have any further suggestions for us, to let us know. We are going to be preparing, as I think the

chairman mentioned in the beginning, preparing a report to the Judiciary—excuse me—to the Transportation Committee.

Maybe to them, too.

[Laughter.]

Mr. NADLER. To the Transportation Committee in a few months as the freight recommendations. If anyone has some brilliant ideas as to funding what we have come up with or anything else, please let us hear from you, and thank you all for participating.

Mr. DUNCAN. We had Wick Moorman, the CEO of Norfolk Southern, and many of his top officers on the train with us on the way up yesterday. We appreciated that. That was sort of a combination of a briefing and an enjoyable ride as well. And then, of course, we met with several officials last night and today, too, as well, in addition, of course, to the very informative testimony that all of you have given.

So, as Mr. Nadler has said, we appreciate everyone being here today, especially the witnesses. We are looking for very specific suggestions, and that means that suggestions can come even from people who are in the audience, as well as what we have heard from the witnesses today.

We thank you very much, and that will conclude this hearing.

[Whereupon, at 3:29 p.m., the panel was adjourned.]

Testimony by Patrick J. Foye, Executive Director

The Port Authority of New York & New Jersey

U.S. House of Representatives

Committee on Transportation & Infrastructure

Panel on 21st Century Freight Transportation

"How Freight Transportation Challenges in Urban Areas Impact the Nation"

U.S. Customs House

New York, N.Y.

July 26, 2013

Chairman Duncan, Ranking Member Nadler, and members of the committee, thank you for holding this critical hearing on freight transportation challenges. My name is Pat Foye and I am Executive Director of the Port Authority of New York and New Jersey. Under the leadership of our Governors, Andrew Cuomo and Chris Christie, the Port Authority operates the most important and diverse multi-modal portfolio of any transportation operator in the world.

I welcome your visit to see first-hand what the Port Authority is doing to support the nation's economy and its global competitiveness. Efficient freight service in the New York City region is critical to job creation and retention in our region, and to our country's sustainable and prosperous future.

First, a quick profile of the Port Authority, and our role in the national freight network:

- We operate the nation's busiest metropolitan airport system. Last year, it handled 109 million passengers, with 1.3 million tons of international air cargo, and three quarters of a million tons of domestic air freight.
- We are the largest maritime port on the East Coast, handling over 5 million containers, which is more than a 60 percent share of the North Atlantic market.
- Our six interstate bridges and tunnels handled 14.8 million truck crossings last year and nearly half of them used the George Washington Bridge, a critical link on the I-95 corridor.
- Other Port Authority facilities include the nation's busiest bus terminal, the PATH rapid transit system, ferry and rail freight facilities, as well as the redevelopment of the 16-acre World Trade Center site and the redevelopment of One World Trade Center.

Our port assets and associated freight rail movements are critical to the health of our region and that of the nation. Today, freight passing through our port can reach 20% of the U.S. population, or more than 62 million people, in fewer than 8 hours and more than 30%, or over 94 million people, in fewer than 48 hours. All of our facilities play a distinct role in the delivery of goods within the region and beyond. For example, the Red Hook Container Terminal in Brooklyn is the only international maritime terminal with a direct land connection to Long Island and is uniquely positioned to receive and distribute international cargo to the approximately 11 million residents east of the Hudson River.

We work every day to meet the needs of the country's largest consumer market. Any slowdown of operations can result in an economic blow, not just to the regional economy but that of the nation. Studies indicate that a closure of our ports would cost the nation $1 billion a day.

At the Port Authority, we recognize the impact our facilities have in the efficient movement of freight throughout the region and the country. In the past decade, we have made major investments to maintain our global competitiveness and ensure that we meet the demands of the region. Over the last ten years, the Port Authority and our partners have invested approximately $2.6 billion to promote efficient movement of freight.

Over the past decade, we have also provided more than $688 million in local matching funds for the Harbor Deepening Project, which will deepen the main harbor channel to 50 feet to improve navigational safety and pave the way for larger cargo vessels.

Earlier this year, we broke ground on a $1.3 billion project to raise the roadway of the Bayonne Bridge to increase the navigational clearance above the main harbor channel to 215 feet to accommodate the new generation of larger and cleaner cargo vessels.

We have committed $600 million to the development of our ExpressRail intermodal network at our port terminals to support expanded on-dock service by long haul railroads serving inland markets. The ExpressRail reaches up to 90 million customers within 24 hours in markets throughout the Midwest and eastern Canada. Through this service, it takes only 10 days to move cargo from Hamburg to Chicago by vessel and rail combined. Today, we have the capacity to handle more than 1 million containers at our on-dock rail facilities and by the end of the decade, we will have increased our capacity to 1.5 million containers.

Thanks to the support of Governor Cuomo and the tireless efforts of Congressman Nadler, the Port Authority, in partnership with the U.S. Department of Transportation will expand cross-harbor rail car barge service between Jersey City and Brooklyn. We are modernizing float bridges and barges that will speed the service, as well as providing new low-emission locomotives for use in both states. Though interrupted by damage from Superstorm Sandy, this operation continues to grow—1,600 railcars carried in the first half of this year—equivalent to removing more than 6,500 trucks from the area's roads. This represents volume equal to that for all of 2012.

In the coming months, the Port Authority will approve a ten-year capital program that will invest billions of dollars more in our freight infrastructure.

In addition to the capital investment we are undertaking to improve the efficient movement of freight, we are implementing measures to ensure that our investments benefit truckers who use Staten Island crossings to access the Howland Hook facility, thereby improving the movement of freight at this facility. The Port Authority will also invest in an additional expansion of ExpressRail in Staten Island to enhance the facility's competitiveness. Since 2000, we have made $375 million investments in that facility alone.

The Port Authority is proud to be a leader in multi-modal freight movement, but there are opportunities at the federal level to address our nation's freight needs. The Port Authority is strongly supportive of efforts to redirect revenues from the Harbor Maintenance Trust Fund to harbor operations and maintenance dredging in order to protect our investment in deepened channels.

We are also strongly supportive of federal innovative financing and competitive grant programs, such as TIFIA, RRIF and TIGER in order to leverage public and private capital investment locally. TIFIA and RRIF loans, as well as TIGER grants, are smart ways to leverage local participation. The Port Authority has been approved for up to $500 million in a low cost TIFIA loan for the replacement of the Goethals Bridge, a $1.5 billion project, which connects Staten Island and New Jersey. The Port Authority is utilizing an innovative PPP structure for the Goethals, the first true surface transportation PPP in the northeast region, to access private capital.

We are also working on goods-movement improvements at our airports. The Port Authority recently completed a joint study of JFK cargo activity with New York City to zero in on strategies to preserve and expand this globally important cargo center. We are working to address obstacles for efficient truck access, as well as to modernize our facilities and better accommodate current industry needs.

There are additional challenges to address. Urban centers, like the New York City region, will be the "front line" of any national campaign to implement an effective national freight strategy. Metropolitan areas share of the nation's economic activity is only growing. Most of the nation's gateway ports, major air cargo centers, and other intermodal hubs are in metropolitan areas', where the movement of freight faces obstacles such as chronic congestion, obsolete infrastructure, competing land uses and any initiative must take into account potential community impacts.

This year, the Port Authority expects to complete a comprehensive regional goods movement plan for the greater metropolitan region in concert with the New Jersey and New York State Departments of Transportation. Our aim is to coordinate a strategic approach for improvements

across the region. As we progress on this effort, I look forward to working with this committee on a national approach for multi-modal freight movement.

Thank you.

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United States House of Representatives
Committee on Transportation and Infrastructure

Panel on 21st Century Freight Transportation

"How Freight Transportation Challenges in Urban Areas Impact the Nation"

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Testimony of William J. Flynn, President and Chief Executive Officer

Atlas Air Worldwide Holdings, Inc.

July 26, 2013

Chairman Duncan, Ranking Member Nadler, and Members of the Committee's Panel on 21st Century Freight Transportation, on behalf of Atlas Air Worldwide Holdings, Inc. and the more than 2000 employees of our U.S. airline operating subsidiaries, Atlas Air, Inc. and Polar Air Cargo Worldwide, Inc. (collectively "Atlas"), I want to thank you for the opportunity to testify before you today. I commend the Committee for reviewing the challenges facing the nation's freight transportation network and how improvements might be made to meet the growing demands of our economy, create jobs, and improve the quality of life in America. The focus on the challenges facing freight transportation in urban areas is especially significant. According to the 2010 Census, the nation's urban population increased by 12.1 percent from 2000 to 2010, outpacing the nation's overall growth rate of 9.7 percent for the same period. In 2010, urban areas accounted for 80.7 percent of the U.S. population.

I am testifying today as President and CEO of the world's largest operator of the Boeing 747 cargo freighter. The all-cargo industry is a primary driver of a worldwide economy that demands the efficient, time-definite transportation of a wide range of products. My over 30 years of experience in the transportation industry (sea, rail, and air) have shown me why it is critical to work together to transform our current freight transportation system into an efficient intermodal network that adds value to each mode while capturing the available efficiencies for our nation. Our efforts must include a common commitment to meeting the highest standards of safety and security while protecting, and preserving the environment.

Background on Atlas

Through its airline subsidiaries, Atlas is the world's largest operator of Boeing 747 freighter aircrafts. It is one of two major U.S. airlines with headquarters in the State of New York and based operationally at John F. Kennedy International Airport. It is now celebrating its 20th year in business.

Atlas's primary business is to provide Aircraft, Crew, Maintenance, and Insurance (ACMI) services. We enter into what essentially are "take-or-pay" contracts to operate aircraft for the world's leading freight consolidators and other air carriers to enable them to access modern, fuel-efficient aircraft that would be expensive and inefficient to acquire, crew and operate on their own. Using ACMI services also allows our customers to avoid hiring and training additional crew and staff.

Our operating fleet consists of 33 Boeing 747F freighters, including 9 of Boeing's newest 747-8F long range freighters which represents a $1.5 billion investment. We also operate 18 other modern aircraft, including 747-400 and 767 aircraft supporting the U.S. Department of Defense, FedEx, UPS, and several other commercial customers. In addition, we provide aircraft and U.S. flight crews to other major international airlines, including British Airways, Qantas, and Etihad.

In 2012, Atlas flew to 113 countries and 361 airports, safely flying approximately 153,000 hours to every region of the world including Afghanistan. We conduct frequent daily flights to major U.S. airports including New York, Miami, Cincinnati, Los Angeles, Chicago, and Anchorage, plus all major international airports. The intermodal aspects of these freight movements are illustrative of the focus of this hearing.

Constraints on Freight Transportation

A vibrant U.S. airline and air freight industry is critical to U.S. economic growth and global competitiveness. Because of its vast geography and spaced out population centers, the U.S. economy depends on air transportation more than most other national economies. Commercial aviation empowers more than $1 trillion in U.S. economic activity and more than 10 million U.S. jobs.[1] In 2012 alone, U.S. cargo carriers moved 17.7 million tons of cargo, all of which had to be transferred to another mode of delivery before it reached its final destination.[2]

However, in conducting frequently daily flights to and from major U.S. airports, Atlas has faced a number of freight transportation challenges, particularly in urban transportation hubs. I would characterize these challenges as constraints that hinder the ability of Atlas and other freight and cargo providers to efficiently and effectively transport freight. These constraints fall into three categories: (1) physical, (2) informational, and (3) financial.

The physical constraints on freight transportation include restrictions relating to airspace and airports, including taxiways, runways, our aircrafts, and the air traffic control system. In addition, there are informational constraints on our ability to track customers' cargo, plan safe routes for our flights, obtain dangerous goods permits, and other regulations and policies. There are also financial constraints on the financial processes, accounts, tools, and staff needed to support our business operations and investments.

My testimony highlights examples of the constraints on business Atlas has experienced, and offer suggestions for alleviating these constraints in order to improve freight transportation efficiency and safety.

Physical Constraints

One of the great physical constraints Atlas has experienced is congestion in major urban transportation hubs, which is exemplified by New York/New Jersey (NJ/NJ metroplex), the most congested and complex U.S. intermodal hub. By supporting the transportation needs of over 20 million people, NY/NJ has highly congested road, rail, air, and port facilities. From an air cargo perspective, air traffic delays in NY/NJ have a profound ripple effect on the entire national and international air traffic network, and cost consumers and operators hundreds of millions of dollars every year in lost productivity, not to mention frustration on the part of all stakeholders and citizens. A 2012 study by MITRE's Center for Advanced Aviation System Development showed:

- Air delays are heavily concentrated in the New York area:
    - 40 – 50% of the National Airspace ground delays occur in New York
    - 59% of NY/PHL flights depart on time, compared to the national average of 73%
- New York airspace is heavily used:

[1] Airlines for America, The Case for a National Airline Policy, http://www.airlines.org/Pages/The-Case-for-a-National-Airline-Policy.aspx (Nov. 2012).
[2] *See supra* Airlines for America, National Airline Policy, n. 1.

- 33% of all U.S. flights are directly affected by delays in NY/PHL[3]
- 20% of all flight plans transit New York airspace
- 18% of U.S. international operations transit New York hubs

As the MITRE data show, the existing intermodal network is outdated and in desperate need of modernization. Although Atlas has worked with regional transportation agencies and governments to ensure safety and security of our transportation infrastructure and operations, the outdated freight transportation network leads to severe congestion that substantially hinders the ability of Atlas to stay true to its "just in time" business model of speedily delivering freight domestically and internationally. Cincinnati is an appealing urban transportation hub because this cargo-friendly airport was built specifically to expedite intermodal freight movement. Like Louisville and Memphis, intermodal solutions developed by intermodal stakeholders in conjunction with airport authorities and the FAA have helped reduce congestion.

Unquestionably, more needs to be done to modernize the intermodal network and American urban transportation hubs. We also need a modern air traffic control system that incorporates modern technology and controller training to improve airport and airspace efficiency promptly.

Atlas strongly supports the Federal Aviation Administration's (FAA) NextGen initiative which is focused on improving efficiency using existing modern technology and controller training to reduce airport and airspace inefficiencies. NextGen also has the added benefit of reducing the industry's carbon footprint, thereby positively impacting the environment.

There is no reason to prolong implementation of NextGen. Atlas and many airlines already have the ability to secure the equipment and utilize procedures necessary for NextGen. While Atlas supports full implementation of NextGen and related funding, we hope the U.S. government will focus in the near term on aspects, such as performance-based navigation, which do not require the development of new technologies or substantial monetary investment by the nation or its airlines but do require regulatory approval of new procedures. In order to accomplish this, we need effective leadership, which the Committee can help provide.

In recent testimony before the Subcommittee on Aviation, the Inspector General of the U.S. Department of Transportation supported this approach and called on the FAA to complete its planning and implementation of the necessary flight navigational procedures. Atlas looks forward to the time when the industry will be able to use performance-based navigation to reduce flight delays, save fuel and help conserve the environment.

At the same time, it is important to ensure that regulations designed to reduce air space congestion are not developed and applied arbitrarily. I understand that the FAA is in the process of drafting a proposal to rework the slot control and assignment system for NY/NJ airspace. My hope is that the proposal will fully recognize the air cargo business model and its reliance on nighttime flying.

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[3] *See also* USA Today, *NYC Airports Bet on New Taxiways to Ease Traffic,* http://www.usatoday.com/story/todayinthesky/2012/11/16/new-york-jfk-laguardia/1709241/q, (Nov. 16, 2012).

Informational Constraints

As for informational constraints, a key concern of that of inefficiencies with the U.S. Customs and Border Protection procedures. Although there is no question that this process is necessary and an integral part of this nation's safety and security, existing technology and applications can be used to streamline its cargo processing and documentation. Atlas and our global customers depend on an efficient and modern Air Traffic Control and Airport system to facilitate on-time arrival, departure, and processing of our aircraft, aircrews, and cargo. While Atlas commends the Port Authority of New York and New Jersey and the many agencies and actors for their hard work in helping facilitate the safe, secure, and timely movement of cargo and passengers 24/7 in the NY/NJ metroplex, more needs to be done to improve customs and border protection policies, particularly relating to cargo clearance.

Atlas strongly endorses the TSA's Risk-Based Approach to Transportation Security, which attempts to address existing inefficiencies. At several congressional hearings, TSA Administrator John S. Pistole has testified that the agency's existing security measures create a multi-layered system of transportation security that mitigates risk. We fully agree that using a risk-based approach is not only the right way to address cargo security; it is also the *only* effective way to address cargo security. It is imperative that cargo processing and documentation be streamlined to enhance productivity, while also ensuring that security threats are quickly and adequately identified and addressed.

The importance of good intelligence in identifying high-risk shipments cannot be overstated. It is crucial in enabling companies such as Atlas to target potentially dangerous shipments. To be effective, however, we must find better ways to communicate such intelligence to those in the air cargo supply chain. If there was any doubt about the role of effective intelligence, that doubt should have been erased by the events of October 28, 2010, when the dissemination of intelligence led to the interception of explosive devices on all-cargo aircraft originating in Yemen and ultimately bound for the United States. The Office of the Director of National Intelligence is already implementing an aggressive program to improve communication between key government and industry players to ensure we receive the information we need to help keep our industry safe from another terrorist event.

In conjunction with both TSA and CBP, industry members are well on their way to fully implementing the Air Cargo Advance Screening program, which is designed to provide as much shipment information as possible to the government for purposes of targeting potential anomalies. We expect this program to be fully functional by next year, allowing millions of tons of freight to move unimpeded while identifying "at risk cargo" that poses a threat to our companies and our country.

At the same time, security concerns, which Atlas takes very seriously, must be balanced with efficiency and permitting the free flow of goods that do not pose security threats. To accomplish this, TSA is in the process of developing a "Trusted Shipper" concept that would recognize that certain repeat shippers may possess less of a threat than the occasional single shipper. In the case of Atlas, upwards of 90% of non-express cargo exported from Asia arriving in the major urban areas comes from repeat, reputable customers in the high-tech arena, such as Apple and Samsung.

Cooperation remains key to the success of customs and border protection procedures. Supply chain security can be effective only if the industry and local, state, and national government work together to identify both problems and solutions. Atlas applauds TSA Administrator Pistole's commitment to work

collaboratively with the stakeholder community to develop the programs necessary to enhance security across the transportation system. To his credit, the Administrator has made good on his promise to engage the industry in formulating key security policy. This cooperation, including the understanding of the operationally unique characteristics of the various industry segments, has resulted in the best possible security regime. It is vital that this level of cooperation continue.

Financial Constraints

Modernizing our public and private national aviation network, including the air traffic control systems, is critical to a growing U.S. economy and job creation. As it is, the U.S. freight transportation system creates economic value measurable in the trillions of dollars. Modernization will be costly. Developing a fair and equitable means for financing the necessary investment must be a priority.

The Federal government must do its part to provide public funding of essential physical and regulatory infrastructure. As Congress and the President address the nation's overall fiscal situation, they must provide a stable, secure means of financing vital Federal investment. While I recognize that the current budgetary climate places constraints on what may be possible, this Committee can play an important role in focusing attention on the benefits that appropriate funding will provide.

In addressing the financing issue, it will be important for policymakers to not adopt tax policies that contribute to industry instability, and instead adopt policies that rationalize the industry's tax and regulatory burden, restore and enhance U.S. airline viability, and enable airlines to increase air service, expand global competitiveness, create jobs, and boost economic growth.

Suggestions to Improve Freight Transportation Efficiency and Safety

To address the constraints I have detailed, I offer three recommendations for the Committee to consider:

1. **Establish a Comprehensive National Transportation Policy Covering All Modes of Transportation:** Establishing transportation as a national priority and securing the support of both public and private stakeholders is imperative. Atlas urges the Committee to prepare and adopt a comprehensive policy that addresses all modes of transportation—air, sea, rail, and road—as well as infrastructure. This policy should ensure that there is significant collaboration among government and industry in all aspects of transportation. To succeed, this policy would require the support and commitment of the President, Congress, state and local governments, and all levels of industry. The National Interstate and Defense Highways Act (Public Law No. 84-627),enacted on June 29, 1956 under President Eisenhower, provides a useful template.

2. **Ensure Prompt and Effective Implementation of NextGen:** Atlas urges the Committee to recommend that the Aviation subcommittee continue to oversee the FAA to ensure that NextGen program milestones are timely met and spending limits are enforced. Such oversight can also help guarantee that FAA corrects the deficiencies and shortfalls detailed in the U.S. Department of Transportation (DOT) Inspector General's report dated July 17, 2013. Because collaboration is key to NextGen's success, Atlas also encourages the Committee to urge DOT to increase dialogue and interaction with the transportation industry and private stakeholders.

Such cooperation can help ensure that NextGen improves all modes of freight transportation. In addition, Atlas hopes the Committee will direct the FAA to accelerate implementation of near-term NextGen capabilities and processes at major urban transportation hubs. Doing so would enhance traffic and freight flow, while reducing fuel consumption and negative environmental impacts.

3. **Continue to Oversee Freight Transportation Improvements and Developments:** Atlas encourages the Committee to continue to hold periodic oversight hearings focused on freight transportation to assess the progress that has been and needs to be made. As TSA Administrator Pistole has explained and exemplified, increased communication and information sharing between government and industry will pay big dividends and help us improve freight transportation processes and business practices.

Conclusion

Although we cannot create a new freight transportation system from scratch as many emerging nations are doing, we have the leadership and intellect to reform our existing system and infrastructure. Doing so will require continued, committed leadership, national will, strategic planning, wise investment, and teamwork from both the government and industry.

By holding this hearing to better understand the challenges and impact of freight transportation in urban areas, the Committee has taken a critical first step in the process of developing and committing this nation to adopting feasible freight transportation solutions.

I firmly believe this issue should rank as one of America's vital national interests. If we are to remain the world's leader and economic engine, we must take charge of our destiny by making a national commitment to improve the nation's freight transportation.

I and my Atlas Air Worldwide Team stand ready to work with the Committee and find solutions to move forward. I look forward to answering your questions.

Before the

Panel on 21st Century Freight Transportation
Committee on Transportation and Infrastructure
United States House of Representatives

Statement of Gerard J. Coyle
Vice President, Environmental
and Sustainable Operations
Evans Delivery Company, Inc.

Hearing on

How Freight Transportation Challenges in Urban Areas Impact the Nation

July 26, 2013

Mr. Chairman, thank you for the opportunity to testify on behalf of Evans Delivery Company and the American Trucking Associations. The American Trucking Associations is the largest national trade association for the trucking industry. Through a federation of other trucking groups, industry-related conferences and its 50 affiliated state trucking associations, ATA represents more than 37,000 members covering every type of motor carrier in the United States.

I am Gerry Coyle, Vice President for Environmental and Sustainable Operations at Evans Delivery Company, Inc. Evans Delivery is a Pennsylvania-based national provider of trucking and transportation services with annual revenues in excess of $335 million. The company currently operates approximately 2,000 trucks and transports more than 500,000 intermodal containers, from the Nation's ports and rail facilities, per year.

Condition and Performance of Urban Highways: the Impacts on Freight Transportation

Mr. Chairman, urban areas are critical to the U.S. economy. According to the Census Bureau, 81% of Americans live in urban areas. Approximately 85% of U.S. GDP is generated by large urban areas and over the next 15 years large U.S. cities are projected to account for 10% of worldwide economic growth.[1] While just 27% of road miles are in urban areas, urban roads carry more than two-thirds of vehicle miles, including nearly half of truck travel.[2] Unfortunately, urban area highway systems face significant maintenance and congestion challenges. Seven percent of urban bridges are structurally deficient, while nearly one-quarter are functionally obsolete.[3] In many American cities traffic gridlock is not only frustrating and time-consuming, it is also extremely expensive. The Texas Transportation Institute's *2012 Urban Mobility Report* found that congestion in 498 U.S. cities cost the economy $121 billion in 2011, up from an inflation-adjusted $24 billion in 1982. The report determined that $27 billion of the 2011 costs were borne by the trucking industry, and passed on to customers and, ultimately, consumers.

As you are well aware, Mr. Chairman, the New York City Metropolitan area has some of the worst traffic congestion in the Nation, and New York has ***the*** worst freight congestion. Congestion in the region increases freight transportation costs by more than $2.5 billion annually and slows down the delivery of nearly half a trillion dollars' worth of goods.[4] According to a report just released by the Federal Highway Administration and the American Transportation Research Institute, three of the country's worst freight highway bottlenecks are in the New York area, including the fourth worst bottleneck, I-95 at SR-4 in Fort Lee, NJ.[5] Other bottlenecks in the region include I-278 at the Belt Parkway in Brooklyn and I-495 at Shelter Rock Rd. in Manhasset, NY. Congestion raises the expense of doing business in the region and also imposes significant public health costs due to the air pollution caused by 256 billion gallons of excess fuel consumed by motorists sitting in gridlock.[6]

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[1] McKinsey & Co., *Urban America: U.S. Cities in the Global Economy*. April 2012.
[2] Federal Highway Administration, *2011 Highway Statistics, Table VM-1*.
[3] Federal Highway Administration National Bridge Inventory 2012.
[4] Texas Transportation Institute, *2012 Urban Mobility Report*.
[5] http://atri-online.org/2013/07/08/atri-100-freight-locations/
[6] Texas Transportation Institute, *2012 Urban Mobility Report*.

While MAP-21 requires the U.S. Department of Transportation to identify the most costly highway freight bottlenecks, it does not provide separate funding to eliminate them. We urge you to support a setaside of funds to fix these very costly barriers to efficient freight transportation.

The Impacts of Tolls on Urban Freight Transportation

Mr. Chairman, congestion is not the only contributor to New York's costly and uncompetitive freight transportation system. Tolls may pose an even greater challenge to the efficient movement of freight in the region. In order to understand the impacts of tolls on both travel patterns and the cost of delivering freight, it is important to understand how tolls are treated within the carrier-customer relationship. Shippers generally prefer tolls to be included in the base rate of a trucking company's bid. Any attempt by a carrier to collect tolls after the service is provided is generally met with resistance or a dispute over the verification of charges. For this reason, congestion pricing is not a viable option for influencing truck travel patterns, as discussed below. Furthermore, carriers with significant toll expenses often cannot afford the "float" between payment of toll charges and the time it takes to be reimbursed by customers.[7] Therefore, there is significant incentive for carriers to avoid tolls in order to remain competitive. It is important to note that there is significant competition within the trucking industry, and carriers operate with extremely thin margins – two to three percent on average – making it very difficult to absorb toll costs. Furthermore, with the advent of competitive bidding through so-called E-Bids and Reverse Auctions, the level of competition has increased. The port drayage industry is comprised of many small, local companies competing for this business.

When tolls are unavoidable, or it makes financial sense to use a toll facility, carriers will normally spread these costs throughout their customer base in order to recover the costs. Building toll costs into those individual bids which require the use of routes with tolls will result in higher bids than those offered by competitors who spread the costs out, and is therefore not feasible in most cases. Naturally, this model favors larger companies, while smaller carriers with a more limited customer base have greater difficulty recovering toll costs. This is an important consideration because port drayage in the New York City region is dominated by small operators. In addition, it is noteworthy that the practice of building tolls into the base rate is beginning to change for some industry sectors. In particular, customers utilizing port drayage services in the Northeast have recently asked carriers to include toll charges as a separate line item in their bills of lading. The purpose is to determine how toll rates are affecting the cost of drayage services, and will help shippers to make cost-effective decisions. Naturally those ports which are financially hamstrung by high toll costs will be negatively impacted by this new industry practice.

It is also important to recognize that individual toll facilities do not exist in a vacuum. Because of other recent toll rate increases in the Northeast, by 2015 a trip from Baltimore to New York City will cost a 5-axle truck more than $209 in tolls. To put this into perspective, the tolls could represent more than 20% of the charge to a customer for this move, and would make tolls as a cost component more expensive than the cost of a driver, truck or fuel for this trip. Evans pays

[7] Wood, H.P., *Truck Tolling: Understanding Industry Tradeoffs When Using or Avoiding Toll Facilities*, NCFRP Project 19 & NCHRP Project 19-09, October 2011.

$247 in tolls to haul a container roundtrip between Brooklyn and Philadelphia. These high toll costs – which do not exist anywhere else in the country – will be a serious consideration for businesses who are considering their future plans, including in those states served by the I-95 corridor which do not impose tolls.

The toll burden imposed on trucks in the New York City area is significantly greater than in any other urban region in the country, both in terms of the extent of tolling and the rates imposed. For example, the toll rate for a single crossing by a 5-axle truck on the George Washington Bridge ranges from $45.50 to $75.00, while the Verrazano-Narrows Bridge charges $52.50 to $80.00. These charges represent the highest bridge or tunnel toll in the country. The next highest toll rate for a 5-axle truck is $37.50, for the Delaware River Port Authority Bridges in Philadelphia. By 2015 New York City toll rates will climb even higher, to a maximum single crossing fee of $105 for a 5-axle truck on Port Authority bridges. This represents a 163% increase over four years.

According to a recent study, toll costs for port traffic in New York City represent such a significant portion of the cost of moving freight that tolls distort trucks' route choices, with negative impacts on the region's economic competitiveness and the environment.[8] The authors found that for short-haul trucks serving New York metropolitan area ports, toll costs may represent up to 59% of the total cost of delivery. This is in sharp contrast with the national trucking industry, for which tolls represent just 1% of total average operating costs.

These higher costs put New York ports at a competitive disadvantage relative to other ports such as Norfolk and Baltimore, where the operating costs for trucks were less than half those of trucks serving New York ports. The report concluded that because of these higher costs, freight which would likely have utilized New York's ports – such as goods destined for Upstate New York – were instead shipped through ports requiring a longer drayage haul, increasing fuel use and environmental impacts. While the study did not address the safety consequences of these longer hauls, it is likely that the additional crash exposure does have a negative safety impact. Furthermore, because the vast majority of freight served by the New York ports are destined for or originate from the metropolitan area, these costs increase the price of living and conducting business in the region.

An important finding of the report, and one that should be of interest to the federal government, is that the setting of toll rates in the New York City region does not appear to take transportation network impacts into account. As a result, due consideration is not given to the effects of diversion on routes in either the immediate geographic region or on the highway network outside of the area. Under the National Environmental Policy Act (NEPA) changes to transportation infrastructure that are likely to have a significant impact on traffic patterns are required to undergo a review to determine the environmental, social and economic effects of the project. This does not appear to be the case when it comes to increases in toll rates, even though rate increases can have a significant impact on traffic patterns, as was clearly demonstrated by the recent toll rate hikes in the New York area.

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[8] King, David A., et. al. *Does Road Pricing Affect Port Freight Activity: Recent Evidence from the Port of New York and New Jersey*, April 26, 2013.

Increases in toll rates are particularly troubling when the revenue is used to subsidize projects unrelated to the efficient movement of traffic on the toll facilities. For example, revenue from the recent rate increases on bridges and tunnels controlled by the Port Authority of New York & New Jersey is subsidizing construction of the World Trade Center, airport security measures and the construction of a new Bayonne Bridge with higher clearances for the purpose of accommodating larger ships, among other investments unrelated to the improvement of tolled facilities. The New York Thruway dedicates approximately one-third of its budget to the New York canal system, which artificially inflates toll rates for Thruway customers. Toll rates on the Ohio Turnpike were recently increased in order to subsidize highway projects off the turnpike. These are just a few examples of the abuses endured by toll users who are forced to subsidize programs and projects from which they may not receive a direct benefit.

It is appropriate, therefore, for Congress to consider legislation that addresses the disconnect between toll-setting practices and their impacts on highway systems – and the associated environmental, social and economic effects – that are beyond the jurisdiction of agencies and authorities who determine toll rates. In the last Congress, the "Commuter Protection Act" was introduced in both the House and Senate. This legislation would provide greatly needed oversight for irresponsible tolling authorities, and protect the public from being gouged in order to fund projects and programs that do not benefit toll payers by ensuring that rates comply with the long-established "just and reasonable standard." Those tolling agencies which set "just and reasonable" toll rates would not be affected by the legislation, and have no reason to be concerned with or oppose the bill.

Title 33, Section 508 of the United States Code requires that "Tolls for passage or transit over any bridge..." constructed over navigable waterways "...shall be just and reasonable." This requirement, which was first established in 1906, was amended several times over the years. In 1966, Congress gave the U.S. Department of Transportation (USDOT) the explicit authority to determine whether tolls met the just and reasonable standard, although it was equally clear that the law gave the public the right to challenge the agency's decisions through the judicial process.

In a wide-ranging effort to streamline the federal administrative process, in 1985 Congress removed the USDOT's authority to rule on the just and reasonable standard. While it is clear from the legislative history that Congressional intent was to retain a just and reasonable standard that was challengeable through the court system, the new language did not explicitly create a private right of action which would allow the public to challenge the toll rates in Court. In a 2006 decision by the United States Court of Appeals for the Third Circuit, the Court established that this lack of a specific provision for a private right of action prevents the public from challenging toll rates through the judicial process. As a result, since Congress removed the Federal government from the review process altogether, the Court decision essentially rendered Section 508 moot, despite the fact that Congress clearly intended to retain the just and reasonable standard.

The result of this decision is that toll authorities subject to Section 508 can, and have, set toll rates which generate revenues that are far in excess of what is necessary to maintain and improve the tolled bridges. In some cases, the tolls have become a slush fund for all manner of activities completely unrelated to the bridges themselves, and with little or no benefit to the motorists

paying the tolls. These toll rates clearly violate the just and reasonable standard established by Congress. Yet neither the public nor the federal government has the ability to challenge the rates and enforce federal law. The "Commuter Protection Act" would restore enforcement of the just and reasonable standard.

Congress has a Constitutional obligation to protect interstate commerce. Most of the states that have considered, or are currently considering, Interstate tolls, have suggested that they will charge tolls at their borders or at other locations designed to place much of the financial burden on out-of-state traffic, an act that likely violates the Commerce Clause. In addition, multi-state agencies, such as the PANYNJ, operate with the consent of the federal government and are subject to federal requirements.

Mr. Chairman, we have witnessed a disturbing trend among some tolling authorities. Operating independently, or with the support of, or benign neglect from, state officials, these authorities seem to view their control over the distribution of toll revenue as an opportunity for personal enrichment or accumulation of power. Without federal oversight, such abuses may never be uncovered and cannot be curtailed.

Toll facilities that serve significant volumes of interstate traffic are particularly in need of federal oversight. This is especially true of bridges and tunnels, which normally do not have toll-free alternatives. In these cases, facility users are captured, and the normal free market rules which might otherwise hold toll rates down do not apply. Under these circumstances, one can characterize tolls more as taxes than as user fees, since customers have no choice but to pay the toll. Yet out-of-state travelers have no voice with regard to whether their toll taxes should be raised since they enjoy no political representation. Furthermore, those communities affected by the redistribution of traffic due to toll avoidance currently have no recourse to express their concerns if they live outside of the toll facility's political jurisdiction. A federal presence is required to fill that void and to be the voice of representation for interstate travelers. This is certainly consistent with the Commerce Clause. We encourage Congress to support the "Commuter Protection Act" or other legislation designed to protect the public from unfair toll-setting practices.

Mr. Chairman, one of the congestion relief strategies that have been considered in New York City and other urban areas is congestion pricing. This would entail varying toll rates by either time of day or level of congestion in order to influence either travel mode or travel time. It should go without saying that trucks are the only practical option for freight delivery within urban areas so pricing will not induce modal shifts. Furthermore, in the vast majority of cases, shippers, not trucking companies or drivers, determine pick-up and delivery schedules and, as noted above, carriers have difficulty passing toll costs on to their customers.[9] This applies to ports as well, where operating hours are generally between 6:00 a.m. and 6:00 p.m. These hours prevent drayage trucks from operating at nightand taking advantage of lower toll rates that apply during off-peak periods. Therefore, pricing will not be an effective congestion relief strategy when applied to trucks, and will only serve to increase freight transportation costs, with little benefit.

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[9] Holguín-Veras, J. (2010). *The Truth, the Myths and the Possible in Freight Road Pricing in Congested Urban Areas.* Procedia - Social and Behavioral Sciences **2**(3): 6366-6377.

Finally, Mr. Chairman, legislation has been introduced in recent years to protect toll-setting practices that give captive toll payers, i.e. residents or businesses that, due to geographic constraints, are disproportionately impacted by tolls or other transportation fees, from Constitutional challenges. ATA does not necessarily oppose such legislation if applied very narrowly. However, we would oppose measures which define captive toll payers so broadly that it would allow discrimination against interstate commerce in contravention of the Constitution's Dormant Commerce Clause.

ATA recognizes the significant highway investment shortfalls facing transportation agencies, and we have therefore long supported an increase in the federal fuel tax. The fuel tax is a much more efficient and fair funding mechanism than tolls. It would be prudent to review the current federal toll pilot programs to determine whether they should be eliminated. Since tolls on existing Interstates were authorized in 1991, no state has received federal permission to impose tolls on existing lanes (other than HOV lanes). However, this has not prevented states from attempting to use the pilots to impose tolls that are clearly designed to discriminate against interstate commerce or to use toll revenue to subsidize governmental functions that are not directly connected to the facilities proposed for tolling.

Port Clean Truck Programs

A key intermodal trucking issue concerns efforts by a number of ports to implement programs aimed at improving air quality around the port by mandating older truck retirement and incentivizing motor carriers to buy newer equipment with lower emissions. In a few instances, these efforts have also involved efforts by the port to impose new operational and equipment mandates on port trucking.

Of particular concern was a clean truck program initially imposed by the Ports of Los Angeles and Long Beach, which banned older trucks and required truckers to sign concession contracts mandating financial data disclosure, maintenance and repair programs subject to port approval, off street parking and placard displays. In addition, the Port of LA program also banned independent owner operator (IOO) drivers and required motor carriers to only use employee drivers for container freight transport. The Port's inclusion of the IOO ban in its clean truck program was supported by the International Brotherhood of Teamsters to facilitate port driver unionization, which otherwise could not be accomplished if drivers were classified as IOOs. The Long Beach program had no IOO ban and the port modified its clean truck operational requirements, which removed it from the federal preemption litigation challenge discussed below.

In an opinion handed down June 13, 2013, the U.S. Supreme Court, in a unanimous opinion, supported the American Trucking Associations' position and ruled that the Port of LA's concession contract mandating parking restrictions and truck placard display were federally preempted. At issue were provisions in the Federal Aviation Administration Authorization Act (F4A) that prohibit the enforcement of any state or local "law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier." The question before the Supreme Court was whether certain provisions of the Port's concession agreement that indisputedly "related to a price, route, or service" of motor carriers nevertheless

escaped federal preemption because the Port asserted that it imposed these requirements acting as a "market participant" to serve its "business interest" in expanding the Port, rather than in an effort to regulate the motor carrier drayage market.

In an opinion authored by Justice Kagan, a unanimous Supreme Court rejected the Port's "market participation" contention. The Court concluded that, whatever the Port's asserted motivation, the concession agreement amounted to "classic regulatory authority" and thus fell within the scope of the F4A's preemption provision. The court further observed that the concession agreement, while technically a contract between the Port and trucking companies, was not the "result merely of the parties' voluntary commitments." Rather, the Port compelled trucking companies to enter into the contract as a condition of access to the Port, by "wielding coercive power over private parties, backed by the threat of criminal punishment." By imposing the concession agreement through coercion rather than "ordinary bargaining," the court ruled that Los Angeles was "performing its prototypical regulatory role."

Earlier in the litigation process, the US Court of Appeals' 9th Circuit had ruled that the Port's concession contract requirement banning independent owner operator (IOO) port drivers and requiring that all drivers be motor carrier employees was preempted under F4A.

It is important to note that the ATA litigation did not at any time challenge the ports' ability to impose clean truck program mandates. Indeed, the 80% emission reduction goals of the ports' clean truck program were reached ahead of schedule and 10,000 EPA compliant 2007 or later model year trucks were financed primarily by over $1.2 billion in private sector investment.

It is also important to note that ATA supported the Port Authority of New York and New Jersey's (PANYNJ's) Clean Trucks Program and was a regular participant in the port's clean truck stakeholder working group. The program, which does not follow or include the LA-style command and control model, was initiated in March 2010 and provides grant money and low-interest loans to eligible port truck drivers to purchase new environmentally friendly trucks and includes a truck phase-out plan that prevents older trucks from calling on port terminals beginning on January 1, 2011 and bans all pre-2007 trucks on port property by 2017.

Other U.S. container ports, including Seattle, Tacoma, Virginia, Charleston, San Diego and Massachusetts, have all instituted various types of clean truck programs and, like PANYNJ, did not follow the LA port program model. In addition, a cooperative clean truck initiative has been successfully established by the U.S. Environmental Protection Agency (EPA). On June 28, 2011, EPA, joined by the Coalition for Responsible Transportation and the Environmental Defense Fund, announced that it is launching a new port drayage truck initiative under the SmartWay Transport Partnership. Because many of the trucks that service ports have traditionally been older models which generate higher emission levels than today's EPA compliant trucks, the SmartWay port initiative was created to provide technical assistance, emission assessment tools and partnership recognition to port truck companies that commit to clean up their trucks.

Under the SmartWay dray truck initiative, carriers sign an agreement with EPA to track and reduce PM 2.5 emissions by 50 percent and nitrogen oxides (NOx) emissions by 25 percent below the industry sector average over a three year period. In addition, SmartWay dray shipper

partners will commit to use the cleaner trucks to haul 75 percent or more of port freight. Charter shipper partners in the program include Best Buy, The Home Depot, Hewlett Packard, JC Penney, Lowe's, Nike, Target, and Walmart. Additionally, SmartWay provides special recognition to shippers -- many of which are already SmartWay partners -- for using cleaner trucks, thereby increasing the demand for cleaner trucks at ports. Through this initiative and with the full cooperation and support of the port trucking community, the SmartWay Dray Truck Initiative will help ports to continue to contribute to their local economies while protecting air quality, the environment and public health.

Truck Driver Classification

Efforts at the state level to effectively ban independent owner operators could also have a significant impact on the movement of freight across the country. For example, in the Northeast, the New Jersey legislature recently passed a bill that would Presume that all drayage truck operators and parcel delivery operators contracted to motor carriers are employees unless the motor carrier can prove otherwise by meeting a three-prong test that would be virtually impossible to meet. Governor Christie is expected to veto the legislation, which the trucking industry believes is an unwarranted attack on individual entrepreneurs and upends New Jersey's longstanding recognition of the unique characteristics of independent contractors in trucking. By contrast, in New York, compromise legislation allowing independent contractors to continue to operate was recently adopted, and in Connecticut, legislation supportive of independent contractors was passed unanimously.

To understand the trucking industry's opposition to mandating employee drivers, it is necessary to first understand the role of the independent owner operator driver. IOOs have long been relied on by trucking companies to meet fluctuations in freight demand and provide needed power unit equipment for freight transport. This is particularly true in the intermodal port trucking sector, which is noted for its "peak and off peak" cargo volume fluctuations. As a result, in most intermodal port locations IOOs often make up almost 90% of the driver community.

For owner-operators, independent contracting provides numerous business advantages. First, it provides a unique opportunity for individuals to begin their own business. Start-up costs are comparatively modest and motivated individuals can quickly have their businesses up and running. In addition, since IOOs own their own trucks, during slack non-peak times they are able to move to other non-port sectors where freight traffic is not as cyclical, i.e. they can continue to generate revenues for their business.

Particularly important to efforts to mandate employee drivers in the port sector is the fact that owner-operators like their independent status and want to continue as IOOs – not employees. Being able to run their own business, control their own finances, work the hours and days they choose, select the type of equipment they operate, and otherwise control their work environment are among the many reasons most drivers choose to become independent contractors.

Given the clear federal preemption upholding by a unanimous Supreme Court discussed above, we believe any state law that imposes a restrictive port driver mandate would likely be overturned as a violation of the routes, rates and services doctrine.

Intermodal Chassis Ownership and Deployment

The chassis (the metal trailer frames with tires, brakes and lights that are designed for intermodal over-the-road transportation of standard-sized international shipping containers) as an intermodal utility is essential to the movement of freight supporting U.S. global container commerce. Since the introduction in 1956 of containerized intermodal shipping in the United States, foreign-based ocean carriers providing regularly scheduled liner service have generally provided chassis for importers and exporters and their motor carrier transporters that pick up and deliver container cargo at ports and inland intermodal terminals. This U.S. model is unique in that the ocean carriers - not motor carriers, terminals or shippers, as is the norm in the rest of the world - were the primary suppliers of chassis.

Beginning in 2009/2010, however, several ocean carriers announced that, as of a date certain they would no longer furnish chassis for cargo shipments. The decision to leave a business they had long dominated was apparently made because ocean carriers were already spending millions of dollars a year on chassis supply and maintenance (without gaining a competitive edge in the marketplace) and with the new responsibility requirements of Roadability regulatory mandates (discussed below) costs were expected to increase even further.

The first visible implementation of these announcements occurred in the New York-New Jersey Port complex, when the largest ocean carrier, Maersk, split off its chassis operation and took the unprecedented step of charging motor carriers a daily rental fee for chassis use. Thereafter, other ocean carriers began issuing notices advising motor carriers that they had sold their chassis and henceforth motor carriers should use chassis provided by the specific purchaser. Following initial concerns expressed by truckers concerning rental fee payments and reimbursements, the Maersk daily rental rollout moved forward with widespread acceptance by the trucking sector. Other providers have followed Maersk's example, although significant differences exist.

To proactively address the otherwise limited options available to motor carriers in the emerging chassis supply model, the North America Chassis Pool Cooperative, LLC (NACPC) was incorporated on October 3rd, 2012. The Company, which was formed by a group of eleven U.S. motor carriers, received approval from the U.S. Surface Transportation Board (STB) on January 22nd, 2013 to commence operations as a joint venture chassis pool cooperative. With its STB authority NACPC has begun to acquire or lease intermodal chassis from ocean carriers and chassis leasing companies, and add these chassis into various existing chassis pools in the U.S. NACPC's mission is to ensure an adequate supply of modern chassis for the U.S. intermodal container network and transparent terms of use that will benefit all users.

An important objective of NACPC is to preserve the existing "gray pool" low cost chassis pool model previously established by the ocean carriers under their Federal Maritime Commission approved agreement. Shippers, ocean carriers, railroads and motor carriers all have benefited from this initiative, which included pool management services that are assessed on an "at cost" pass-through basis and serve to moderate the overall cost of containerized freight transport.

Daily chassis rate competition can be sustained by ensuring that motor carriers at all times have the ability to select their chassis provider and that the transfer of the chassis fleet from one mode to another is accomplished in a manner that provides fair treatment for all stakeholders in the container transport sector. Efforts are now underway to gain federal oversight and involvement in the new chassis ownership and deployment model.

Port Access Inefficiencies

As you probably know, container terminals at the Port of New York and New Jersey have recently been experiencing worse than usual truck lines and cargo delays. Cargo backlogs, heavy ship traffic, summer longshoreman labor shortages and data collection software system problems have combined to overwhelm marine terminals. Trucks have had to wait for hours in two-mile long lines outside some terminals, incurring extra costs such as additional daily chassis rental fees, per-diem payments on containers they have been unable to return to terminals, and reduced productivity by drivers who bump up against the new hours of service regulations.

Similar gate-related delays plague other ports around the country. While ports and their stakeholders continue to grapple with delays "inside the gate," as you heard in previous ATA testimony before this Panel, congestion outside the gate on highway intermodal connectors exacerbates transportation flows around America's vital port network, and must be addressed as well.

Another barrier to the efficient movement of intermodal freight has to do with the condition and safety of chassis. In 2005, SAFETEA-LU established a statutory framework requiring intermodal chassis providers to ensure that their equipment was in a safe "roadable" condition before it is used for transport.
Unfortunately, implementation of the law by the Federal Motor Carrier Safety Administration has been slow, and overall compliance with the program's key legal mandates has not yet reached a level where the chassis that are moving on the highway system can be considered to be systematically maintained and repaired, and are in a roadable condition, as the law requires. The lack of roadable equipment slows down the movement of intermodal freight when equipment is taken out of service or drivers are forced to select new equipment when they fail a pre-trip inspection. While the trucking industry will continue to work on gaining the regulatory changes or enforcement action necessary to comply with the law, a lack of measurable progress may require Congressional oversight.

Mr. Chairman, thank you once more for the opportunity to testify. ATA looks forward to working with the Committee to craft a transportation reauthorization bill that addresses urban freight transportation challenges.

Remarks of William G. M. Goetz, CSX Transportation, Inc.
Panel on 21st Century Freight Transportation
New York, NY
July 26, 2013

Chairman Duncan and members of the committee, thank you for this opportunity to participate in today's proceeding. My name is William G. M. Goetz and I am the Resident Vice President for New York City, New Jersey, and Philadelphia with CSX Transportation. CSX is a common carrier freight railroad providing surface transportation solutions to our customers. Our 21,000-mile railroad network is the largest in the eastern United States.

I'm delighted that you included New York City among your visits. The unique character of this area provides excellent examples of 21st-Century railroading, effective public-private partnerships, and success in times of crisis. These projects also surface issues that suggest consideration in future federal transportation legislation.

This is a region whose population is very large and growing. New York City's population grew four percent in the current century and those new people want the same or better standard of living as the people who are already here.

Much of the region's freight transportation activity funnels into specific locations where infrastructure bridges water. These assets are heavily used, operate at capacity for many hours each day, and in some cases need replacement. This region simply cannot overlook any alternative to more trucks on its highways.

You've heard from other cities about freight rail's ability to shoulder more of the burden that would otherwise be on the nation's interstates. You may have seen or heard that one train can carry as many as 280 trucks or a railroad can carry one ton of freight nearly 450 miles on a single gallon of fuel. Those are impressive statistics but here in New York we can animate them with actual solutions. I'd like to now share two with you.

The first involves a very basic municipal activity: trash disposal. As environmental considerations eliminated older methods of waste disposal, such as dumping waste in the ocean or into one big hole on Staten Island, waste found itself in trucks using those limited crossings I spoke of earlier. Frankly, some of it still does, but much less so in recent years. Today, all of the waste collected by New York City Sanitation on Staten Island is loaded into containers that leave the region by train rather than truck. Rather than consume highway capacity on the heavily-used Goethals Bridge, Staten Island's waste leaves the island on a train using an adjacent railroad bridge that had been unused for many years. Similar solutions are serving the Bronx and portions of Brooklyn.

A second example involves the region's seaport and the challenge of densely-developed regions. A growing trade for the port is the movement of containers to and from the North American interior. The challenge is that the port is separated from interior markets by densely-populated Northern New Jersey. Constrained highway capacity prompted examination of alternatives. Freight rail provided an initial alternative and then improved it further.

Today, vessels calling at NY-NJ marine terminals discharge cargo for numerous destinations in North America that are loaded on railcars within the marine terminal complex, and leave the port on a train. They never see a New Jersey public roadway. In April, 2013, the NY-NJ Port Authority's Expressrail terminals processed 37,631 containers in this port-rail system.

Three years ago the system was improved by confronting another barrier--this time a geological one. A railroad route connecting the port to the national rail network had tunnels through the New Jersey palisades too low to accommodate trains that stack one container on top of another. One tunnel, 4,200 feet long, had been dug through solid rock when Abraham Lincoln was president. It was enlarged as part of a federal public-private partnership.

Using freight rail as a transportation solution has another benefit that was tested in 2011 and again in 2012: resiliency. In the aftermath of Hurricane Sandy, containers destined to the NY-NJ seaport were diverted to other ports and became stranded in those ports: over 7,000 containers in Virginia, with smaller numbers in Baltimore and Philadelphia. Moving them back here became a monumental challenge. Evacuation using special CSX trains brought thousands of containers back for distribution in the local market.

These local successes point to some important public policy points.

First, it's important to preserve existing freight corridors for present and future freight use. But this can become complicated when proposed non-freight uses are popular. One example is inadequately funded passenger rail projects. Freight railroads are not opposed to the expansion of passenger rail, provided that the new passenger services are adequately funded, and do not come at the expense of good freight service, compromise future freight capacity, or impose new risk without adequate economic consideration.

CSX has advanced several initiatives where passenger rail and freight rail both benefit, instead of one at the other's expense. Master planning in Massachusetts, for example, expanded commuter rail service between Worcester and Boston and brought a modern freight terminal to the state. In Florida, new passenger service is planned in the Orlando market while a modern freight terminal will be developed on a different line in Winter Haven.

The second transportation public policy point deals with reducing the time and cost of bringing a project to a state of shovel-readiness. Public transportation investment scrutiny should do two things: (1) stop poor projects from advancing, and (2) promote good projects to completion. These two forces should operate in tandem in an atmosphere of shared urgency. Current processes simply take too long to weed out bad ideas and too long to approve good ones. An approval delayed is an approval denied.

One of the specific challenges railroads encounter in our public-private partnerships is securing approvals from state historic preservation offices. Disconnects can occur when regulators begin to regard railroads as museums. While many railroad assets were well-designed, are noteworthy, and worthy of preservation focus, care must be taken to avoid freezing every railroad asset into a nineteenth century image.

Positive Train Control provides a current example: as railroads begin the process of permitting antennae and cell towers necessary for our PTC communication, certainly we hope that the FCC approval process, which includes consultation with state historic preservation offices amongst other requirements, can be handled expeditiously.

Thank you for this opportunity to participate today. I am happy to answer any of your questions.

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