

**Coalition for Smarter Growth
and Sierra Club – Virginia Chapter**

November 16, 2010

Governor Bob McDonnell
Office of the Governor
Patrick Henry Building, 3rd Floor
1111 East Broad Street
Richmond, Virginia 23219

Dear Governor McDonnell:

We are contacting you about the I-95/I-395 HOT lanes project that has been the subject of many questions over the past three years and delayed by the Virginia Department of Transportation (VDOT) in 2009 due to the lack of credit market support. The ongoing delay offers the opportunity to thoroughly reevaluate the proposal and the alternatives available for the corridor. A fiscally conservative approach to multibillion dollar infrastructure decisions is to ensure full exploration of alternatives, impacts, effectiveness and costs, prior to committing our tax dollars or approving a long-term transfer of public land and tolling authority to publicly less accountable private companies.

Given how scarce our transportation funding resources are in Virginia, the need to fully consider a range of alternatives is more important than ever. Yet, in this project VDOT has failed to consider a full range of alternatives and impacts.

We oppose the use of a Categorical Exclusion and Urge a Full Environmental Impact Statement

The use of a “categorical exclusion,” (CE), is highly unusual and inappropriate for a project of this scope and cost. As a result, VDOT and the Federal Highway Administration (FHWA) have avoided evaluating alternatives and not conducted the in-depth analysis of impacts on communities and the environment required by an Environmental Impact Statement. Moreover, using a CE allows VDOT and FHWA to undermine the National Environmental Policy Act (NEPA) process that is the primary means by which local governments and citizens play a role in government decision-making and ensure that all information is on the table.

The lack of a NEPA process has already resulted in delays due to the failure to evaluate alternatives and impacts. The joint letter from Arlington, Alexandria, and Fairfax, dated September 7, 2010, identifies many of these unstudied impacts and other issues needing evaluation. Just a few of the issues that have been identified by the community and our groups are the inadequate air quality analysis -- in particular for communities in close proximity to the I-95/I-395 corridor, inadequate traffic modeling analysis, the effects on neighborhood streets of

increased numbers of single-occupant vehicles and still undefined access ramps, the 14th Street bottleneck, and the impact on the HOV lanes, slug lines, bus service, and person-throughput.

We also believe that the HOT lane proposal may be making the Mark Center BRAC traffic problem more difficult to solve by undermining carpool potential. The Army's proposed transportation management plan, which many local officials consider inadequate, assumes the HOT lanes as a baseline condition, and therefore has failed to consider other alternatives that would move more people.

Transit and HOV Alternatives Should be Studied because of their People-Moving Capabilities

According to the Northern Virginia Transportation Commission (NVTC), during the morning peak period, the two HOV lanes on I-95/395 outside the Beltway carry about 25 percent more people than the four conventional lanes; inside the Beltway the HOV lanes carry 50 percent more people. Are we prepared to endanger the success we have had in achieving high person-throughput in the corridor?

The joint regional TIGER grant for rapid bus corridors and the possibility of future grants offers a significant opportunity for an environmentally beneficial and effective alternative, and is another good reason for delay and reevaluation. The federal transportation reauthorization will also likely lead to a significant increase in transit and TDM funds to support alternatives that expand bus, VRE and HOV service in the corridor. Analysis of enhanced transit and HOV service should be linked to evaluation of transit-oriented land uses which would maximize mode shares for transit and HOV.

Public Private Transportation Act (PPTA) Deals Have Not Met Promises of 1995 Law – Other Options Should be Explored

The deal the state signed for the Beltway HOT lanes heightens our concerns about the impact on HOV use. Because it is in Transurban's interest to minimize the number of nonpaying customers, VDOT agreed to contract language that will actively discourage ride sharing on the Beltway. If the rate of carpooling actually increases beyond a predetermined level, the state (i.e., taxpayers) must pay monetary penalties to the Australian company. Furthermore, the complex and perhaps contradictory language in the Beltway HOT lane contract appears to leave the door open to taxpayer funded payments to Transurban were the state to construct nearby transportation capacity that could have an impact on toll payments.

The Public Private Transportation Act (PPTA) was promoted as generating significant private investment and the Beltway HOT project was promised to require no commitment of state transportation funds. Instead, we are spending \$409 million in state and federal transportation funds and subsidizing the project through low-interest government TIFIA bonds. No funding was provided for additional transit service.

We are effectively handing ownership of our highways and the toll revenues for periods of 70 to 80 years. Not all corporations remain in existence for such a period or are able to

withstand financial manipulation by third parties or market uncertainty. Assuming Transurban's uninterrupted solvency and financial integrity, the original bonds will likely be paid off within 30 years, giving the private contractors decades of toll revenues. The additional risk is that such a revenue stream, especially when backed by the Commonwealth's imprimatur and taxpayers' dollars can be securitized without the Commonwealth's, or even Transurban's, control. In the end, under any circumstance and in a manner that bodes ill for what has occurred in the Beltway HOT lanes project, it is clear that the public-private deal severely constrains VDOT's obligations under NEPA to consider alternatives. In addition, had the state maintained control, those revenues would have been available in future decades for critical northern Virginia transportation projects.

Given the much more restrictive credit markets, it is unlikely that the 95-395 PPTA contract will work out any better for the state taxpayers. We foresee any new deal reducing the limited transit funding proposed in the original 95-395 proposal, and requiring a significant commitment of state funds to the exclusion of other transportation priorities.

Summary

We urge you to reevaluate the 95-395 HOT Lane PPTA proposal and to initiate a full NEPA process and complete Environmental Impact Statement. This will allow thorough evaluation of a range of alternatives and impacts, resulting in more effective solutions for moving people, reducing community and environmental impacts, and potentially achieving a better long-term financial result.

Sincerely,



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(phone # in lieu of signature is 571-334-0835)

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cc: Secretary Sean Connaughton