Written Statement of Nathan M. Asplund

Before the House Committee on Transportation and Infrastructure

for a Hearing on "Confronting Freight Challenges in Southern

California"

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Written Statement

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Hearing before the House Committee on Transportation and Infrastructure, Subcommittees on Highways and Transit and Railroads, Pipelines, and Hazardous Materials

on Confronting Freight Challenges in Southern California
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Good morning Chairman DeFazio, Chairperson Brown, Ranking Member Duncan, Ranking Member Shuster, and Members of the Subcommittees. Thank you for the opportunity to appear today to discuss BNSF's perspective on freight challenges in Southern California.

My name is Nate Asplund, and I head up BNSF's Public Private Partnership ("PPP") group. My team works with the public sector to develop and fund projects that fix rail chokepoints and produce other public benefits, such as congestion and air quality improvements, energy savings, and economic development. Freight rail PPP's are a small but growing tool to confront freight mobility challenges. They are collaborative partnerships with the public sector – to date, mostly state and local governments – to advance projects that produce substantial public benefits but from which railroads would not benefit enough operationally to make the investment on their own.

California is taking meaningful steps to develop freight PPP's. There is a realization here that achieving freight mobility benefits, and contending with their extended costs, should no longer be left to shippers, ports, carriers, and local transportation agencies to solve. BNSF believes a larger federal partnership and role in facilitating the flow of national and international commerce is what's needed here in California and elsewhere in the country.

Southern California is the perfect place to observe the local and national importance and costs of freight transportation – and the unintended consequences of the lack of a national freight policy. In its absence, Californians have resorted to substantial self-help efforts – from taxing freight to floating bonds – which I will detail further in my testimony. Moreover, the freight rail industry has stepped up to unprecedented investment levels to support freight moving to and from the state. But without a national policy that partners financially with this region to improve trade flows, commerce ultimately will be dislocated and diverted.

Commercial traffic, like water, seeks the path of least resistance in its flow. One key reason we hear from customers about why they are and will continue to divert away from San Pedro Bay ports is the climate of uncertainty as to how many new fees, costly regulations, etc. they may face in the near future. Whether goods moving to and from the interior of the United States avoid Southern California by going through Mexico, Canada, or the Panama Canal is an important national issue.

This trade should benefit coming through California for a whole host of reasons, such as the half-million direct jobs in Southern California associated with international trade, the enormous existing public and private infrastructure investment and existing over-land trade routes, security, and maintaining a cost effective link to international markets for Southern California consumers and manufacturers. As federal officials, your questions today should be: "How can federal policy facilitate the continued, sustainable growth of the Southern California gateway?" and "How can federal policy advance projects that reduce the local impact of international growth on the region?"

Southern California's mobility situation is well known to the participants in today's hearing. The region leads the country in terms of the economic cost of congestion – more than $9 billion dollars annually - as well as a host of other metrics including excess fuel consumed, travel delays, and delay costs per traveler (Source: Texas Transportation Institute - 2007 Urban Mobility Report). Compounding these challenges, the nation relies heavily on the Southern California gateway within our national and international supply chain. Together, Los Angeles and Long Beach handle approximately 40% of the international container traffic moving into the United States.

Monthly import volume through the Ports of Los Angeles/Long Beach peaked at over 750,000 TEU's in August 2006. For the first quarter of 2009, volumes are expected to average slightly less than 500,000 TEU's per month, a drop of 33% from peak and 12% compared to the same period in 2008. (Source - IHS-Global Insights).

The drop in freight volumes has had a major impact to Southern California's local economy and employment base, particularly for a region that has already lost almost 30% of its manufacturing base since 1990 and with a December 2008 unemployment rate ranging from 9.5% to 10%.

These are difficult times for the region and the country. However, once retail sales rebound we expect a return to the long-term growth of Asia-US trade and West Coast port volumes. The need to manage Southern California's freight challenge is undiminished.

I'd like to briefly outline the scope of investment, highlight a public-BNSF partnership that's taking place in California, and identify what remains to be done in the region.

Within the Southern California region, the $2.4 billion, 22-mile Alameda Corridor is often recognized as a key project to improve efficiency, reduce local impact, and accommodate the nation's increased level of global trade. User fees paid by the railroads are used to generate revenue to pay off bond and federal loan debt used to fund the majority of the construction expense.

Between 2003 and 2007, BNSF added 179 miles of new second main track on our Transcon Corridor running from the Los Angeles Basin to Chicago utilizing our own private capital, and in 2008, we opened the $80 million BNSF Cajon Pass project for 16-miles of third track that increased the capacity in this former chokepoint by 50%.

Examples of future expansion and improvement projects include the BNSF Southern California International Gateway (SCIG). This multi-hundred-million-dollar near dock cargo facility would lead the industry in its use of the latest, proven state-of-the-art environmentally-sensitive technology available while increasing the use of the Alameda Corridor, eliminating millions of truck miles annually from the 710 and other local freeways, reducing congestion and improving traffic safety. If constructed, it is estimated the facility would create up to 22,400 new jobs in Southern California, including 14,600 new jobs in Los Angeles. The project would also improve air quality in the region through the use of environmentally-friendly technology, decreased emissions from fewer trucks and more efficient cleaner-burning locomotives.

The State of California has made a major commitment to address freight challenges as well. In 2008, BNSF in conjunction with our public partners executed agreements for freight PPP's totaling $170 million, and here in California, BNSF and Caltrans signed a MOU to invest up to $54 million each on the Tehachapi's Trade Corridor (TTC), a proposed freight rail project that would eliminate a critical chokepoint that connects Northern California and the Central Valley to Southern California and the national rail network. This represents part of freight projects envisioned by CA Proposition 1B, a $19.9 billion General Obligation transportation bond championed by Governor Arnold Schwarzenegger and approved by voters in 2006.

Proposition 1B features $2 billion for the Trade Corridor Improvement Fund (TCIF) for projects to improve goods movement reduce congestion and improve air quality under both a 100% public funding as well as a public-private partnership basis. Proposition 1B also provides $1 billion in new funding to improve air quality in California which will directly benefit the communities in and around the Ports of Long Beach and Los Angeles. In should be noted, however, that these commitments may be difficult to sustain in today's challenging fiscal and credit market environment.

The Ports of Los Angeles and Long Beach are also making significant infrastructure investments focusing on expansion, congestion, and environmental issues, which other members of the panel can discuss in more detail.

As this Committee is well-aware, funding freight infrastructure projects like those contemplated in the LA Basin is the most significant challenge faced by policy makers. To address the freight mobility issues on and near the ports of LA and Long Beach, these entities have decided to assess local freight fees. BNSF has several concerns with the proliferation of local fees. For shippers wishing to route cargo through the San Pedro Bay ports, they face potential port levied user fees including a $35/TEU clean-truck fee going into effect this week; a $50-per-TEU PierPass fee if a container is trucked to or from port terminals during weekday shifts. Shippers also face another fee of $20/TEU for containers that transit the Alameda Corridor. The Ports have also invoked a $15/TEU infrastructure fee for which the effective date has been delayed until July 2009. Add these all up and shippers pay user fees of up to $120/TEU or $240/FEU - charges not in place at other competitive West Coast ports - either those in the US or in Canada.

There is evidence that the growth in both the number and cost of these charges - as well as significant uncertainty about what future charges may be levied - is making shippers and carriers reconsider routing discretionary cargo through the San Pedro Bay ports. A U.C. Berkeley study conducted in 2005 showed that container fees above $100/TEU could spark mass cargo diversions from Long Beach and Los Angeles to other ports, even with infrastructure improvements that remedy congestion.

As reference, since 2006, over $15 billion (Canadian) in federal, provincial, and private sector funding has been allocated to Canada's Pacific Gateway. The Asia Pacific Gateway Corridor Initiative has a goal to increase West Coast Canadian Port volumes from 2 million TEU's in 2005 to 9 million in 2020.

There has been discussion of how to fund a national freight program. First, freight improvements should receive funding from a variety of sources, given the benefits they convey, including reduced highway wear and tear, greenhouse gas emissions and fuel use. These sources include General Funds, a portion of the existing Customs revenues, and potentially any carbon-related revenues that may result if Congress regulates green house gases. In addition, freight projects should receive funding from other programs – environmental, passenger rail, transit, metropolitan mobility – if they meet the goals of those programs.

BNSF believes that, because international trade is the key driver for these increasing volumes, Customs duties are a particularly appropriate stream of revenue for funding freight projects. Customs duties have the added benefit of not displacing freight between ports of entry, and collection and administration is already established. Dedicating 5% of current Customs duties for investment in freight projects would generate about $1.8 billion annually and $20 billion cumulatively through 2017. Dedicating 10% of current Customs revenues would yield $3.6 billion annually and $49 billion cumulatively through 2017.

Second, were Congress to consider a national freight fee, it is important that commerce not be burdened, especially in this economic environment. At the same time, Congress should ensure that local and state proliferation of such fees – however well-intentioned - is, in general, preempted. In addition, no mode of transportation or port of entry should be unduly advantaged or disadvantaged.

Any fee must be designed to ensure that the ultimate consumer bears the cost and sees the benefit. This means that any freight fee is paid by the beneficial cargo owner, not transportation intermediaries such as steamship, trucking, or rail companies. An issue with fees assessed against carriers is their inability to pass these fees on in a competitive marketplace, which will result in reducing their ability to re-invest. Furthermore, the administrative burden to bill and collect a federal freight fee should not be put on the private sector.

The payors of any such a fee must realize over time the benefit of improved freight flows resulting from projects funded by the freight program. This is a fundamental user fee principle. It is essential to recognize that any freight fee is the shipper's money - private funding – which should be invested in ways that result in increased freight velocity, capacity and additional reliability, all of which can benefit public and private stakeholders

We expect that freight stakeholders and Congress will have a strong debate about specifics of a freight fee and whether a "freight trust fund" should be created to administer it. The rail industry has long been opposed to that concept because there is little "trust" that the funds would flow to projects that meet the goals of an integrated goods-movement strategy – versus the political earmarking process. Congress would have to create an accountable and transparent programmatic linkage between an assessed freight fee and the selection and funding of projects that facilitate growing trade-driven freight volumes.

Conditions placed by Congress around the use of the freight fee will be critical to whether freight stakeholders are able to come to agreement on such a proposal. In the absence of some kind of strong program governance for funding freight projects, BNSF could not support any freight fee.

From our perspective, a federal partnership would do a great deal to help accommodate growth and reduce the impact of freight on the region. For example, improvements include (a) on-dock rail projects; (b) near dock intermodal yard capacity enhancements; (c) mainline capacity improvements; (d) rail grade separations to improve vehicle traffic flows; and (e) line capacity and Positive Train Control (PTC) improvements necessary to support commuter rail operations on shared lines without harming the ability to handle existing and future domestic and international freight traffic growth. We have worked closely with the numerous state and local stakeholders - many represented on your panels today - to demonstrate how the improvements that have already been made benefit the public and meet performance and cost-benefit goals. This is the essence of what federal policy makers should be seeking to do in reauthorization legislation. Much of the groundwork has already been laid right here in Southern California, and Congress can learn a lot from these efforts.

Anticipating your question about what should Congress do in the next surface transportation reauthorization bill, I would direct your attention to the National Surface Transportation Policy and Revenue Study Commission, on which BNSF CEO Matt Rose served. That report outlines the broad parameters of a federal approach to freight transportation policy that will meet the needs of the United States for the twenty-first century. Much of my foregoing statement is premised on the principles embodied in that report. I would also direct you to the GAO's January 2008 report ("National Policy and Strategies Can Help Improve Freight Mobility"). In that report the GAO, like the Policy and Revenue Commission, also concluded that Congress should better define the federal role and national interest in freight transportation, including economically-based and objective criteria to identify areas of national significance for freight transportation and to determine whether federal funds are required in those areas. The GAO pointed out that, absent a national strategy and nationally established criteria by which to choose critical freight projects, public officials at the state and local levels generally will invest federal funding on projects that most benefit their constituencies, not the national interest. Thus, Congress should first determine what is the national interest in freight mobility in crafting a federal role. I would suggest it should include reducing chokepoints so the economy's freight flows are unimpeded, but it is also creating more environmentally sustainable transportation options, and it includes placing a national priority on local freight projects that have national consequences.

In constructing an effective program, GAO has found that criteria-based competition may provide the best opportunity to target federal investment toward achieving a more clearly defined federal role and the objectives of improved freight mobility. The stimulus bill recently passed by the Congress took a step in that general direction by creating a $1.5 billion discretionary fund for which projects of national and regional significance can compete for funding, including freight projects with a rail component, which goes beyond the eligibility Congress established in Projects of National and Regional Significance in SAFETEA-LU. While the concept is promising, we understand the programmatic rules for implementation have yet to be written. Hopefully, the implementation of that program can and will have positive implications for what Congress does in the upcoming reauthorization bill.

In addition, as GAO points out in its recently released report ("Surface Transportation: Clear Federal Role and Criteria Based Selection Process Could Improve Three National and Regional Infrastructure Programs" - GAO 09-219), Canada offers an excellent programmatic model to consider. Canada constructed a program to invest in critical freight transportation projects to facilitate the movement of freight from Asia to Canadian and U.S. markets. Transport Canada has developed program criteria based on freight transportation data and program objectives, such as enhancing efficiency and improving and mitigating environmental impacts of freight transportation. GAO reports that Transport Canada's specific, performance-based criteria enabled it to take a disciplined approach to selecting projects and working with state, local and private stakeholders. Canada has funded 20 projects with a federal share between 33% and 50%, leveraging an $860 million federal investment and a non-federal investment of $2.3 billion. In sum, federal policy marshaled and directed a great deal of investment by all stakeholders, and Canada is creating a highly competitive alternative to the U.S. West Coast ports.

Thank you for your time and consideration and I look forward to addressing any of the subcommittees' questions.

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