



AFFILIATED AGENCIES

*Orange County
Transit District*

*Local Transportation
Authority*

*Service Authority for
Freeway Emergencies*

*Consolidated Transportation
Service Agency*

*Congestion Management
Agency*

*Service Authority for
Abandoned Motorcycles*

September 6, 2005

Honorable Fredrick P. Horn
Presiding Judge of the Superior Court
Orange County Grand Jury
700 Civic Center Drive
Santa Ana, CA 92701

Subject: Orange County Grand Jury Report: 91 Express Lanes Funding

Dear Judge Horn:

On behalf of the Orange County Transportation Authority's (OCTA) Board of Directors, thank you for your recent report reviewing the funding and purchase of the 91 Express Lanes.

We fully appreciate the Grand Jury's oversight role in assuring that public organizations, such as the OCTA, are run efficiently and in a manner deserving of the public's trust. At OCTA, our values of integrity, teamwork, partnership, communication, customer focus and can-do spirit assure our best effort is made to deliver beyond expectations and be the best public agency we can be.

In the case of the 91 Express Lanes, these values, we believe, led to a prudent decision to acquire the 10-mile toll facility along the Riverside Freeway (SR-91) that is now benefiting the public more than ever before. During our first full year of operation high-occupancy vehicle (HOV3+) trips have increased 43.3 percent from 1.5 to 2.2 million, traffic volume increased 12.1 percent, and peak morning and evening toll lane usage also increased. In addition to these improvements since acquisition of the 91 Express Lanes, OCTA has lifted the non-compete clause that existed under the previous private owner, allowing for toll revenues in excess of those necessary to service the debt to be used on projects that improve the flow of traffic for all users of this busy corridor. In this letter, you will find our responses to all findings and recommendations in the report.

Findings

- 6.1 Primary goal accomplished: Purchase of the 91 Express Lanes has accomplished their primary goal of being able to make improvements to the 91 Freeway.**

OCTA agrees with this finding. In addition to the improvements for 91 Express Lanes customers, perhaps one of the best public benefits the 91 Express Lanes acquisition secured is that toll revenue can be poured back into improvements along the Riverside Freeway (SR-91) where previously such projects were banned by a non-compete clause. Such projects benefit all motorists who use the freeway on a daily basis.

Projects since OCTA took over the Express Lanes include:

- Added a westbound lane addition between the county line and State Route 241 (SR-241). This project eliminated the lane drop at the 91 Express Lanes and extended the existing lane from SR-241 to the county line in the westbound direction. This improvement minimizes the traffic slow-down at the lane drop area resulting in improved vehicle flow.
- Completed westbound restriping to extend one lane between State Route 71 (SR-71) and the county line, resulting in a new continuous lane between SR-71 and SR-241.
- In Process: The Riverside County-Orange County major investment study (MIS) to develop the long-term program to improve mobility between Riverside and Orange counties.

Completed projects have already provided enhanced freeway capacity and improved mobility in one of the most congested segments of the freeway. Some motorists have reported time savings of up to 20 minutes.

In addition to the physical improvements taking place in the corridor, several Project Study Reports (PSR's) have been completed that provide an opportunity for the project development process (environmental, then design, then construction) to continue in order to improve mobility. Completed PSR's include:

- new eastbound auxiliary lane at truck scales
- new eastbound auxiliary lane from SR-241 to SR-71
- SR-91 safety improvement project between Imperial Highway and Yorba Linda Boulevard/Weir Canyon Road
- new general purpose lane on SR-91 from State Route 55 (SR-55) to SR-241 connector
- westbound auxiliary lane from northbound SR-55/westbound SR-91 connector to Tustin Avenue interchange.

These projects are scheduled to move into the environmental phase in the short term.

6.2 Revenue and expense projections: OCTA used optimistic revenue and expense projections to calculate the purchase price and assumed a large debt to do so. Even so, their experience to date has been in line with, or exceeded, projections.

OCTA disagrees partially with this finding. OCTA went to great lengths to determine a conservative revenue and expense forecast for the 91 Express Lanes. Several independent experts representing a variety of fields were hired to verify assumptions used for the acquisition. In addition to these experts, OCTA consulted with various toll road advisors on the merits of the forecasts created and the acquisition value determined. The principal debt assumed for the acquisition was equal to OCTA's value of the road at the time of acquisition. OCTA assumed the previous private owners' (California Private Transportation Company) (CPTC) outstanding taxable bonds in the amount of \$135 million and borrowed the remaining \$66.5 million of the purchase price from internal funds.

OCTA relied upon a number of forecasts to determine the appropriate toll revenue stream for the valuation of the 91 Express Lanes. OCTA reviewed a Wilbur Smith & Associates (WSA) forecast prepared for CPTC, an internal forecast prepared by OCTA's modeling department, and a forecast prepared by Ernst & Young. The ultimate forecast utilized by OCTA was a revised version of the WSA forecast. It was revised downward by approximately five percent per year. The WSA forecast did not take into account any impacts of improvement projects along the SR-91 corridor since these projects were prohibited by the existing Franchise Agreement between the State and CPTC (a high discount rate was used by OCTA to discount the income stream which compensated for these improvement projects). At the time of the purchase, actual revenues were exceeding the WSA forecast.

OCTA also created an operating and capital expense forecast for the 91 Express Lanes by reviewing the existing CPTC forecast and modifying a few estimations. Those forecasts of expenses were being utilized by CPTC for their internal records and were used to sell CPTC's taxable bonds to the financial markets.

Subsequent to the purchase of the 91 Express Lanes, OCTA hired Vollmer Associates to generate another forecast that incorporated OCTA's toll policy

and an aggressive implementation schedule of numerous improvement projects along the SR-91 corridor. These improvement projects are contingent upon state and local funding and are located in both Orange and Riverside counties. The completion of these projects will impact the receipt of toll revenues; therefore, the most optimistic completion dates were assumed in the Vollmer report. The optimistic completion dates translate into a conservative forecast.

The Vollmer forecast was completed in October 2003. Since then, Vollmer's forecast has been exceeded by actual toll revenue values for the past two years. For fiscal year (FY) 2004, Vollmer projected toll revenues to equal \$26.4 million and actual toll revenues were recorded at \$27.0 million. For FY 2005, Vollmer projected toll revenues in the amount of \$29.1 million. It is estimated the actual value will exceed \$32 million.

6.3 The 91 toll road has repeated violators who use the toll road without paying.

OCTA agrees with the finding. When OCTA took over the 91 Express Lanes, there was a backlog of outstanding citations for toll violation which the private owner of the toll road had failed to pursue.

OCTA has been aggressive in pursuing toll violators in the last two years. Since OCTA acquired the 91 Express Lanes, we have collected over \$400,000 in unpaid tolls and more than \$1.5 million in fines from over 40,000 violators. Currently the number of violators is between 1 percent and 2 percent of toll road users.

Recommendations

7.1 Continue to implement proposed improvements to the SR-91 Freeway, including working with Riverside County to eliminate bottlenecks

OCTA agrees with this recommendation. An implementation plan for SR-91 improvements jointly adopted with Riverside County Transportation Commission is divided into short-, mid- and long-term programs. Short- (0-5 years) and mid- (6-10 years) term projects are capable of being implemented relatively quickly through the project development process with minimal to moderate environmental constraints. These projects can be ready for design and construction in a shorter period of time. Long-term (10+ years) projects require more significant planning and environmental assessment prior

to design or may not be easily constructed. The plan introduces each distinct program phase and tabulates the projects capable of being implemented during each phase. These programs include the following:

- The short-term (0-5 years) program includes six projects at a total cost of \$121 million. These projects are in the process of design and construction or very close to that stage. The plan includes three freeway improvement projects, two transit-related projects and the MIS that will identify preferred long-term improvement strategies for the corridor.
- The mid-term (6-10 years) program includes eight projects at a cost in the range of \$551 million. All of these projects are capacity enhancements to the freeway that will require additional planning, environmental clearance along with right-of-way acquisition, and additional project development.
- The long-term program includes eleven potential projects that could cost over \$8 billion. In many cases, these projects are alternatives to each other, and not all 11 projects will be implemented. Specific alternatives will be refined through the MIS, which will conclude at the end of 2005.

7.2 Revenue surplus: If a surplus occurs, OCTA should consider accelerating the bond payoff, allowing the toll road to revert to free lanes as soon as possible. Surplus revenues could also be used for other transportation improvements in the 91 corridor.

This recommendation is accepted and will be taken under advisement. As recognized by the Grand Jury, OCTA faces the on-going choice of using toll road revenues to retire debt obligations early or using those funds for transportation improvement projects along the SR-91 corridor. The debt obligations for the 91 Express Lanes mature on December 15, 2030. The OCTA Board of Directors may choose, at any time prior to the final maturity date, to retire the debt obligations early. Once all debt obligations have been repaid, the 91 Express Lanes will be returned to the State of California. The choice between early debt retirement and improvement projects will be made over time by the Board of Directors. Revenue is being use to pay for improvements. We're working with Riverside County.

7.3 Payment Violators: Continue using aggressive efforts to collect unpaid tolls.

OCTA agrees with this recommendation. Today, there is a total of \$624,823 in uncollected tolls; this figure represents much less than 1 percent of the total number of users of the Express Lanes and the amount collected in tolls.

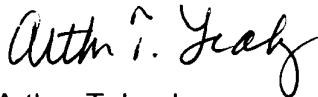
The fines levied under state law on toll violators (not the unpaid tolls) total in excess of \$18 million. OCTA is pursuing aggressive measures to collect the unpaid tolls and fines, including:

- five to seven notices per violation
- skip tracing to locate the current address of a violator
- bank levies
- wage garnishments
- liens on residential property.

OCTA will continue to use these measures to collect unpaid tolls from violators.

Again, on behalf of the OCTA Board of Directors, I want to thank the Orange County Grand Jury for their report on the 91 Express Lanes. We viewed the report as an endorsement of the decision to purchase the facility which, in a short period of time, has provided broader public benefit to motorists who use the SR-91 corridor. Should you have any questions or require any additional follow up, please do not hesitate to call me at (714) 560 – 5584.

Sincerely,



Arthur T. Leahy
Chief Executive Officer

ATL:dgs