UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

AQUIFER GUARDIANS IN URBAN AREAS, and PEOPLE FOR EFFICIENT TRANSPORTATION, INC.	)	
Plaintiffs,	)	
v.	)	**No. Civ. SA-05-CA-1170-XR**
US FEDERAL HIGHWAY ADMINISTRATION, and MICHAEL W. BEHRENS, Executive Director, Texas Department of Transportation,	)	
Defendants.	)	

DECLARATION OF WILLIAM G. BARKER, MA, AICP

I, William G. Barker, hereby declare:

1. This affidavit is my professional opinion of the highly likely and significant environmental impacts of the widening of highway US 281 in northern Bexar County, Texas; the feasibility and superiority of unexamined alternatives; the inadequacy of the Environmental Assessment, and subsequent updates[1], for the project; and the public interest served by any delay in the project to consider feasible alternatives. This documentation was submitted by the Texas Department of Transportation (TxDOT) to meet the requirements of the National Environmental Policy Act (NEPA). The proposed project, US 281 from Loop 1604 to Stone Oak Parkway, is identified as just one element of a 50-mile "Proposed Toll Network System" and appears to be the first section to be

[1] Texas Department of Transportation, *Environmental Assessment Re-Evaluation for US 281 from Loop 1604 to Marshall Road, San Antonio, Bexar County, Texas, CSJs: 0253-04-089 & 0253-04-114*, prepared for Federal Highway Administration, December 2004

constructed of a proposed $1 billion "The 'Starter' System" of the Alamo Regional Mobility Authority (RMA).[2]

Professional Qualifications

2. I am a transportation planner, researcher and analyst with over 35 years of experience in the field. I have a Master's degree in Urban Affairs from the University of Texas at Arlington and a Bachelor's degree in Physics from the University of Florida. My public sector professional career has included employment as a General Engineer with the U.S. Department of Transportation, the Director of Transportation for the regional planning agency in the Dallas-Fort Worth area[3], and the Director of Planning for VIA Metropolitan Transit in San Antonio. For approximately one-half of my professional career, I have been in the private sector providing transportation consulting services to the U.S. Department of Transportation, the U.S. Department of Energy, the Agency for International Development, and a variety of public and private clients with assignments in several states, Canada and Mexico. I have a specialty in the evaluation of the social, economic, energy and environmental impacts of transportation systems and have been involved with the assessment, development, refinement and application of transportation planning approaches to meet the needs of local decision makers and NEPA. Beginning in the 1970s, I was one of a select few nationwide invited to participate in a series of workshops sponsored by the U.S. Department of Transportation to refine the methods of assessing major

[2] Alamo Regional Mobility Authority website, http://www.alamorma.org/maps.cfm, accessed December 6, 2005

[3] North Central Texas Council of Governments, the Metropolitan Planning Organization (MPO) for the Dallas-Fort Worth region

capital investments in surface transportation. I have been responsible for the production and critique of Environmental Assessments and Environmental Impact Statements for both transit and highway projects. I have chaired the Transportation Programming, Planning, and Systems Evaluation Committee of the Transportation Research Board (TRB), a division of the National Research Council, which serves as an independent adviser to the federal government and others on scientific and technical questions of national importance. I was also appointed as the chairman of the TRB Project H-19, Guidebook to Estimate and Present Benefits and Disbenefits of Public Transit. I am nationally certified as an urban planner (American Institute of Certified Planners) and have been recognized by my peers as a Fellow in the Institute of Transportation Engineers. Attached as Exhibit A is a true and correct copy of my resume.

Professional Opinion

3. In my professional opinion, the Texas Department of Transportation (TxDOT) and the Federal Highway Administration have failed to follow the process required by the National Environmental Policy Act (NEPA). I have reached this conclusion after reading the original and updated Environmental Assessments prepared for elements of the proposed system of toll roads, reviewing materials produced by the Alamo Regional Mobility Authority (RMA)[4], and attending public meetings of TxDOT and board meetings of the RMA and San Antonio-

[4] In particular, AlamoRMA – MPO – TxDOT Joint Working Committee, Options and Choices for Mobility: Loop 1604 and US 281 and More Bexar County, June 28, 2005

Bexar County Metropolitan Planning Organization. Specific exceptions are identified below.

4. TxDOT has inexplicably refused to file a full Environmental Impact Statement in support of a proposed, very controversial, $1 billion, 50-mile system of toll roads in one of the most environmentally sensitive areas of the State of Texas.[5] TxDOT and other public agencies regularly prepare Environmental Impact Statements for less significant and controversial projects in other parts of the State, and TxDOT's failure to do so in this case is inexcusable.

5. TxDOT has masked the size, significance and impacts of its plan by submitting Environmental Assessments on short project elements of the 50-mile toll road system. This piecemeal approach does not allow the general public or reviewing agencies to properly assess the impact of the total project. Further, it fails to allow an adequate technical analysis of the planned system in its entirety.

6. TxDOT neglected to properly define and evaluate a reasonable range of alternatives to the proposed project. While there is no question that the signalized intersections currently on US 281 in the area of interest are failing due to a lack of capacity, TxDOT offers only one, overly expensive and controversial solution which will provide relief only in the short term.

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[5] Part of the Edwards Plateau, the Hill Country is a collection of special ecosystems. There 60 animal and plant species unique to the area including several endangered species. According to the Nature Conservancy, the Edwards Plateau is "unique at the global scale." (The Nature Conservancy. 2004. *A Biodiversity and Conservation Assessment of the Edwards Plateau Ecoregion*., Edwards Plateau Ecoregional Planning Team, The Nature Conservancy, San Antonio, TX, USA.) The Nature Conservancy has the mission is to preserve the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive. This is accomplished by a strategic, science-based planning process, called Conservation by Design, which helps us identify the highest-priority places—landscapes and seascapes that, if conserved, promise to ensure biodiversity over the long term.

7. TxDOT has failed to propose a solution which addresses the management of traffic demand for US 281 in the corridor from Loop 1604 to the City of Blanco, including the poor, local circulation of traffic in the corridor and, thus, the proposed project will surely prove to be inadequate in five to ten years after project completion.

8. TxDOT did not adequately and/or correctly assess important impacts of the proposed project. No mention is made of the human health impacts on adjacent residents, the economic impacts of increasing the cost of travel through tolls, the additional traffic and congestion caused by the project, or the impact on the quality of the water in the Edwards Aquifer.

9. TxDOT totally ignores the proposed project's impact on development patterns over the Edwards Aquifer recharge and contributing zones and the destructive sprawl that would be stimulated by a 16-lane roadway at this gateway to the Texas Hill Country. TxDOT has assumed that the land development and traffic patterns would be the same with and without the proposed project.

10. TxDOT fails to address the significant cumulative impacts of the system of toll roads over the Edwards Aquifer recharge and contributing zones as required by NEPA.

11. TxDOT held public meetings only to present and defend its proposed project design and summarily dismissed any suggestions, concerns and/or questions raised by the general public at these meetings.

12. As a result of these errors and omissions, the proposed project is clearly overly massive and costly while providing a powerful, long-term catalyst for accelerated

urban development over the aquifer recharge and contributing zones while reducing the natural habitat for important plant and animal species. A project of this size has predictable negative impacts on the health of nearby residences and, hence, residential property values. In short, in my opinion, this project will cause permanent and negative impacts on the health, economy, environment and quality of life of persons in both the highway corridor and the metropolitan region.

Discussion

The Significance of Highway Impacts

13. It is widely accepted that there is no other government activity that has a greater impact on cities in the U.S. than the building of highways.[6] One of the biggest impacts has been the shaping of urban development.[7] In recognition of this interaction between land use and transportation, accepted transportation planning practice includes forecasting the development patterns resulting from changes in the transportation system. The Federal Highway Administration provides a "tool box" of methods for this purpose.[8] None of these were used by TxDOT to determine the impacts of this proposed project. Failure to take this interaction into consideration can result in exacerbating sprawl, reducing the economic efficiency of the region, and actually inducing even more traffic onto the road

[6] Robert Fishman, "The American Metropolis at Century's End: Past and Future Influences," *Housing Policy Debate*, Fannie Mae Foundation, Volume 11, Issue 1, 2000 pp. 199-213
[7] Surface Transportation Cooperative Research Program Advisory Board, *Surface Transportation Environmental Research: A Long-Term Strategy*, Special Report 268, Transportation Research Board of the National Academies, Washington, D.C., 2002 , pp. 17-18
[8] http://www.fhwa.dot.gov/planning/toolbox/land_develop_forecasting.htm, accessed December 16, 2005

network.[9,10,11,12] This additional induced vehicular traffic can cause congestion in areas distant from the location of new road capacity.[13,14]

Economic Impacts

14. The 2004 Environmental Assessment for this project erroneously claims that the project will result in "reduced vehicle operating costs for highway users."[15] This wording is apparently left over from earlier Environmental Assessments prepared when the proposed project was not to be tolled. The currently projected toll for this project is $0.15 per vehicle mile with a $0.50 toll for using a direct connection at interchanges, so vehicle operating costs for those using the toll lanes will increase by this amount. There is no discussion of the negative economic impacts to households and businesses in this existing highway corridor that will experience an increase in transportation costs or the overall negative economic impacts of increasing the cost of transportation in San Antonio.[16,17]

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[9] Robert W. Burchell, Anthony Downs, Barbara McCann and Sahan Mukherji, *Sprawl Costs: Economic Impacts of Unchecked Development*, Island Press, Washington, DC, 2005

[10] Andres Duany, Elizabeth Plater-Zyberk, and Jeff Speck. *Suburban Nation: The Rise of Sprawl and the Decline of the American Dream*, North Point Press, 2000, 88-94.

[11] R. B. Noland, Relationships between highway capacity and induced vehicle travel, *Transportation Research Part A*, Vol. 35, 2001, pp. 47-72.

[12] Ronald W. Holder and Vergil G. Stover, *An Evaluation of Induced Traffic on New Highway Facilities*, sponsored by the Texas Highway Department in Cooperation with the U. S. Department of Transportation, Federal Highway Administration, Research Report 167-5, Texas Transportation Institute, College Station, Texas, March, 1972

[13] Robert Cervero, "Induced Travel Demand: Research Design, Empirical Evidence, and Normative Policies," *Journal of Planning Literature*, August 2002, vol. 17, no. 1, pp. 3-20

[14] Eno Transportation Foundation, *Working Together to Address Induced Demand: Proceedings of a Forum*, Washington, D.C. , 2002

[15] Texas Department of Transportation, op cit., 14

[16] A study in Hampton Roads, Virginia found that discounting existing tolls on roads there would increase economic development. Albert Racciatti and Paul Berge, "Evaluating the Indirect Land Use and Environmental Effects of a Toll Discount Proposal" TRB Paper Number: 03-4392, January 2003

[17] An independent online toll road newsletter noted that the "…Texas DOT… has no coherent explanation for its project selection, or for the way tax and toll monies are mixed. It has been cavalier in proposing tolls on highways already funded - breaching a long-established piece of political wisdom about tolling. TxDOT produces precious little analysis of costs and benefits, yet it is pressing ahead with a huge array of toll

The report makes claims of increased employment in the region from expenditures on road construction, but this is an extremely inefficient way of generating jobs.[18] There is research that shows that, at the metropolitan level when taxes and alternative expenditures are considered, highway spending may result in a net decrease in jobs.[19] Studies by the Congressional Budget Office[20] and others[21,22,23,24,25] have shown that there is no convincing evidence that highway investment at this point in our history will achieve a better economic return than other investments. Should this project be pursued, it appears that the efficiency and productivity of the San Antonio economy will likely be reduced leading to a net reduction in jobs and personal income.

Alternatives

15. The lack of the analysis of alternatives to the proposed project makes it impossible to perform a meaningful evaluation of the proposal.[26] There is not even an estimate of the traffic volume on the proposed project as compared to the

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projects." Peter Samuel, "Citizens Against Checkouts," *TOLLROADSnews*, June 2, 2005 http://www.tollroadsnews.com/cgi-bin/a.cgi/9AB67tPtEdmcEIJ61nsxIA, accessed December 17, 2005

[18] Ronald D. Utt, Ph.D., "Highways and Jobs: The Uneven Record of Federal Spending and Job Creation," The Heritage Foundation, April 15, 2004

[19] Douglas Dalenberg and Mark D. Partridge, "The Effects of Taxes, Expenditures and Public Infrastructure on Metropolitan Area Employment," *Journal of Regional Science*, November 1995.

[20] Congressional Budget Office, The Economic Effects of Federal Spending on Infrastructure and Other Investments, June 1998

[21] Chad Shirley a and Clifford Winston, "Firm inventory behavior and the returns from highway infrastructure investments," *Journal of Urban Economics*, 55 (2004) 398–415

[22] M. Ishaq Nadiri and Theofanis P. Mamuneas, *Contribution of Highway Capital to Industry and National Productivity Growth*, prepared for the Federal Highway Administration, September 1996

[23] Amy Ellen Schwartz and Ingrid Gould Ellen, *Cautionary Notes for Competitive Cities*, Brookings Institute, May 2000

[24] Jon R. Miller, M. Henry Robison, and Michael L. Lahr, *Estimating Important Transportation-Related Regional Economic Relationships in Bexar County, Texas*, Economic Modeling Specialists, Inc. for VIA Metropolitan Transit, San Antonio, Texas, October 1999

[25] Ken Coughlin, "New Highways and The Economy: No Benefit," *Transportation Alternatives Magazine*, Vol. 5, No. 3, May/June 1999, p. 2.

[26] Mary. C Hill, Asha Weinstein, Brian D. Taylor and Martin Wachs, "Assessing the Need for Highways," *Transportation Quarterly*, Eno Transportation Foundation, Inc, Washington, DC , VO1 54, No 2, Spring 2000, pp. 93-103

"Do Nothing" alternative. In my professional opinion, other options would obviously provide the same or greater benefits at less cost and less severe environmental impacts, but neither TxDOT nor the Federal Highway Administration considered such alternatives. Guidance from the Federal Highway Administration calls for such alternatives such as high-occupancy vehicle lanes, ridesharing, signal synchronization, and mass transit where appropriate.[27] None of these are mentioned in the Environmental Assessments for this project. One obvious alternative is to drop the frontage roads from the project. Texas is unique among the 50 states in its widespread use of expensive and accident-prone frontage roads to provide access.[28] Designing the road without frontage roads, as is done on US 281 between downtown San Antonio and of IH-410, would greatly reduce the cost of the project and the amount of pavement over the recharge zone of the Edwards Aquifer. Another obvious alternative is to evaluate the project without tolls since the tolls are not needed to finance the roadway and rely on significant congestion on parallel roads. Going ahead with this project at this time almost guarantees unnecessarily high and wasteful expenditures of public funds.

Pollution

16. The fact that the pollution that will be generated by vehicles using this roadway will contaminate the air and the ground water is well-documented.[29,30] Measures to control the storm water runoff from the road will shock aquatic ecosystems

[27] http://www.fhwa.dot.gov/environment/doc_eis.htm, accessed on December 16, 2005.
[28] Kara Kockelman, Randy Machemehl, Aaron Overman, Jacob Sesker, Marwan Madi, Jean (Jenny) Peterman, and Susan Handy, "Frontage Roads: An Assessment of Legal Issues, Design Decisions, Costs, Operations, and Land-Development Differences," *Journal of Transportation Engineering* 129 (3), 2003.
[29] Richard T. T. Forman, et al., *Road Ecology: Science and Solutions*, Island Press, Washington, DC, 2003
[30] GKY and Associates and Louis Berger and Associates. 2001. *Management of Runoff from Surface Transportation Facilities, Synthesis and Research Plan.* Final Report

with large flushes of water and contaminants.[31] "As a consequence, the overall environmental quality of aquatic systems suffers."[32] Congress[33] has tried to protect San Antonio's principal source of water as have the citizens of San Antonio who voted twice[34] in recent years to tax themselves to purchase land and conservation easements over the sensitive recharge zone of the Edwards Aquifer. TxDOT is ignoring the desire of the public to protect this critical water supply and contributing to a dangerous degradation in the quality of the drinking water. Of particular concern is the detection of benzene in Edwards Aquifer wells.[35] Benzene is a known human carcinogen at any concentration and is a component of motor fuel. While the source of this benzene has not been determined, it could well be entering the aquifer from storm water runoff from roads and parking lots over the recharge zone.[36] The environmental assessment and reevaluations fail to document the environmental baseline conditions of the aquifer, including the presence of pollutants likely derived from transportation infrastructure and related urbanization sources. These documents also fail to assess the types and amounts

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[31] Nelson, P. O., W. C. Huber, N. N. Eldin, K. J. Williamson, M. F. Azizian, P. Thayumanavan, M. M. Quigley, E. T. Hesse, J. R. Lundy, K. M. Frey, and R. B. Leahy. 2001. NCHRP Report 448: Environmental Impact of Construction and Repair Materials on Surface and Ground Waters. TRB, National Research Council, Washington, D.C.

[32] Surface Transportation Cooperative Research Program Advisory Board, op. cit., pp. 62-63

[33] The Edwards Aquifer is protected by the Sole Source Aquifer (SSA) Protection Program authorized by Section 1424(e) of the Safe Drinking Water Act of 1974 (Public Law 93-523, 42 U.S.C. 300 et. seq).

[34] In May 2000, San Antonio residents approved a 1/8-cent sales tax increase, which provided $45 million to acquire recharge lands. On May 7, 2005, voters approved Proposition 1, which provides an additional $90 million to protect the aquifer through a 1/8-cent sales tax to permanently preserve significant portions of the watersheds that contribute to the aquifer.

[35] Patricia B. Ging, Linda J. Judd, and Kirby H. Wynn, Water-Quality Assessment of South-Central Texas—Occurrence and Distribution of Volatile Organic Compounds in Surface Water and Ground Water, 1983–94, and Implications for Future Monitoring, U.S. Geological Survey, Water-Resources Investigations Report 97–4028, Austin, Texas, 1997

[36] Robert Pitt, Ph.D., P.E., D.E.E., "Stormwater Management for Highway Projects" presented at the Symposium on the Pollution of Water Sources from Road Run-Off, Tel Aviv University, Israel, March 19, 2001

of pollutants caused by the proposed project and its secondary impacts, which are likely to be significant.

17. The Environmental Assessment submitted for this project makes no mentions of the air toxics emitted from vehicles on the roadway and their impact on the health of persons living and working near the roadway. The seriousness of the health impacts from air toxics emitted from mobile sources cannot be ignored. It is not clear why the Environmental Assessment withholds this information from the public affected by the proposed action. Pollution from motor vehicles is deemed to be from "mobile sources." According to the Environmental Protection Agency:

> For onroad and nonroad mobile sources, the EPA estimates that more than 100 million people live in areas of the U.S. where the combined upper-bound lifetime cancer risk from all air toxics compounds exceeds 10 in a million. This risk estimate is dominated by the emissions of benzene, formaldehyde, acetaldehyde, and 1,3 butadiene. Regarding effects other than cancer, acrolein emissions are estimated to lead to exposures above the reference concentration (i.e., a hazard quotient above 1.0) for approximately 200 million people in the U.S. [37]

18. The Environmental Assessment fails to even mention that residents and school children in the highway corridor will be exposed to increased risks of cancer, asthma attacks, bronchitis, cardiovascular disease and other harmful health effects due to various emissions from motor vehicles. In response to an Environmental Impact Statement prepared for the proposed expansion of the Katy Freeway in the Houston area, a local public health professional prepared a list of 34 research citations regarding the health impacts of highways.[38] More recently, the EPA

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[37] U.S. EPA, Technology Transfer Network National Air Toxics Assessment, http://www.epa.gov/ttn/atw/nata/risksum.html

[38] Winifred J. Hamilton, PhD, SM, Assistant Professor, Department of Neurosurgery and the Chronic Disease Prevention and Control Research Center, Baylor College of Medicine, "Freeways & Health: Recent Studies," June 4, 2002. http://www.katycorridor.org/Presentations/hamilton.pdf

Office of Transportation and Air Quality assembled a bibliography of 135 studies investigating the health impacts of adults and children located near roadways.[39] The Environmental Assessment for the US 281 project fails to mention even one such citation.

Noise

19. The Environmental Assessment admits that the new project will cause existing homes adjacent to the roadway to be exposed to noise levels which exceed federal standards. According to the Federal Highway Administration, "…highway traffic noise depends on three things: (1) the volume of the traffic, (2) the speed of the traffic, and (3) the number of trucks in the flow of traffic. Generally, the loudness of traffic noise is increased by heavier traffic volumes, higher speeds, and greater numbers of trucks."[40] The proposed project is projected to significantly increase the speed and volume of traffic (no mention is made of any projected change in truck volumes) and thus will increase the noise level in the corridor. The Texas Department of Transportation offers no mitigation of this noise impact on adjacent residential areas.[41] Traffic volume increases of even a few hundred

[39] Office of Transportation and Air Quality, "Bibliography of Near Roadway Health Effects and Exposure Studies," U.S. Environmental Protection Agency, January 2005, http://www.westcoastcollaborative.org/files/outreach/Health%20Effects%20and%20Exposure%20Studies.pdf, accessed December 18, 2005

[40] Federal Highway Administration, "Highway Traffic Noise, http://www.fhwa.dot.gov/environment/htnoise.htm, accessed December 9, 2005

[41] The FHWA regulations for mitigation of highway traffic noise in the planning and design of federally aided highways, contained in Title 23 of the United States Code of Federal Regulations Part 772, require the following during the planning and design of a highway project: 1) identification of traffic noise impacts and examination of potential mitigation measures; 2) the incorporation of reasonable and feasible noise mitigation measures into the highway project; and 3) coordination with local officials to provide helpful information on compatible land use planning and control. The regulations do not require that the abatement criteria be met in every instance, but they do require that every reasonable and feasible effort be made to provide noise mitigation when the criteria are approached or exceeded. Compliance with the noise regulations is a prerequisite for the granting of Federal-aid highway funds for construction or

motor vehicles per day have been found to reduce adjacent residential property values by 5-25%.[42] TxDOT offers no relief by reducing speeds, moving the high-speed toll lanes to the eastern side of the right-of-way which has commercial development next to the road, restricting truck traffic, constructing sound barriers or any other measure to mitigate the significant noise impacts.

Public Interest in Delaying Project to Allow Consideration of Alternatives

20. The delay experienced by motorists during the construction of the project may exceed any time savings once the project has been completed. A research study found that construction delays can be so long, and the timesavings from the expanded road so small, that it can take years for commuters to break even.[43] In the case of a freeway interchange being reconstructed outside of Washington DC, commuters were projected to never make up the time that they will lose during. TxDOT has provided no estimates of travel delay during construction or timesavings after construction.

21. Increasing the flow of vehicles on this section of US 281 may only exacerbate the congestion at other existing bottlenecks on US 281. There will be fewer numbers of lanes of roadway on the sections of US 281 on either side of this project so that bottlenecks can be expected at either end of the project. A commuter on US 281 headed toward downtown San Antonio would experience congestion at the interchange of US 281 and IH 410 which was ranked as the 149th worst

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reconstruction of a highway. Federal Highway Administration, *Highway Traffic Noise in The United States: Problem And Response*, U.S. Department of Transportation, April 2000.

[42] Gordon Bagby, "Effects of Traffic Flow on Residential Property Values," *Journal of the American Planning Association*, Vol. 46, No. 1, January 1980, pp. 88-94. Also see William Hughes and C.F. Sirmans, "Traffic Externalities and Single-Family House Prices," *Journal of Regional Science*, Vol. 32, No. 4, 1992, pp. 487-500.

[43] Barbara McCann, Bianca DeLille, Hank Dittmar, and Michelle Garland, *Road Work Ahead: Is Construction Worth the Wait?*, Surface Transportation Policy Project, Washington, DC, 1999

bottleneck in the U.S.[44] Traffic coming out of downtown San Antonio during the afternoon peak is severally congested as it leaves the downtown area. Clearly, allowing more cars to travel into downtown will only make this congestion worse. TxDOT does not document the congestion impacts that are certainly to occur on other parts of the roadway network.[45]

22. Delaying the completion of this toll road would obviously delay the collection of tolls. Since these tolls are not needed to build the toll road, these tolls constitute an arbitrary new tax on motorists using this toll facility and need not be spent in a way that would benefit the toll-paying motorists. Since motorists today are more concerned about transportation expenses, especially gasoline, than they are congestion, delaying this toll collection would be perceived as a benefit to the general public and to businesses in the corridor.[46]

23. Before TxDOT decided to build an expansive, 16-lane toll road toll, TxDOT had a more modest project based on constructing overpasses over the overloaded signalized intersections on US 281. This project, which was roughly one-half of the cost of the current proposal, was scheduled for a construction start in 2004. TxDOT delayed this cost-effective solution to the signalized intersection congestion on US 281 in order to reformulate the project as a more expensive (to

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[44] Cambridge Systematics, Inc., *Unclogging America's Arteries: Effective Relief for Highway Bottlenecks 1999-2004*, prepared for the American Highway Users Alliance, Washington, DC, 2004

[45] TxDOT does not have a consistent track record in reducing congestion through the construction of more highway capacity. According to the U.S. Census and Texas Transportation Institute, the average commute time by automobile in San Antonio was longer in 2000 than it was in 1990 despite the fact that there was more highway capacity per person in 2000 than in 1990.

[46] HarrisInteractive, *Transportation Survey Results*, prepared for the Urban Land Institute, November 2005, http://www.uli.org/Content/ContentGroups/PressReleases/2005/RevisedSurveyResults.ppt, accessed December 19, 2005

build and to operate) toll road. Clearly there are less expensive alternatives to TxDOT's proposed project: TxDOT itself had proposed one!

Pursuant to 28 U.S.C. § 1764, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated this 19th day of December, 2005

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William G. Barker, MA, AICP