

TESTIMONY

Before the Legislative Study Committee on
Private Participation in Toll Projects

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Chairman Carona and committee members, thank you for the opportunity to address you today.

My name is David Stall and I am speaking on behalf of CorridorWatch, a Texas based grassroots citizen's organization.

As our name suggests our primary concerns center on Trans Texas Corridor and certain features of the TTC model. Among our concerns is the assumption that the state must engage in Public-Private Partnerships if we are to expand our future transportation opportunities. We do not share that opinion.

CorridorWatch has no objection to private investment or financing. We do however have concerns about public owned and privately operated monopolies that are protected from competition and financially structured to ensure tolls are at the highest rate possible.

We have concerns about creating a ~~the~~ toll methodology that will compound the burden on taxpayers and motorists as other consumer costs rise.

We have serious concerns about the non-compete and compete penalty clauses being included in public-private partnership agreements. These provisions often limit the expansion of existing free facilities, or as may be the case with SH-130 trigger a reduction of speed limits on the existing free facilities thus diminishing current capacity thus forcing traffic to the private toll alternative. These agreements serve the interest of the private investor at the expense of the public interest.

Non-compete clauses together with buy-out provisions can, and have, forced governments to pay several times over the original value to regain control of leased highway facilities.

We should all have serious concerns about toll agreements that limit our future opportunities to protect a private partner's profits.

Beyond non-compete and compete penalties there are other issues. By their very nature these contracts remove flexibility as they create long term commitments to sustain private toll based transportation in the face of changing needs, technology, and funding systems.

Our transportation policy should promote flexibility and expand opportunities not foreclose on them.

I'm not sure that the public or even our elected officials understand the extent to which these Public-Private Partnerships are driven to generate revenue. For example, the public is told that the tolls will likely be tied to the Consumer Price Index or some other index of inflation which they believe is intended to protect the private partner from losses caused by cost inflation over the life of the agreement. What they aren't told is that only a small portion of the toll is allocated to the maintenance and operational costs subject to inflation. The larger share of the toll is for debt service, a cost that is completely known, structured and fixed at the beginning of the agreement. A cost that will not suffer the effects of inflation. Yet, the index is applied equally to the entire toll thereby artificially escalating the cost to the consumer exclusively for the purpose of generating ever increasing revenue.

It is in fact this disconnect between real costs and tolls that the Public-Private Partnership exploit.

Public toll road authorities operate highways to serve the public interest. The Harris County Toll Road Authority is a good example. Private toll road operators on the other hand serve significantly different interests.

Last year Fitch Ratings described the difference between publicly and privately operated toll roads in a document titled, "Global Toll Road Rating Guidelines" (March 6, 2007). Quoting from that document here's what they said, "Generally, publicly operated toll facilities maintain a goal of operating solely in the public's best interest by providing an essential service at least cost. In contrast, private operators maintain a goal of maximizing cash flows and returns to equity partners while providing an acceptable level of service."

Fitch goes on to say, "In most cases, privately operated toll facilities have had greater success at regularly imposing toll rate hikes due to the generally growing economic ratemaking ability of most toll facilities, the profit motive and less concern by management of the political implications. When concessions are initially granted, toll rates tend to be lower than revenue maximization levels. Nevertheless, once under concessionaire control, toll rates will likely increase to maximum economic or legal revenue levels."

One proponent of Public-Private Partnerships calls public control over toll costs "political interference" that plagues public toll agencies and calls for a "legally enforceable" CDA to ensure revenue flow.

Government should be the steward of public assets, not the mechanism by which public assets are used to extract a profit from the citizens as if government were private industry whose interests are independent of public interest.

A free road that's congested is of much greater public value than a free-flowing road that the public can't afford to drive on.

We urge you to exercise utmost caution to protect Texas and its citizens.

Thank you for your time and attention this morning.

David K. Stall

David Stall is a career public servant with more than thirty years experience in local government. His career includes law enforcement, fire service, emergency management, and public administration. At the age of 20 he was elected to city council and thirty years later he is a Presidential appointee and Chairman of a United States Selective Service Board covering five Texas Counties. He is a recognized as a leader in the fields of economic development, tourism, flood control and emergency management.

During his career he has earned many professional designations including Master Peace Officer and Credentialed City Manager.

Stall also has significant experience in transportation planning that includes serving on the Colorado County Airport Advisory Board, the Bay Area Transportation Partnership Advisory Board, and coordinated together with six cities and the Texas Department of Transportation a multi-jurisdictional state highway project.

After 21 years of service Stall retired from the City of Nassau Bay as City Manager. He spent two years in California as president of an international manufacturing company before returning to Texas and public administration. Currently Stall serves as City Administrator for the City of Shoreacres following three years as City Manager of Columbus, Texas.

In 2004, David Stall together with his wife Linda founded CorridorWatch. Since then David and his wife have worked diligently to increase public awareness and understanding of the Trans-Texas Corridor. Through their organization they provide a national communications network for citizens and government officials with shared concerns. CorridorWatch provides resources to identify and address a wide range of potential economic, social, political and environmental impacts related to the proposed Corridor projects. CorridorWatch has provided technical and informational assistance to legislators in six states and the Stalls have testified as invited experts before legislative committees in Texas, Oklahoma, and Kansas.

Today CorridorWatch has members in 199 Texas counties and 45 states.