Congress of the United States
Washington, DC 20510

March 6, 2013

The Honorable Ray H. LaHood
Secretary of Transportation
1200 New Jersey Avenue, S.E.
Washington DC 20590

Dear Secretary LaHood:

It is our understanding that the Federal Railroad Administration (FRA)—an operating entity of the U.S. Department of Transportation (DOT)—is expected to issue a determination soon about providing more than $5 billion in federal loans for a commuter rail project known as XpressWest. This 185-mile rail line from Victorville, California to Las Vegas, Nevada is estimated to cost $6.9 billion, of which just $1.4 billion is proposed to come from private sources. The remaining $5.5 billion—or at least 80% of the total project cost—would be fronted by the American taxpayer in the form of an FRA loan.

XpressWest's FRA loan, if granted, would purportedly be issued pursuant to the Railroad Rehabilitation and Improvement Financing (RRIF) program, which provides direct loans and loan guarantees to finance development of railroad infrastructure. Our understanding is that XpressWest filed its RRIF loan application in December 2010 and the application is still under review at FHA. Several public sources suggest that a final decision is forthcoming this year.

These loans are incredibly generous to the borrower. According to the FRA, direct loans under the RRIF program "can fund up to 100% of a railroad project with repayment periods of up to 35 years and interest rates equal to the cost of borrowing to the government." With such favorable loan terms, it is understandable that XpressWest and its supporters would seek RRIF funding. It also seems that the XpressWest loan, if granted, would dwarf all prior loans issued under this program. To date, FRA has entered RRIF loan agreements for more than 30 projects since 2002—the largest of which was a $562.9 million loan to Amtrak in 2011. The XpressWest project, if funded, would be the single largest RRIF loan ever issued and, in fact, it would be the first high-speed rail startup project financed through RRIF. Importantly, RRIF is not a loan guarantee program where little or no federal tax dollars are actually provided to the project; rather, an RRIF loan for XpressWest would involve the actual transfer of billions of dollars—much or all of which may never be repaid.

Yet the risks to the taxpayer from financing this project are untenable. The Reason Foundation recently issued a Taxpayer Risk Analysis[1] of the XpressWest project which identified several significant concerns. First, the analysis concluded that "[i]t is not known whether the federal loan would be subordinated to private or commercial debt." This is critical

[1] This analysis, entitled "The XpressWest High-Speed Rail Line from Victorville to Las Vegas: A Taxpayer Risk Analysis," is available at http://demographia.com/xpresswestreport.pdf.

because, as the report states, "unsubordinated federal debt could be a serious barrier to private investment." Second, the analysis considered high-speed rail projects from around the world and found those projects "plagued by optimistic ridership and revenue forecasts, financial losses and capitol cost overruns." With this international experience in mind, the Reason Foundation analysis suggests that "the very existence of much of the XpressWest market is speculative and the actual ridership could be a mere fraction of the forecast." Other serious concerns addressed in their analysis include the exaggeration of market data, faulty capital cost estimates, and inadequate business plans. Accordingly, the Taxpayer Risk Analysis concluded that the XpressWest project "entails enormous risks for taxpayers" with "little or no prospect for [this] train to generate sufficient fares and commercial revenues to repay a federal loan of between $5.5 billion and $6.5 billion."

Likewise, a recent report by the Congressional Research Service (CRS) raises further concerns about placing taxpayer funds at risk on high-speed rail projects.[2] While noting the possible "social benefits" from high-speed rail, CRS found as follows:

> Few if any HSR lines anywhere in the world have earned enough revenue to cover both their construction and operating costs, even where population density is far greater than anywhere in the United States. Typically, governments have paid the construction costs, and in many cases have subsidized the operating costs as well.

Similarly, the Government Accountability Office (GAO) recently issued a report entitled "Preliminary Assessment of California's Cost Estimates and Other Challenges," which evaluated a separate high-speed rail project in California that is being funded through the FRA High Speed Intercity Passenger Rail Grant Program. After evaluating that project, GAO found that cost estimates for that project "are not based on a complete set of assumptions" and that "GAO was unable to trace the final cost estimate back to its source documentation and could not verify how certain cost components, such as stations and trains, were calculated." Furthermore, GAO found that the California High Speed Rail Authority "did not conduct a risk and uncertainty analysis to determine the likelihood that the estimates would be met."

For these reasons, we are deeply troubled by the prospects of subsidizing another costly, wasteful, and risky high-speed rail project, particularly when our nation is facing a debt crisis that threatens the well-being of the current and future generations of Americans. A nation that is borrowing 40 cents for every dollar it spends simply cannot afford to risk billions in taxpayer dollars on risky projects like XpressWest. We would urge the Administration to reject the XpressWest loan application and to direct its available RRIF funds to more worthy transportation infrastructure projects that could truly provide a reasonable rate of return to the taxpayers of this nation.

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[2] This CRS report, entitled "The Development of High Speed Rail in the United States: Issues and Recent Events," was issued on June 28, 2012.

We have copied the Comptroller General of the United States, Mr. Gene Dodaro, on this correspondence and have asked him to direct the Government Accountability Office to evaluate the RRIF program, the XpressWest proposal, the Taxpayer Risk Analysis prepared by the Reason Foundation, and other relevant information to determine, and report to Congress and the Administration, concerning: (1) the risk of loss of taxpayer funds if the XpressWest project is financed pursuant to the RRIF program; (2) the nature of the loan that would be provided under the RRIF program and whether the federal loan would be subordinated to private or commercial debt; and (3) the economic viability of the XpressWest business plan and whether the project could be sustained with private financing alone. We request the Administration suspend final determinations on funding for the XpressWest project while this GAO analysis is pending.

Thank you for your kind attention to this issue.

Sincerely,

Paul Ryan
Chairman
House Budget Committee

Jeff Sessions
Ranking Member
Senate Budget Committee

cc: Gene L. Dodaro
Comptroller General of the United States