



Friends of the Capital Crescent Trail

www.savethetrail.org

P.O. Box 5803, Bethesda MD 20824

April 20, 2017

The Honorable Senator Susan Collins
Chair
Subcommittee on Transportation
Committee on Appropriations
United States Senate

By Email

Dear Senator Collins,

We have concerns with the functioning of the Capital Investment Grants (CIG) program of the Federal Transit Administration (FTA), and about the proposed Purple Line light rail line in suburban Maryland specifically, for which CIG support has been requested by the Maryland Transit Administration (MTA). The issue may come up in the forthcoming budget and appropriations discussions, where there may be pressure by some to try to force approval of the Purple Line as a special case, exempting it from the normal process. We hope you will use your position as Chair of the Subcommittee on Transportation of the Senate Committee on Appropriations not to allow this exemption.

We are opposed to the Purple Line on the basis of the several claims we have filed in a case now underway in federal court that reflect the letters and signatures of the 25,000 citizens, including many experts, who have over the past dozen years commented on impact statements, written their representatives, and made every effort to have these serious flaws corrected. The project provides a prime case example of the problems with how the CIG program and the incentives created under it function. We thus agree with the budget proposal of President Trump and Secretary Chao transmitted to you through the OMB that there should be at least a deliberate and careful pause in the signing of any new Full Funding Grant Agreements for projects under that program. We believe that an important national role remains for transit support. The problem is that the current process does not function as it should nor as we need. A pause in the program, without exceptions such as for the Purple Line, would allow for a serious review of how we as a nation can and should best support public transit in our communities.

The CIG program as currently structured provides major support (in both absolute dollar amounts, and relative to the overall cost of the individual projects), but only to a

relative handful of projects, and with too little accountability to objective standards of transit effectiveness. This has certainly been the case in the example of Maryland's Purple Line.

There are many problems with Maryland's Purple Line. Annexes attached to this letter summarize several of the key issues. But we outline here just a few of these key problems:

- a) It is not cost effective to serve the corridor selected by MTA by means of a fixed rail line. Even the original combined Alternatives Analysis/Draft Environmental Impact Statement for the Purple Line (from 2008, and required under both Federal transportation and environmental law) found that all the bus alternatives considered were more cost effective (and often *far* more cost effective) than any of the rail options considered. Nevertheless, in anticipation of federal grant funds covering a high share of the project costs, Maryland state authorities opted for a rail option.
- b) Since 2008, the capital costs of building the rail option have doubled. At this higher cost (and with lower ridership forecast by the FTA than what Maryland is predicting as well), the already insufficient cost-effectiveness of the rail option chosen would have been far worse than what the FTA at the time would have allowed for a project to be kept under consideration. Nevertheless, Maryland authorities continued to push the project, and the FTA later changed its selection criteria so that cost effectiveness is no longer a determinative factor.
- c) Maryland chose the rail option on the purported basis that at some undefined point in the future (at least decades from now), ridership in the corridor would be so high that only a rail line could handle it. But many, including experts in this field, view the ridership forecasts as highly questionable, and especially so for the distant future. And no one can disagree that they are uncertain. Therefore, we have suggested that the immediate to mid-term focus should be on upgrading the bus system to handle current and anticipated ridership, especially given the fact that large, frequent, clean buses can carry more riders and that transportation options and technologies are expanding rapidly in recent years. Such modern bus service would certainly suffice for the next several decades. If the transit ridership requiring a rail line materializes (which many believe will never happen), one could then consider building a rail line. However, Maryland authorities have been unwilling to consider such a bus-oriented option. They seem to have thought they could receive a large federal grant for a rail line, but not for the more routine expenditures required to get the bus system functioning as it should. They even re-directed a TIGER grant that would have been used to upgrade services now on several bus lines in this very corridor, to cover instead the cost over-runs on a transit center being built.
- d) A bus option would not only make more economic and transit sense but it avoid entirely the environmental damage and safety risks that are inevitable with the building of a fixed rail line along MTA's selected route. Most obviously, the construction of the dual rail lines of this project would require the clearing of 48 acres of forest cover, the degradation of small but significant areas of wetlands (in both the Rock Creek and Anacostia watersheds), harm to several parks and historic sites (normally protected under the Highway Act) along the proposed route, and the destruction of a section of the most highly used public trail in Maryland. And this would all be inside the Capital Beltway, in

an urban area where tree cover, wetlands, and public parks are especially precious. Less obvious, perhaps, but of serious concern, is the fact that the rail line construction would require the unearthing of numerous hazardous materials sites requiring that evacuation plans and routes be in place, according to the Request for Proposals that was released only after the Final Impact Statement was approved.

Maryland has nonetheless continued to push for this project because the MTA anticipates that it would receive \$1.8 billion in federal funds (half as a grant under New Starts, and half as a low-cost TIFIA loan) to cover 80% of the cost of building the line. The State of Maryland would only provide \$160 million for the up front costs (7% of the total), with the local counties providing a similar 7%, and the private concessionaire 6% of the cost (to be repaid later by the state). Without the federal money, and in particular the grant money under New Starts program, the State of Maryland would never consider this project.

There is a real need, therefore, to reconsider how federal funds, and in particular grant funds, are allocated in support of public transit. The current system provides a strong attraction for local authorities to design projects geared to obtaining such grant support. These "light rail" projects provide only one or two cars per train but are expensive and capital intensive. (These federal grants are available for the capital investment, but not for operations.) Only a few can be funded nationally, given budget constraints. The Purple Line is a prime example of what goes wrong under these conditions. The project, as now designed, never would be considered were it not for the prospect that federal grant funds would cover a large share of the cost. With the prospect of federal grant funds being provided, more cost-effective alternatives, which could be implemented quickly and provide the transit services the communities need (and avoid the environmental damage and other harm as well), are instead pushed aside. Project supporters seek to justify these expenses and risks under the cloak of claims of economic development that, in the case of the Purple Line, have never been subject to expert, academic, or legal scrutiny, when closer scrutiny actually reveals double counting and exaggerated claims.

Your Committee Reports in recent years have quite rightly directed the FTA to explain in detail how each of its proposed Full Funding Grant Agreements have been presented for approval only after the Secretary has determined that the requirements of the Highway Act have been met, including the common-sense requirement that the affected region's transportation network has the resources to recapitalize, operate and maintain itself with no decrease in service before any such new fixed guideway system is added (49 U.S.C. §5309(f)(1)). As we explained in letters to Secretary Foxx in October of 2015 and to Secretary Chao on March 2nd, 2017, (which was redirected to the Department of Justice's Public Affairs Office), such a finding is impossible given the dramatic, long term and continuing reductions in service in the Washington area's metro-rail and bus services over the past two years and the mounting multi-billion dollar long term deficit of the nearly insolvent WMATA system.

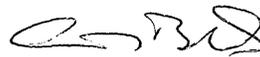
Given that the previous Administration would have signed an FFGA had the court not intervened, the CIG program clearly needs to be reviewed, and probably revised, to ensure full compliance with the common sense standards that you and the Congress have set

in the statute so that they will be met without the extraordinary intervention of citizen litigation. It is also a matter of public record that the regional governments will not have in place the governance structure to responsibly operate the WMATA and greater transportation network of which the Purple Line would be, along with other state and District systems, an integral and interdependent part, MTA's illogical protestations notwithstanding. Until such reviews and reforms are completed, a pause of at least year and half as proposed by the Administration in any new approvals is fully warranted.

The Purple Line project is currently on hold pursuant to a federal court order while the court reviews just one of the several serious claims still to be adjudicated. Pressure may arise to enact legislation, perhaps as part of the appropriations process or in an infrastructure package, granting a blanket waiver for this project from the transportation system integrity, environmental, and other conditions currently required by law. We hope you and your office will not allow such a waiver to be included. Real issues exist, as described above, and in our attachments. Many of these are currently being considered in court, while others, such as the program-wide problems identified by the Administration, deserve careful scrutiny by the Administration and the Congressional Committees of jurisdiction. These issues and this process should not be by-passed.

We welcome any opportunity to meet with you or your staff to discuss these issues further and to answer any questions you might have.

Sincerely,



Ajay Bhatt
President



Christine Real de Azua
Treasurer



John M. Fitzgerald
Attorney/Advisor