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On behalf of the American Road and Transportation Builders Association

Hearing:
Recovery Act: Progress Report for Transportation Infrastructure Investment

House Committee on Transportation and Infrastructure
December 10, 2009

Chairman Oberstar, Congressman Mica, members of the Committee, the American Road and Transportation Builders Association appreciates the opportunity to provide this update on the American Recovery and Reinvestment Act and its impact on the transportation design and construction industry. My name is James W. Van Buren. I am Vice President for Development and Chief Operating Officer of New Enterprise Stone & Lime Co. Inc. of New Enterprise, Pennsylvania.

New Enterprise was formed in 1924 by J.S. Detwiler and his son, Paul. New Enterprise began as a stone hauling company in New Enterprise/Waterside, Pennsylvania, but soon branched out into construction and material supply as the Company acquired several stone quarries. Over the next ten years, J.S.'s three other sons joined the growing company business. In 1949, J.S. sold his interest in New Enterprise to his four sons, and in 1950, New Enterprise Stone & Lime Co., Inc. was incorporated. New Enterprise is still managed by the Detwiler family and remains a privately held corporation.

This vertically integrated construction materials supplier, highway contractor and traffic safety products and services provider now employs over 3,200 people throughout the United States. The company's core businesses include aggregate production (crushed stone and construction sand & gravel), hot mix asphalt ("HMA") production and laydown, ready mixed concrete production, heavy highway construction, prestress structural concrete components and concrete block manufacturing. Its non-core businesses include port operations, clay fillers, hollow metal door manufacturing, retail construction supply sales, gas and fiber optic line installations and repair, and manufacturing of agricultural lime and industrial pulverized lime products.

New Enterprise is the largest producer of crushed stone and aggregates in Pennsylvania and, according to the 2007 U.S. Geological Survey, New Enterprise (without its subsidiary Eastern Industries, Inc.) is the 16th and Eastern Industries is the 38th largest producer of crushed stone in the United States (the data for the two entities has yet to be integrated). A survey of contractors conducted by *Engineering News Record* in 2006 states that NESL is the 33rd largest transportation contractor in the United States.

New Enterprise's plants (stone, hot mix asphalt, and ready mix) are located throughout Pennsylvania and Western New York, where it employs over 90 percent of its workforce. Its heavy highway construction activities are found throughout Pennsylvania and their traffic safety services division operates in the eastern United States and sells products nationally and internationally.

The economic downturn has had a substantial adverse impact on our company. Our sales have dropped significantly between 2007 and 2008 and without the addition of the infrastructure stimulus dollars to the state DOT's, all of New Enterprise Stone & Lime Co., Inc.'s markets would continue to be in a free fall.

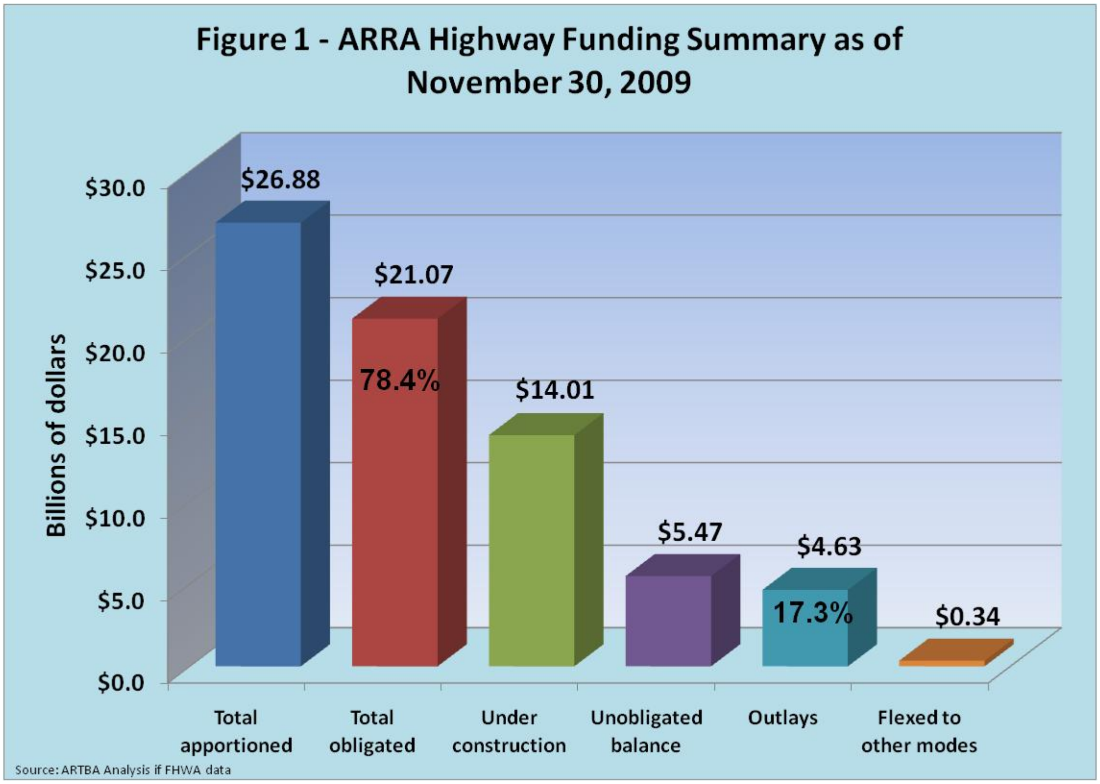
Mr. Chairman, the transportation components of the American Recovery and Reinvestment Act (ARRA) are one of the true success stories of 2009. These provisions sought to sustain and create jobs in transportation construction by providing $48 billion for projects that could be started quickly. This included $27.5 billion for highway improvements, $1.1 billion for airport improvements, $8.4 billion for public transportation, $8 billion for high speed rail and $1.5 billion of discretionary funds for large transportation projects. We now have the data to show that these funds have had a significant impact on transportation construction this year and prevented thousands of layoffs by construction firms and their suppliers, due to the significant decline of other construction markets.

At New Enterprise the market segments most affected by the economic downturn has been the commercial and residential markets. This is evidenced by the drop from 2007 to 2008 and 2008 to 2009 of our stone (down 15 percent & 13 percent), sand (down 20 percent & 17 percent), Hot Mix Asphalt (down 15 percent & flat), ready-mix concrete (down 15 percent & 12 percent), safety products (down 11 percent and flat) and concrete block (down 16 percent & 16 percent). As you can see, the significant drop from 2007 to 2008 continued into 2009 in all of our product lines except Hot Mix Asphalt (blacktop paving) and safety products, both remained level from 2008 to 2009. This is a direct result of the ARRA transportation infrastructure funds.

Highways and bridges

The $27.5 billion for highway improvements was the largest element of the program and has enabled contractors all across America to keep employees on the payroll who would otherwise have been laid off. Most state and local transportation agencies have done an excellent job getting the funds into the construction market. As Figure 1 shows, by the end of November, $21.1 billion had been obligated for highway, bridge and related construction projects, or 78.4 percent of the total apportioned. Almost 5,500 ARRA-financed projects worth more than $14 billion, or two-thirds of the total obligated, are currently under construction.

Most important, more than $4.6 billion (17.3 percent of the total apportioned) has already been paid out to contractors and their suppliers for construction work performed on highways and bridges, and the total is rising at a rate of almost $1 billion per month. We expect about $5.5 billion will have been paid to contractors by the end of 2009.



While the ARRA's impacts are routinely questioned and often underrepresented , all should be aware over $14 billion of the ARRA highway funds committed to date are either currently supporting construction activity or projects have been completed. That means two-thirds of the available recovery funds are generating economic activity and supporting employment. That pace is unprecedented in the context of the traditional federal highway program and a meaningful record of achievement. The act will continue to provide significant benefits as states have obligated an additional $7 billion that is not yet under construction and there is still over $5 billion to be obligated.

In Pennsylvania, PennDOT and local governments have been moving even faster. To date, almost 96 percent of the $1.03 billion of ARRA highway funds apportioned to Pennsylvania have been obligated and almost $200 million, or 19.3 percent, have been paid out to contractors.

Mr. Chairman, Minnesota has also been doing very well in moving ARRA funds, with 86.4 percent of its highway funds obligated by the end of November and 41 percent paid out to contractors, one of the best performances by any state in the nation.

Of the 5 largest recipients, unfortunately only Pennsylvania is above the national average. If projects are not under construction, jobs cannot be supported, and it is time for laggards to step up to the plate.

There are still $5.4 billion of ARRA highway funds to be obligated. The law says that any funds not obligated within one year of apportionment – meaning a deadline of March 2, 2010 – must be returned to FHWA for reapportionment to other states. That means an average of $1.8 billion must be obligated each of the next three months, or about twice the recent rate, to meet this goal. Our concern is that returned funds are available until September 30, 2010, to be obligated, which just delays their ability to support and create jobs. Most states are on track. Wyoming, for example, has already obligated 100 percent of its ARRA funds, the first state in the nation to do so. A number of other states – Illinois, Iowa, Maine, Mississippi, New Hampshire, North Carolina, Pennsylvania, and Utah – are above 90 percent. But a number of other states still have a substantial amount of ARRA funds to obligate, and one state is still below 50 percent.

Nonetheless, for highway construction, the ARRA could not have come at a better time.

At the start of this year, the nation's economy was in its worst recession since 1982 and, by some measures, the worst recession in the post-war period. The downturn was taking a severe toll on the revenues used by both the federal government and by state and local governments for highway construction. Rising unemployment, reduced travel to work and lower freight shipments meant revenues from federal and state motor fuels taxes were coming in below expectations. New car and truck sales were plummeting, which meant reduced heavy truck tax revenues into the Federal Highway Trust Fund and sharply lower automobile sales tax and new vehicle registration fees at the state level.

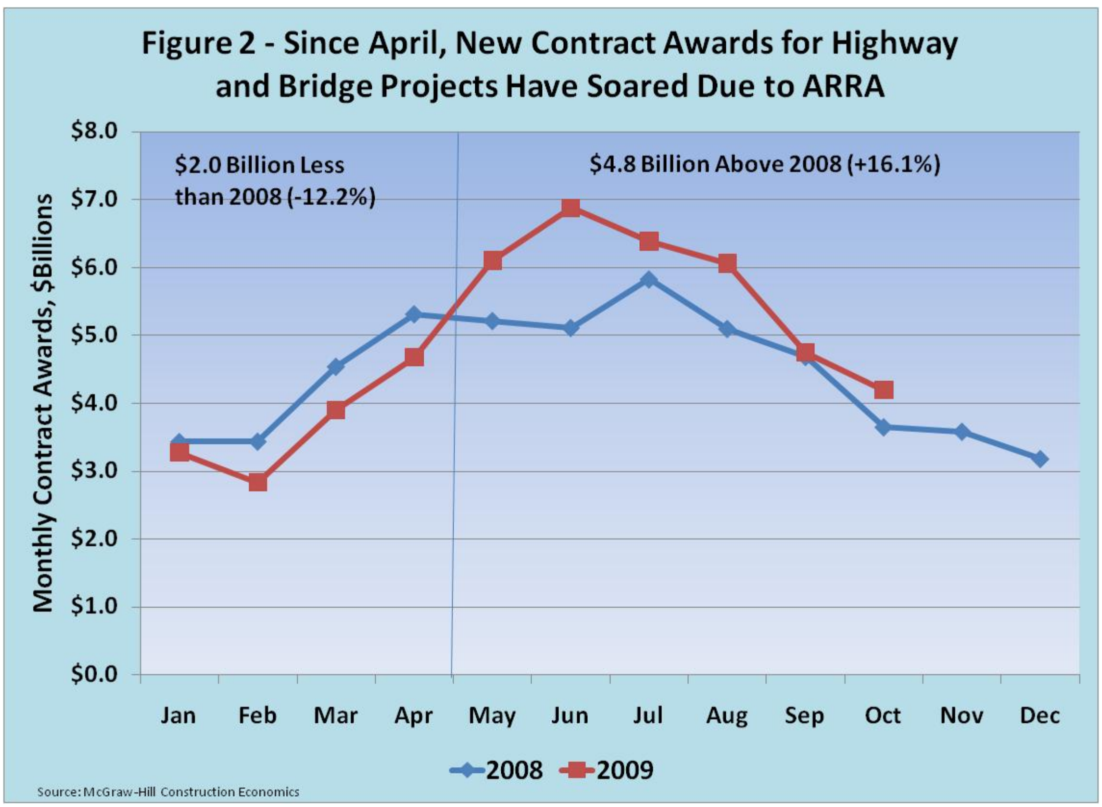
This had an impact at the federal level where, for both FY 2008 and FY 2009, federal highway investment was maintained at or close to the amounts guaranteed in SAFETEA-LU only by emergency injections of additional revenues into the Highway Trust Fund.

At the state level, many states responded to the reduced revenue situation by cutting back on their use of state funds for highway and transit investments. According to recent surveys conducted by the National Association of State Budget Officers and the National Governors Association, 21 states reduced their state transportation funding during fiscal year 2009, which for most states ran from July 2008 through June 2009. The latest NASBO-NGA survey finds 25 states plan to make similar cutbacks in FY 2010.

The fact is, absent ARRA funding, highway construction in many states would have fallen significantly this year, with a corresponding loss of thousands of well paid American jobs.

We have two charts as part of our testimony that show the dramatic impact of the ARRA on highway construction in 2009.

First, figure 2 shows that the value of new contracts awarded by state and local DOTs for highway and bridge construction projects soared after Congress enacted the ARRA. During the first four months of 2009, state and local DOTs awarded $2.0 billion fewer contracts for highway and bridge construction projects than during the same months of 2008, reflecting recession-driven cuts to state and local highway funding. If this pattern had continued throughout the year, there would have been a 12 percent cut nationwide in the value of new projects getting underway this year. Many contractors, without work, would have had to lay off employees if this had occurred. But the situation turned around after Congress enacted the ARRA. Between May and October, the value of new contracts for highways and bridges has exceeded the same months of 2008 by $4.8 billion, or more than 16 percent, with the ARRA more than offsetting state and local budgetary difficulties.



In Pennsylvania, PennDOT indicates that the highway letting program this year will total $2.8 billion, a $1 billion increase over 2008 because of the $1.03 billion of ARRA funds apportioned to the state. We are seeing the impact of this in the value of new contract awards for highway and bridge projects, which total $2.8 billion so far this year including turnpike and local projects. This is $400 million more than at this time last year and $1 billion more than in 2007.

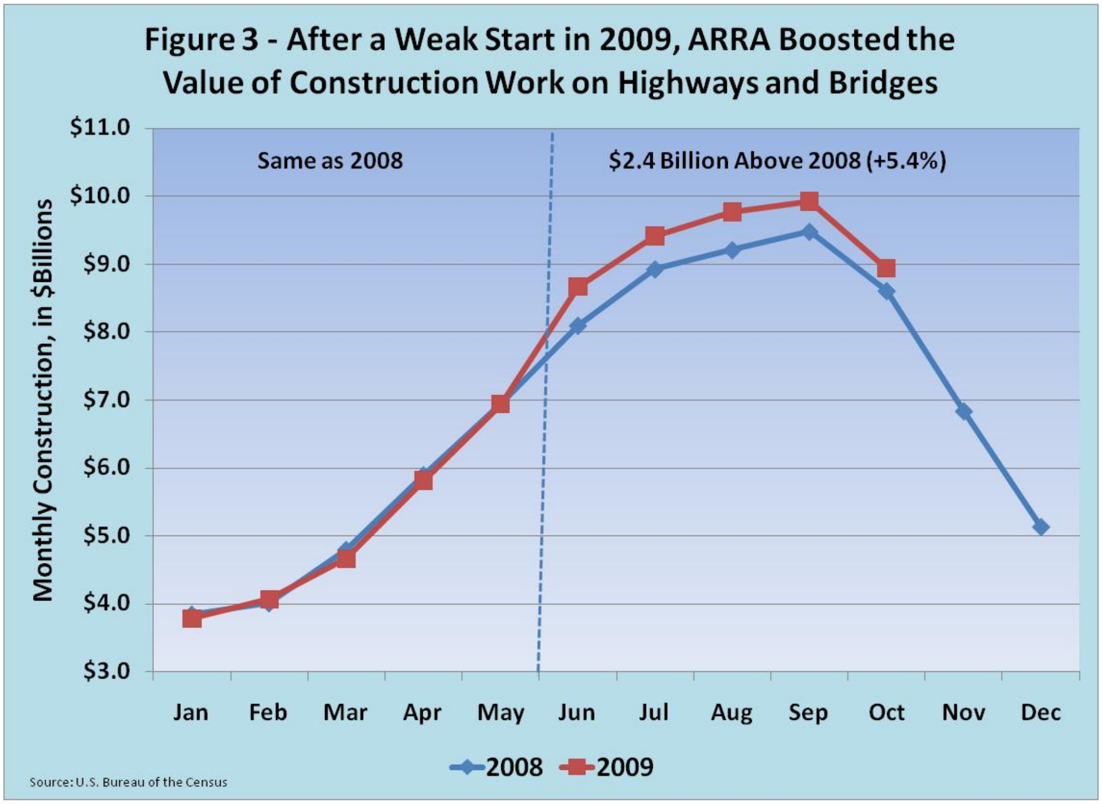
Specifically, New Enterprise as the general contractor, has been awarded $50,000,000 of ARRA funded contracts, of which approximately 50 percent of the work was performed in 2009 and the balance will be performed in 2010. New Enterprise Stone & Lime Co., Inc. has also supplied a number of ARRA projects with materials throughout 2009; however, those sales have not been able to reverse the negative sales trends for stone, sand and ready-mix.

Many of the shovel-ready projects have been blacktop paving projects. A although we are not back to pre-recession levels~~, these~~, these ARRA investments prevented further declines unlike our other construction product markets. The safety products segment also stopped its decline from 2008 to 2009 because it relies on a volume of projects let and since most projects, regardless of the type of project, require some traffic safety controls system, this division was able to maintain it sales year over year.

Employment at New Enterprise has seen a very similar pattern as the sales. Between 2007 and 2008, total corporate payroll dropped from $7.2 million or 5.1percent. From 2008 to 2009, year over year through November total payroll dropped 1percent. During the same period, the New Enterprise employee count has experienced a similar trend, dropping in 2008 to 3,292 employees, a 4.0 percent decline and dropping 1percent during 2009. In our assessment, without the ARRA-funded work, this situation could have been much worse.

Second, Figure 3 shows that value of construction work put in place on highway, bridge and related construction projects has also been positively impacted by the ARRA. Because highway construction occurs out of doors, construction activity exhibits a distinct seasonal pattern, peaking during the summer and fall months when the weather is good and then declining to a mid-winter low. The chart shows that during the early months of 2009, before the ARRA highway stimulus program had any chance to take effect, the value of construction work being performed on highways and bridges was showing no growth compared to the same months of 2008. And that, or worse, is very likely what we would have seen throughout 2009 without the ARRA.

But that pattern changed significantly beginning in June, as construction work began on a number of ARRA-financed projects. Between June and October, $2.4 billion more construction work was performed on highway and bridge projects than during the same months of 2008. In fact, September was just shy of being the first-ever $10 billion month for highway construction and did set the record for highway construction for any month in history. Given that there was no increase in funding for the regular federal highway program in FY 2009, there is no question that the increase in highway construction spending since May was largely influenced by the ARRA.

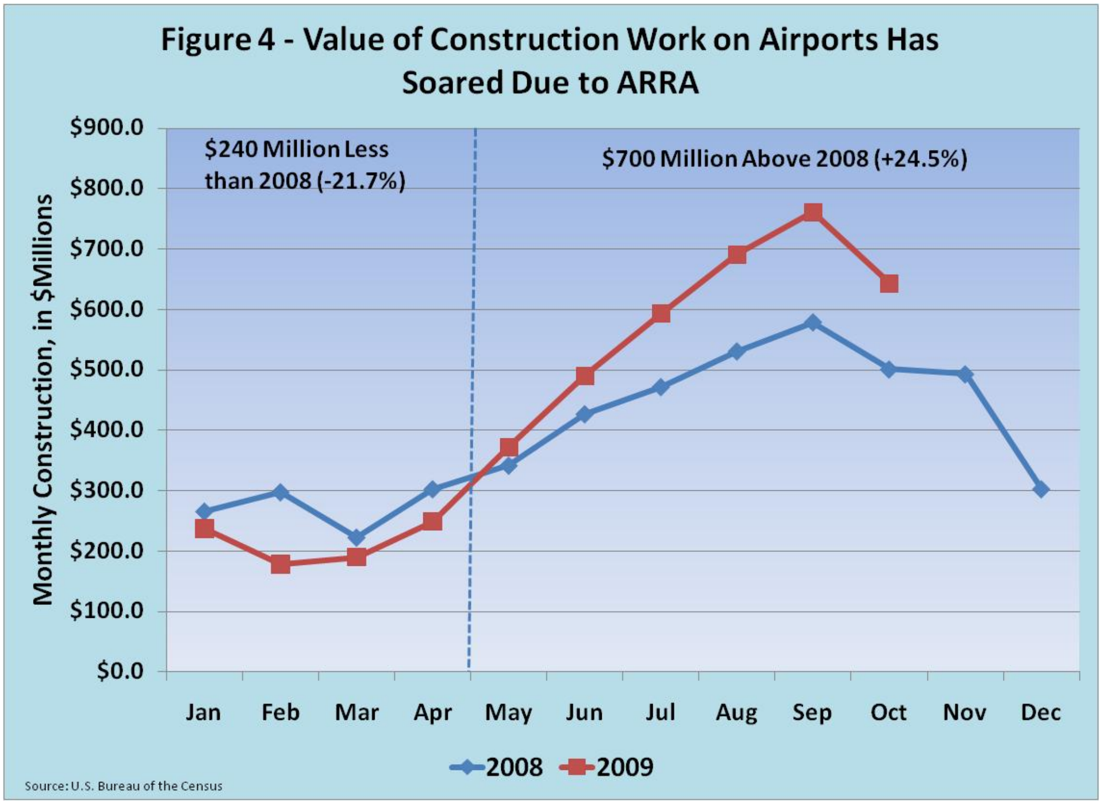


The boost to highway construction from the ARRA may be even more powerful than these charts indicate because highway construction costs are lower this year than last year. Based on what we are seeing so far in the inflation data, the cost of building a highway or bridge this year will be about 5 to 6 percent less than last year, driven by an 8 to 9 percent reduction in the cost of highway construction materials like asphalt, cement, crushed stone and diesel fuel. Lower costs mean federal, state and local highway dollars buy more construction work. As a result, the increase in the volume of construction work this year resulting from the ARRA will probably be even larger than the dollar figures in my testimony, probably around 10 percent.

Looking to the future, the success of the ARRA in preserving construction jobs has generated proposals for a second effort designed to create new jobs, either as an addition to core funding in the next surface transportation authorization act or as part of another stimulus bill. To maximize the job-creation potential of such funding, Congress should assure the funds are additive, and not a substitution for state highway investment, by including an effective maintenance of effort provision. Fortunately, an excellent model exists in the maintenance of effort formula applied to state use of toll credits to satisfy the 20 percent matching requirement for federal highway funds. The requirement is effective while still giving states equitable implementation options and could easily be adapted to any additional stimulus funding.

Airports

Now let me turn to airport construction. The American Recovery and Reinvestment Act provided $1.1 billion for airport improvements. Fifty percent of the funds had to be awarded within 120 days of enactment and the rest within one year. While this is a much smaller dollar amount than for highways, it is having an equally significant impact on airport construction activity.

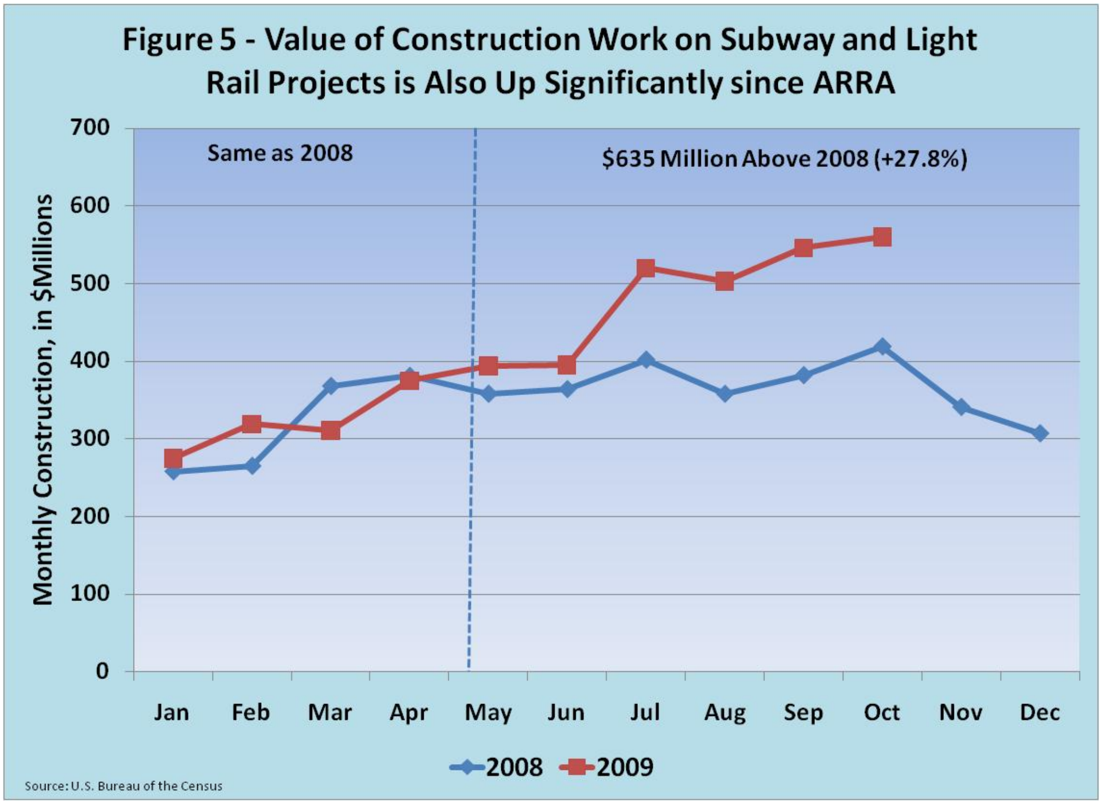


As Figure 4 shows, the value of construction work being performed on airport runways and related projects was down more than 20 percent during the first four months of this year when compared to the same months of 2008. As with highways, the year would probably have been very disappointing if Congress had not enacted the ARRA. But, as the chart shows, construction work on airport projects took off in May. Since then, construction work on airport runways has been up almost 25 percent compared to the same months last year. And again, as with highways, I think this is very strong evidence that the ARRA is having a welcome impact on transportation construction.

Transit and High Speed Rail

The ARRA also provided $8.4 billion for transit and $8 billion for high speed rail. Only a fraction of the transit funds, the $750 million for the transit new starts program, would impact construction activities. Priority was given to projects already under construction so we should not see any impact on new contract awards. But as Figure 5 shows, there has been a significant impact on the value of construction work performed on subway and light rail projects. During the first four months of 2009, transit construction was running just even with the same months of 2008. Since then, it has been running almost 28 percent ahead of the same months of 2008 and is on track for a record year.

The high speed rail funds have not yet been awarded so it is too early to see any results in construction activity. But when those projects get underway, the industry will be ready to start construction and generate even more jobs.



Conclusion

Mr. Chairman, the evidence is clear—the ARRA's transportation investments are providing a much-needed boost to the U.S. transportation construction industry. Our industry has been suffering disproportionately during this economic downturn with areas of the country experiencing unemployment over 20 percent. Without the recovery act funds, this situation would have been devastating.

This year, the value of construction work performed on transportation projects will be above that in 2008 largely because of the ARRA. Contrary to the perception of many, ARRA has not "supercharged" the transportation construction market, but in many areas it has kept us afloat

Because of the spending mechanisms in place through the federal aid highway program, ARRA funding for highways and bridges is being utilized quickly and we can track its progress at the state level. We also know that this money is helping to support and create jobs, as well as provide critical infrastructure investment that will help our economy in the long run. In turn, our workers are spending this money in our towns and communities, helping other businesses that have been hurt in this recession.

The success of the recovery act transportation funds notwithstanding, we must remember this legislation was never intended to be a long-term solution.

New Enterprise's 2010 projects show us down from 2009. There are currently no indications that the commercial and residential spending will improve and some indicate that it could fall even more. Additionally, even though most states still have some ARRA monies to spend, we are finding most DOTs base funding programs are projected to be down in 2010, so our belief is that with the wind down of ARRA funds, the state spending may drop significantly. Pennsylvania, our core market, is projected to be down upwards of 50 percent without additional federal money.

At New Enterprise, without any federal program expansion, we will plan for early plant shut downs and construction layoffs, similar to 2008. In 2008 our season layoff, typically Thanksgiving, began the first week of October. Our employment outlook will be level for 2010, but we anticipate 15 percent less work hours and 20 percent decrease in hourly wages due to the early season layoffs. Additionally, our capital spending program will remain at the same 2008 and 2009 levels of $20 million with no new purchases of rolling equipment (on and off highway truck, concrete mixers, bull dozers, excavators, payloaders, etc.) or plant additions or expansions. Our 2007 spending was over $45 million which is typical more typical of a company of our size. Our business is extremely capital intensive. The $20 million level is purely from capital repairs for our fleet and plants.

We will also continue to curtail our college hiring program, where we hire four to six college graduates and place them into our Project Management training program. It becomes increasingly difficult to hire and develop employees when we are not certain of our long-term prospects.

To sustain and build on the ARRA and re-energize the long-term growth potential of the United States, the most important action Congress could take would be to enact a multi-year surface transportation authorization bill at the $500 billion funding level proposed by you and your Committee as soon as possible. With the passage of such a robust bill New Enterprise would renew our long term planning model for consideration of new employees with the anticipated growth of our operations, renew our training programs used for management development of our operations supervisors and foremen, progress with our plans to train our hourly workforce on skills development, continue to expand our use of technology for both operations (GPS and lasers) and administration (laptops and portable handhelds devices) and expand the existing support systems (IT, HR, equipment) to address the growth and return to our capital spending program that will enable other companies that depend on our industry to begin recovery as well.

Thank you for the opportunity to testify, and I will be happy to answer any questions.