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HARBOR MAINTENANCE TRUST FUND AND THE NEED TO INVEST IN THE NATION'S PORTS

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

JANUARY 31, 2013

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ONE HUNDRED THIRTEENTH CONGRESS
FIRST SESSION

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HARBOR MAINTENANCE TRUST FUND AND THE NEED TO INVEST IN THE NATION'S PORTS

THURSDAY JANUARY 31, 2013

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 10:03 a.m. in room 406, Dirksen Senate Office Building, Hon. Barbara Boxer (chairman of the committee) presiding.

Present: Senators Boxer, Vitter, Cardin, Whitehouse, Udall, Merkley, Barrasso, Sessions, Crapo and Boozman.

OPENING STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator BOXER. The meeting will come to order. I first want to welcome the Committee's new Ranking Member, Senator David Vitter. We are so pleased to be working together now. For many years, Senator Vitter has been a leader in calling for investments in our Nation's ports. He is a pragmatist. When it comes to infrastructure, we have a very good partnership. I am excited about the opportunity to work with him and other members of this Committee on this and many other water infrastructure issues.

Today's hearing will examine the role of the Harbor Maintenance Trust Fund in supporting commerce at our Nation's ports. The Harbor Maintenance Trust Fund is the primary source of Federal investment to maintain America's ports. The Trust Fund is financed through a fee on the value of cargo imported through coastal and Great Lakes ports.

According to the American Society of Civil Engineers, if funding continues at current levels, by 2040 the United States will face a shortfall of nearly $28 billion to meet the dredging needs of the Nation's ports. As we will hear from our witnesses today, this funding gap can have significant economic consequences.

Increasing investment in ports and reforming the Harbor Maintenance Trust Fund will be critical components of the next Water Resources Development Act, known as WRDA. Senator Vitter and I have already begun working together on this vital legislation, which supports water resources infrastructure nationwide.

WRDA authorizes the projects and programs of the U.S. Army Corps of Engineers and provides many benefits to the American people, including expanding and maintaining navigation routes for commerce.

In the coming weeks, we intend to move forward with the bipartisan Water Resources Development Act. Senator Vitter and I look

forward to working with our colleagues on both sides of the aisle to advance a bill. We are optimistic that we can repeat last year's success on MAP–21.

I want to thank the staff of Senator Mitch McConnell, who actually proactively came to us and said that they really wanted to help us with this bill. I was very pleased about that.

As we will hear from our witnesses today, adequate investment can boost the economy and create jobs. U.S. ports and waterways, many of which are maintained by the Corps, move 2.3 billion tons of goods in Fiscal Year 2011. In my home State of California, our ports are some of the busiest in the entire world.

Continued maintenance of port facilities is critical for the commerce and jobs that rely on these hubs, and that is why we must increase investment from the Harbor Maintenance Trust Fund. Currently, the Trust Fund collects more revenues than are annually spent for maintaining our ports. In fact, the Fiscal Year 2013 budget, the Obama administration estimated that the Trust Fund would receive $1.8 billion, but the Corps budget request was only $848 million. This leaves a growing surplus at a time when many of the Nation's ports are not maintained to their authorized depths and widths.

This is something that has gone on with every administration. They do not spend the funds in the Trust Fund the way they are meant to be spent. Significant challenges remain in working to ensure the revenues collected in the Harbor Maintenance Trust Fund are fully expended, including identification of necessary offsets, and I look forward to collaborating with all of my colleagues as we look for creative solutions to this challenging issue.

In addition, we must also look at ways to ensure that ports which collect the most Harbor Maintenance Trust Fund revenues receive an equitable share of Federal investment. Currently, some of these ports receive only a fraction of the funds that they pay into the Trust Fund. That is unfair. I propose a provision for the next WRDA that would increase equity for ports nationwide. The provision would allow certain ports to use harbor maintenance funds for limited additional uses after other traditional operation and maintenance needs are met. This would be an important step forward in ensuring our Nation's most essential ports receive an equitable share of harbor maintenance revenues and it just gives a little flexibility to the program.

I am so grateful to my colleagues on both sides of the aisle for their interest in this issue and I look forward to hearing from them today.

I want to say, Senator Vitter, as my Ranking Member, you have been a driving force behind this hearing and this issue, and it is with that that I call on you for the first time as ranking.

OPENING STATEMENT OF HON. DAVID VITTER, U.S. SENATOR FROM THE STATE OF LOUISIANA

Senator VITTER. Thank you, Madam Chair. I am very excited to be here. I am very excited to be Ranking Member, and I am very excited about our partnership on infrastructure issues.

The first thing out of the gate with regard to that is, first of all, this hearing, which is so important. I requested that we focus on

this issue because it is so vital, including in the context of a new WRDA, and I appreciate your organizing this hearing; and then in terms of legislative work, a new proactive, reform-minded, bipartisan WRDA bill, which we are already well into working on, and I am very excited about the prospects for that, again, as you said, following the model of good solid bipartisan work on MAP–21. So that is our goal and that is why we are here today.

I certainly want to underscore your comments about how our Nation's ports and waterways are grossly underfunded for routine operation and maintenance, and one big reason is the misallocation of Harbor Maintenance Trust Fund revenues. It is a pretty simple story. Revenue into the Harbor Maintenance Trust Fund has increased steadily over the past decade, minus a one-time decrease in Fiscal Year 2009. The Fund currently collects about $1.8 billion a year in revenue. However, even though all of that money clearly, under law, is supposed to be used only for designated purposes with regard to harbor maintenance, even though that is clearly true, the Administration only spends roughly half that amount for harbor maintenance.

What does that mean? Well, some people say that means we have an unspent balance of $8 billion. It really doesn't mean that; it is really worse than that, because that money isn't sitting anywhere. There is no pile of cash; that money is gone. What it really means is that the other money is stolen and spent on other completely unrelated purposes, directly contrary to the statute setting up the Harbor Maintenance Trust Fund and the revenue to go into it.

Meanwhile, what is going on with our infrastructure? You know, if all of our needs were being met, if we were fully dredging our crucial waterways and harbors, that might be understandable. But, of course, that is not the case. According to a recent analysis from the Corps itself, fully authorized channel dimensions are available less than an average of 35 percent of the time at the 59 highest use, harbors and waterways, and those are the harbors and waterways that basically get the best treatment. So there that fully authorized dimension and depth is available only 35 percent of the time.

Of course, I care about that because the national economy, but also because Louisiana has five of the top 15 busiest ports in the Nation, with four of those located on the lower Mississippi River; and the lower Mississippi River, which is at vital as anything to our commerce, our waterborne commerce, is traditionally underfunded in terms of this as well.

I want to thank all of our panelists and witnesses today, including my invitee, Mike Lorino, President of the Associated Branch Pilots. He will testify before this Committee about the negative effects of these draft restrictions which followed directly from this under-dredging and under-funding, restrictions which restrict commerce, restrictions which increase cost on commerce. For instance, every time a vessel's draft is decreased by one foot on the lower Mississippi because of under-maintained waterways, this costs shippers about $1 million against the value of their cargo. So that is a tax on shippers; that is a tax on commerce, and it slows down

the economy and holds us back from job creation and economic growth.

So this is a problem we absolutely have to fix, and it is a problem both Senator Boxer and I are very, very focused on in the WRDA that we are working on.

One final thought. A lot of folks correctly say that we need even more resources to fully account for, maintain, dredge, operate all of this waterborne commerce and infrastructure. I agree, and I want to be a leader in that effort and fully supportive of that effort. But, of course, industry, the folks we would ask to pay those extra resources, are not going to consider doing that if half of it is stolen for unrelated purposes; and that is what is going on now.

So we need to fix that problem if we expect any more resources to be put into the bucket. That is a simple and obvious request from the folks who are paying the bill, so their commerce and their freight can be transported in these harbors and along these waterways.

Thanks to all of our witnesses, and I look forward to a great discussion.

Senator BOXER. Thank you so much, Senator.

At this point I would ask unanimous consent to place into the record a statement by Senator Gillibrand, who is over at the Armed Services Committee. Without objection, I will do that.

[The prepared statement of Senator Gillibrand was not received at time of print.]

Senator BOXER. Also place into the record a statement from Senator Levin, who has written the Harbor Maintenance Act, a bill to require funds deposited into the Harbor Maintenance Trust Fund be fully expended for operation and maintenance at our Nation's ports. Without objection, we will do that.

[The prepared statement of Senator Levin was not received at time of print.]

Senator BOXER. I am pleased to call on Senator Udall.

OPENING STATEMENT OF HON. TOM UDALL, U.S. SENATOR FROM THE STATE OF NEW MEXICO

Senator UDALL. Thank you.

Good morning and welcome, Madam Secretary. I want to express my appreciation to you for being here and to Senators Boxer and Vitter for holding this hearing on WRDA. Assistant Secretary Darcy, I am sorry I won't be able to stay for the entire hearing, but I wanted to take this opportunity to highlight three issues that are of importance to New Mexico. Now, these aren't harbor issues, as you can imagine, but they are the closest thing New Mexico has to harbors, as we had a million-year-old ancient sea which covered much of New Mexico, but that is obviously gone.

I think we will see you again soon when we convene another hearing on general WRDA issues, so I hope to discuss these issues further at that time.

The issues I wanted to raise are the potential for flooding in our major city, Albuquerque, NM; my continued support for the Rio Grande Environmental Management Program; and, three, my concern over the current status of the project in the Rio Grande Floodway, the San Acacia to Bosque Del Apache. The city of Albu-

querque is our major metropolitan hub in New Mexico. I am particularly concerned about the effects flash flooding can have on our levee system that protects the city.

The levees clearly need upgrading, and I am hoping that I can work with you through the EPW Committee and through my additional role on Appropriations Committee to address this issue this year.

Next, I want to reiterate my strong support for the Rio Grande Environmental Management Program. I appreciate Chairman Boxer including this provision in the current WRDA draft again, but I am disappointed that it has not been funded. I would like to urge the Corps to include this program in future budgets to help with planning and conservation projects that will help balance the complex tradeoffs between flood control, agriculture, and habitat. The Rio Grande Basin is experiencing a severe drought that is harming farmers and endangered species, so this program is sorely needed.

Additionally, I hope the Corps can work with the Bureau of Reclamation and the International Boundary and Water Commission about ways to better manage the Rio Grande infrastructure in times of drought. We can't make it rain or snow, but we should take every measure available to ensure that our available water stretches as far as possible.

Finally, I understand that there is a disagreement between the Corps and the Fish and Wildlife Service about how much mitigation is needed for the San Acacia levee project. I want to take this opportunity to urge both organizations to do their best together toward a resolution on this so that the funding we have in place for it is not diverted elsewhere.

There are obviously other projects in New Mexico that are of great importance to me, but, since time is limited, I wanted to take a minute to highlight those three. Again, I thank you, Madam Secretary. I look forward to working with you on these issues, and appreciate very much Chairman Boxer and Ranking Member Vitter for this first hearing on WRDA. Thank you.

Senator BOXER. Thank you so much.

Without objection, I will place into the record Senator Inhofe's statement for this hearing. He is also over at the Armed Services.

[The prepared statement of Senator Inhofe follows:]

Thank you, Chairman Boxer and Ranking Member Vitter, for holding this hearing and allowing committee members to receive testimony on the Harbor Maintenance Trust Fund. I also would like to thank Assistant Secretary Darcy for testifying before us this morning, as well as the four gentlemen who will be joining us during the second panel—this committee greatly appreciates you and relies on your expertise, so thank you very much for being here.

I would like to also take a moment to thank the chairman, Senator Boxer, and our new ranking member, Senator Vitter, for all the work they and their staffs have done thus far on the next Water Resources Development Act. I look forward to working with both of you as we build upon our past successes and continue to work toward preserving and enhancing the infrastructure of this great Nation.

Certainly the most immediate challenge this committee faces is the authorization of water resources development legislation. As I've said time and time again, we as a Congress must pass authorization bills on a regular schedule so as to preserve the proper authorization-then-appropriations process. It has been 6 years now since we passed the last Water Resources Development Act, despite the best efforts of this committee—and that, in my judgment, is too long.

Our harbors and inland waterways are vital to the economic health of our country. In my home State of Oklahoma, over 90 percent of the grain that is shipped on barges eventually finds its way to New Orleans to be exported. If the harbor in New Orleans is not properly maintained, shipping from Oklahoma will suffer. And vice versa—for harbors to gain the economic benefit of shipping from places like Oklahoma, our inland waterways must also be properly maintained. As everyone here knows, only about half of the annual revenue in the Harbor Maintenance Trust Fund is spent as intended—on critical maintenance dredging. But because of the current structure of budgetary allocations, we simply cannot afford to allow funding for our inland waterways and ports to be redirected—it, too, needs a source of stable revenue. The only reasonable solution is increased funding for the system as a whole.

The Inland Waterways Trust Fund helps fund the 18 locks and dams on the McClellan-Kerr Arkansas River Navigation System, but it is woefully underfunded. In 2012, over 2.7 million tons of cargo shipped from the Port of Catoosa, with over 12 million tons being shipped on MKARNS, but the system could function much more efficiently and productively if it was deepened from its current 9-foot depth to the authorized 12 feet, and if hours of service on the locks are not further reduced. This must be a priority.

I have said my entire career that I take fiscal responsibility very seriously. However, I believe the Federal Government has a responsibility to invest in national defense and infrastructure. In 2011 the President cut the Corps of Engineers' budget by $600 million and by $300 million again in 2012. Our nation's system of inland waterways, highways, and coastal ports are our pathway to trade and economic prosperity, and we cannot continue this downward trajectory. Again, I thank the witnesses and look forward to their testimony.

Senator BOXER. So now it is my pleasure to turn to Senator Crapo.

Senator Crapo.

OPENING STATEMENT OF HON. MIKE CRAPO, U.S. SENATOR FROM THE STATE OF IDAHO

Senator CRAPO. Thank you very much, Madam Chairman and Ranking Member Vitter. A lot of us appreciate your holding this important hearing to focus on the Harbor Maintenance Trust Fund.

Of interest, Idaho does actually have a seaport, contrary to New Mexico. Idaho actually is home to the furthest inland seaport on the West Coast. This port, the Port of Lewiston, is located at the confluence of the Snake and Clearwater Rivers in the city of Lewiston. For farmers and other businesses in the west, the Port of Lewiston provides a critical link through the Snake and Columbia Rivers to the Port of Portland and ultimately to the Pacific Ocean.

However, the Port of Lewiston, like other ports, faces considerable challenges with meeting shipping needs. Despite a large surplus in the Harbor Maintenance Trust Fund, which has already been discussed, harbors across the United States are presently under-maintained. Again, the statistics that have already been presented show that the U.S. Army Corps of Engineers estimates that the full channel dimensions of the Nation's busiest 59 ports are available less than 35 percent of the time.

We too, in Idaho, are very interested and concerned with the management of the Harbor Maintenance Trust Fund. We have seen, just as an example from Idaho, that the draft restrictions in 2011 and 2012, due to the Corps' inability to maintain the deep draft portion of the Columbia River, have been significant impacts on our economy. For every inch of draft that is lost due to the silted-in channel, vessels are unable to load 358,000 pounds of wheat. This is just one example of how important it is that we properly utilize the funds in the Harbor Maintenance Trust Fund.

Second, Idaho is also very interested in the Inland Waterways Trust Fund concerns. There are eight locks between the Pacific Ocean and the Port of Lewiston, and we need to have the adequate support for the maintenance of these locks and the facilities to allow for the traffic to reach the port and to return back to the Pacific Ocean.

So we are interested, Madam Chairman and Ranking Member Vitter, not only in the Harbor Maintenance Trust Fund, but also in reforming and making more effective the Inland Waterways Trust Fund that would enable us to have truly effective access to and support of this critical waterway for our economy in the Northwest.

Each day the condition of our water infrastructure results in significant losses and damages from broken water and sewer mains, sewage overflows and other symptoms of water infrastructure that is reaching the end of its useful life; and with these challenges and the others I have already mentioned in mind, as this Committee is well aware, a national investment in water infrastructure projects would create jobs, repair crumbling infrastructure, and provide significant protection for public health and the environment. A strong focus on improving the financing structure of our Nation's water infrastructure is greatly needed.

Again, thank you again for holding this hearing, Senator Boxer and Senator Vitter, and I look forward to the testimony we have in today's witnesses.

Senator BOXER. Thank you so much.

Senator.

OPENING STATEMENT OF HON. JEFF MERKLEY, U.S. SENATOR FROM THE STATE OF OREGON

Senator MERKLEY. Thank you, Madam Chairman, and thank you, Madam Secretary, for coming. I think you are hearing the general story of the significant challenges in maintaining levees and jetties and harbor dredging and locks, and how frustrating it is that we have funds tat are raised specifically for maintenance, and in this case harbor maintenance, and they are not being spent in that fashion.

Now, Oregon is a coastal State, so I go to town after town after town where industry depends upon the success of those harbors and the maintenance of the jetties; and not only is it important to commerce moving back and forth, it is important to our fishing vessels, it is important to our recreational coastal industry, and it imposes not just an issue of commerce, but an issue of safety, because when the dredging is not maintained and the jetties are not maintained, you can have very dangerous entries from the ocean.

So how can I possibly justify that we have funds that have been raised for a specific purpose, commerce is at stake, safety is at stake, and we are not spending it in this fashion? I can't justify it. I want to see this policy changed. I so much applaud the Chair and Ranking Member for bringing this bill forward and I, like my colleague from New Mexico, apologize because I have a conflict to attend to, but I certainly look forward to your comments. I will be following up and hope that we can get to the point that we are spending these funds in the appropriate place. Thank you.

Senator BOXER. Thank you so much.
Senator Boozman, welcome.

OPENING STATEMENT OF HON. JOHN BOOZMAN, U.S. SENATOR FROM THE STATE OF ARIZONA

Senator BOOZMAN. Thank you, Madam Chair and Ranking Member Vitter, for having this very important hearing today. I am glad that we are moving forward toward what I believe will be a strong, bipartisan Water Resources Development Act early in the 113th Congress, and I think that you are probably excited about that, also, and there will be tremendous input from you.

I am also glad that the improvements to the harbor maintenance may be part of this process. Every American benefits from the harbor maintenance. Well-maintained water infrastructure harbors and inland waterways are critical to our farmers, job creators, exporters, manufacturers, and consumers.

One of our witnesses highlights the tremendous advantage American farmers enjoy over foreign competitors when the Mississippi River's fully authorized dimensions. Water infrastructure does not get the attention of our other transportation modes, but is an indispensible part of our transportation system.

I believe in the principle that the Harbor Maintenance Trust Fund should be fully used, but I also agree with our witnesses who emphasize that the Trust Fund should be used to boost funding for the Corps of Engineers. I am concerned that our budget process, specifically limited allocations for energy and water, could result in cuts to other Corps priorities if we don't do this properly.

In short, as one witness's prepared remarks State, this should be additive. Another witness's prepared remarks State that the appropriations should not be taken from other Corps of Engineers programs due to the potential increased funding from the Harbor Maintenance Trust Fund.

Another concern I have is how we move forward on equitable return of HMT dollars. Arkansas is an inland State, but we have significant water infrastructure. Our State, as many other States like it, receives just a tiny portion of the Trust Fund dollars, but these funds are critical.

While I understand the importance of equitable return, we need to ensure that Arkansas's infrastructure and similar States, that that infrastructure is maintained. Expanding the potential uses of Trust Fund dollars may be a balanced approach, but we must avoid an inflexible framework, such as a rigid formula, which would abandon infrastructure States like Arkansas.

Again, thank you all very much for having the hearing. I appreciate your leadership. I also appreciate the witnesses being here and looking forward to their testimony; look forward to the conversation.

This Committee, again, has a history of being very friendly to the Secretary, and trying to be supportive, and the rest of the witnesses. Regardless of what happens today, remember it could be worse; you could be Senator Hagel over there right now in the midst of his hearing. Thank you.

Senator BOXER. That was an unexpected truth.

[Laughter.]

Senator BOXER. An unexpected truth.

We want to welcome you, Jo-Ellen Darcy, Assistant Secretary of the Army for Civil Works. I just want to thank you. This is a very contentious issue. This is not a new issue. We have had people sitting right there on the same issue, where members here were upset, but this is a circumstance that I think needs to be faced. People are paying into a fund and guess what? They are not getting what they are supposed to get from it. It is not right. It would be as if we paid into the Highway Trust Fund and the money was used for something completely different. It is not right.

So I know you are in kind of the hot seat on it. We want to welcome you. We thank you for your service and what you are doing to help us every day in our States. Please proceed.

STATEMENT OF HON. JO-ELLEN DARCY, ASSISTANT SECRETARY OF THE ARMY, CIVIL WORKS

Ms. DARCY. Thank you. Thank you, Chairman Boxer, Ranking Member Vitter, and distinguished members of this Committee. I want to thank you for the opportunity to testify on the Harbor Maintenance Trust Fund and the importance of investment in the Nation's ports.

The Army Corps of Engineers provides support for safe, reliable, highly cost-effective and environmentally sustainable waterborne transportation systems, investing over $1.7 billion annually, more than one-third of the total budget of the Civil Works program, to study, construct, replace, rehabilitate, operate, and maintain commercial navigation infrastructure across this Country.

The Nation's ports handle over 2 billion tons of commerce annually, including over 70 percent of the imported oil and more than 48 percent of goods purchased by American consumers.

The Administration understands that our ports are an important part of the Nation's infrastructure and has formed an Interagency Task Force on Ports to develop a strategy for investment in our ports and related infrastructure. Maintaining these ports and making targeted investments in their improvement can lower shipping costs for U.S. exports and imports.

The work of the task force will reflect a strategic, multi-modal view of the Nation's investment priorities for the infrastructure that supports the movement of freight through our ports, including the protections for life, safety, and property during transport, as well as protections for affected communities and for sustaining our ecosystem.

The Harbor Maintenance Tax and the Harbor Maintenance Trust Fund were established by the Water Resources Development Act of 1986. The harbor maintenance tax is an ad valorem fee on the value of commercial cargo loaded or unloaded on vessels using federally maintained harbors. An amount equivalent to the revenue collected is deposited in the Harbor Maintenance Trust Fund and is then available to finance certain costs, subject to the congressional appropriations process.

For the Civil Works Program, the Harbor Maintenance Trust Fund is authorized to be used to finance up to 100 percent of the Corps' eligible operation and maintenance expenditures for commercial navigation at all Federal coastal and inland harbors within

the United States. Expenditures from the Harbor Maintenance Trust Fund are also authorized to be used to recover the Federal share of construction costs for dredged material placement facilities, including beneficial uses associated with the operation and maintenance of Federal commercial navigation projects. The Harbor Maintenance Trust Fund is also authorized to be used to finance operation and maintenance costs of the U.S. portion of the St. Lawrence Seaway.

Harbor Maintenance Tax receipts in Fiscal Year 2012 were $1.54 billion, and the interest earned was $47.3 million. The balance in the Harbor Maintenance Trust Fund at the end of Fiscal Year 2012 was $6.95 billion.

An increasing portion of Civil Works funding in recent years has been devoted to harbor maintenance. The President's 2013 budget request for the Corps included $848 million for the Harbor Maintenance Trust Fund to support the maintenance of coastal harbors and their channels and related works, the most ever requested by any president. This is a significant increase over the level in the Fiscal Year 2012 budget, which was $758 million; this all at a time when many programs governmentwide are being reduced in order to put the Nation on a sustainable fiscal path.

Our investments in coastal port maintenance are directed primarily at providing operational capabilities and efficiencies. To make the best use of these funds, the Corps evaluates and establishes priorities using objective criteria. These criteria include transportation cost savings, risk reduction, and improved reliability, all relative to the cost. Consequently, maintenance work generally is focused more on the most heavily used commercial channels, those with 10 million tons of cargo a year or more, which together carry about 90 percent of the total commercial cargo by tonnage traveling through our coastal ports.

The amount proposed in the Fiscal Year 2013 budget is an appropriate level, considering the other responsibilities of the Corps for inland navigation, flood risk management, aquatic ecosystem restoration, hydropower, and other Civil Works Program areas. The Corps is working to develop better analytical tools to help determine whether additional spending in this area is warranted based on the economic and safety return.

Dredging costs continue to rise due to increases in the cost of fuel, steel, labor, and changes in methods of disposal of dredge material. We recognize that this presents challenges in maintaining commercial navigation projects. The pending improvements to the Panama Canal will increase the draft of vessels transiting the Canal to 50 feet.

On our Atlantic Coast we now have two 50-foot deep ports capable of receiving these ships, Norfolk and Baltimore. The Corps expects to complete the dredging work for deepening the Port of New York-New Jersey to 50 feet in fiscal year 2015. The Corps is also working with the Port of Miami, which is financing a project, to deepen the Federal channel to 50 feet.

On the West Coast, the Ports of L.A., Long Beach, Oakland, Seattle, and Tacoma all have channel depths of 50 feet or greater.

In addition to the ongoing work, the Corps is also working with seven ports on the Atlantic and Gulf Coasts to evaluate proposals to deepen or widen those channels.

Madam Chairman and members of the Committee, I look forward to answering any questions you have, and also to work with you on this difficult issue as you prepare for the WRDA bill. Thank you.

[The prepared statement of Ms. Darcy follows:]

DEPARTMENT OF THE ARMY

COMPLETE STATEMENT

OF

THE HONORABLE JO-ELLEN DARCY
ASSISTANT SECRETARY OF THE ARMY
(CIVIL WORKS)

BEFORE

THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

UNITED STATES SENATE

ON

THE HARBOR MAINTENANCE TRUST FUND AND THE NEED TO INVEST IN THE NATION'S PORTS

JANUARY 31, 2013

Madam Chairman and distinguished members of the committee, thank you for the opportunity to testify on harbor maintenance and the importance of investment in the Nation's ports.

OVERVIEW

The Army Corps of Engineers helps facilitate commercial navigation by providing support for safe, reliable, highly cost-effective, and environmentally sustainable waterborne transportation systems. To this end, the Corps now invests over $1.7 billion annually – more than one-third of the total budget for the Civil Works program – to study, construct, replace, rehabilitate, operate, and maintain commercial navigation infrastructure for approximately 13,000 miles of coastal channels and 12,000 miles of inland waterways. At coastal harbors on the Atlantic, Gulf, Pacific, and Great Lakes coasts, the work performed by the Corps includes: surveying navigation channels; evaluating proposals to construct deeper, wider, or longer channels; constructing such improvements; maintaining them by periodic dredging; and maintaining other coastal navigation structures such as jetties, breakwaters, and locks.

THE ECONOMIC IMPORTANCE OF OUR PORTS

We are a maritime Nation. Our ports contribute to the nation's economy, as well as to state and local government economic development and job creation efforts. Nearly 80 percent of the volume of our foreign trade passes through the Nation's ports. They handle over 2 billion tons of commerce annually, including over 70 percent of the imported oil and more than 48 percent of goods purchased by American consumers. Several of our ports also contribute to our national security. In some cases, the maintenance of navigation channels also provides environmental benefits, where the dredged material is used to create, preserve, or restore wetlands, islands, or other aquatic habitat.

IMPROVED COORDINATION

The Administration understands that our ports are an important part of the Nation's infrastructure. In recognition of their importance, the Administration has formed an interagency Task Force on Ports to develop a strategy for investment in our ports and related infrastructure. Maintaining these ports, and making targeted investments in their improvement where appropriate, can lower shipping costs for U.S exports and imports. U.S. ports are facing new challenges and increased competition, including from ports in Canada and the Caribbean, but new opportunities as well, including those that may result from improvements to the Panama Canal, which is scheduled to open in 2015. The Task Force will be considering these and other issues from a national perspective, recognizing the benefits provided by ports in facilitating the movement of freight in domestic and international commerce. Its work will reflect a strategic, multimodal view of the Nation's investment priorities for the physical and information infrastructure that supports the movement of freight through our ports, including protections for life, safety and property during transportation as well as protections for affected communities and for sustaining ecosystems.

HARBOR MAINTENANCE TRUST FUND

The Harbor Maintenance Tax (HMT) and the Harbor Maintenance Trust Fund (HMTF) were established by Title XIV of the Water Resources Development Act of 1986 (Public Law 99-662). Subsequent legislation modified the HMT and the HMTF to adjust for a rate increase and to expand the definition of eligible expenditures. The HMT generally is applied as a 0.125 percent *ad valorem* fee on the value of commercial cargo loaded or unloaded on vessels using federally maintained harbor projects. The tax now applies to most imports by vessel to U.S. ports above a certain size (91 percent of the annual tax receipts) and to some commerce between U.S. ports. It is levied on the value of cargo coming into a port and is not paid by the ports themselves or the states.

The level of these receipts is based on a percentage established in this 1986 law and revised four years later, not on how much the Corps should spend at a given port or for all ports each year. Harbor maintenance and related costs, and vessel characteristics, vary greatly by port and over time. There is no relationship between the cargo subject to the tax, the tax rate, and maintenance needs of the port handling that cargo.

In 1998, the U.S. Supreme Court excluded all U.S. exports from the HMT. The Court found that the HMT violated Article I, section 9, clause 5 of the constitution because the value of the cargo, which is the basis for calculating this tax, does not fairly match the use of port services and facilities by exporters.

Generally, the commercial cargo subject to the HMT is now defined as any cargo (other than exports) transported on a commercial vessel, including passengers transported for compensation or hire. However, there are multiple statutory exclusions and an administrative exclusion to this general rule. For example, bunker fuel, ship's stores, sea stores, the legitimate equipment necessary for the operation of a vessel, and any fish or other aquatic animal life caught and not previously landed on shore are not subject to the tax. Ferries are not considered to be commercial vessels. Imported and domestic oil that is offloaded directly to a pipeline outside of a port is also excluded. Cargo moving to and from Alaska, Hawaii and other U.S. possessions is excluded, except for Alaskan crude oil, which is subject to the tax if shipped for use in the U. S. through a port in the lower 48 states. There is also an administrative exclusion. Specifically, the tax is collected only cargo moving through ports with an authorized depth greater than 14 feet.

An amount equivalent to the revenue collected by U.S. Customs and Border Protection is deposited in the HMTF, and is then available to finance certain costs subject to the congressional appropriations process. For the Civil Works program, the HMTF is authorized to be used to finance up to 100 percent of the Corps eligible operation and maintenance expenditures for commercial navigation at all federal coastal and inland harbors within the United States. Expenditures from the HMTF are also authorized to be used to recover the Federal share of construction costs for dredged material placement facilities, including beneficial uses, associated with the operation and maintenance of federal commercial navigation projects, the dredging and placement of contaminated

sediments that are in or affect the maintenance of federal channels, the mitigation of operation and maintenance impacts, and the operation and maintenance of dredged material placement facilities. The HMTF is also authorized to be used to finance operation and maintenance costs of the U.S. portion of the Saint Lawrence Seaway, in the Department of Transportation; and up to $5 million per year of the cost incurred by U.S. Customs and Border Protection for tax collection and enforcement and the cost incurred by the Corps for related data collection.

Revenues to the HMTF come from annual collections of the HMT and accrued interest on the balance in the HMTF. HMT receipts and interest in Fiscal Year (FY) 2012 were $1.54 billion and $47.3 million, respectively for a total of $1.587 billion. The balance in the HMTF at the end of FY 2012 was $6.95 billion.

The balance in the HMTF, which has grown over a period of many years, reflects multiple factors, principally the value of goods subject to the harbor maintenance tax, the tax rate, the enacted spending levels, and the limitation in current law on the authorized uses of these receipts. In our view, the overall funding level that the Federal government provides to support maintenance dredging and related purposes should be determined independent of the level of the HMT receipts. More specifically, the level of spending for these activities should reflect consideration for the economic and safety return of these investments, as well as a comparison with other potential uses of the available funds.

HARBOR MAINTENANCE

The Corps today is focused on the operation, maintenance, repair and replacement of major commercial navigation, flood risk management, and hydropower infrastructure, and the repair of the significant aquatic ecosystems that Corps projects have affected. The overall budget for the Civil Works program is primarily devoted to maintaining these systems so that they can continue to provide economic, environmental and social benefits to the Nation.

For example, an increasing proportion of Civil Works funding in recent years has been devoted to harbor maintenance, and the repair and rehabilitation of inland navigation and flood risk management infrastructure and multipurpose dams. The construction program also gives priority to dam safety assurance, seepage control, and static instability control work (about $450 - $500 million per year) to repair unsafe dam and other structures, much higher than the funding allocated for such work 10 years ago.

The FY 2013 Budget for the Corps includes $848 million from the HMTF to support the maintenance of coastal harbors and their channels and related work. Most of this work involves maintenance dredging. The amount requested for this purpose would enable the Nation's ports to continue to service high volumes of vessel traffic in support of the national economy. This is close to the allocation under the enacted FY 2012 appropriations act. It represents a significant increase over the level in the FY 2012 Budget ($90 million above it, or 11.9 percent), at a time when many programs government-wide are being reduced in order to put the Nation on a sustainable fiscal path.

Our investments in coastal port maintenance are directed primarily at providing operational capabilities and efficiencies. To make the best use of these funds, the Corps evaluates and establishes priorities using objective criteria. These criteria include transportation cost-savings, risk reduction, and improved reliability – all relative to the cost. Consequently, maintenance work generally is focused more on the most heavily used commercial channels (those with 10 million tons or more of cargo per year), which together carry about 90 percent of the total commercial cargo by tonnage traveling through our coastal ports. The Budget includes significant funding for other commercial ports as well, with emphasis on those with between 1 million tons and 10 million tons of cargo per year, which together carry about 9 percent of the total commercial cargo by tonnage traveling through our coastal ports.

While the large ports (10 million tons or more per year) and most medium-sized ports (1 million to 10 million tons per year) are able to process current levels of cargo at the current levels of funding, some carriers at these ports encounter delays, need to proceed more slowly due to hazards, light load their vessels, or offload some cargo to smaller vessels, at least during some parts of the year.

While the Corps could spend more on harbor maintenance and related work, the amount proposed in the FY 2013 Budget for this purpose, which is financed from the HMTF, is an appropriate level, considering the other responsibilities of the Corps for inland navigation, flood risk management, aquatic ecosystem restoration, hydropower, and the other Civil Works program areas. The Corps is working to develop better analytical tools to help determine whether additional spending in this area is warranted based on the economic and safety return, as well as a comparison with other potential uses of the available funds. Dredging costs continue to rise due to increases in fuel, steel, labor, and changes in methods of dredged material placement. We recognize that this presents challenges in maintaining commercial navigation projects.

PORT DEEPENING

Containerized cargo is forecasted to continue to increase in the near future. Many of the world's shipping companies are constructing larger, more efficient container vessels that require channel depths of 50 to 55 feet when the vessels are fully loaded. Some of our ports are better suited than others to accommodate the full extent of the deeper draft vessels that are forecasted to be in service.

The pending improvements to the Panama Canal will increase the permissible draft of vessels transiting the Panama Canal from 39.5 feet to 50 feet. On the Atlantic coast, the U.S. now has two 50-foot deep ports capable of receiving these ships – Norfolk and Baltimore. The Corps expects to complete the dredging work for deepening the Port of New York/New Jersey to 50 feet in FY 2015. The Corps is also working with the Port of Miami, which is financing a project to deepen the Federal channel to 50 feet. The Corps expects to complete that project in 2015. The U.S. also has several other ports with depths of 45 feet on the Atlantic, Pacific and Gulf coasts, which will be able to accommodate such vessels when they are less than fully loaded. On the West Coast, the

ports of Los Angeles, Long Beach, Oakland, Seattle, and Tacoma all have channels constructed to depths of 50 feet or greater.

The FY 2013 Budget includes: $68 million for the ongoing deepening of the port of New York/New Jersey; $38 million for construction or expansion of dredged material placement facilities at the Ports of Jacksonville and Tampa, FL; Savannah, GA; Lake Charles, LA; Wilmington, NC; and Green Bay, WI, in order to continue maintenance of the deep draft channels serving these ports; and $2.8 million for preconstruction engineering and design of the proposed deepening of the channel to Savannah Harbor, GA.

The Corps is also working with seven ports on the Atlantic and Gulf coasts to evaluate proposals to deepen or widen their channels. While deepening a Federal navigation channel generally provides economic benefits, from a national perspective some of the proposed investments will provide a greater economic return than others. Also, deepening a channel tends to increase future maintenance costs due to the need to dredge the additional material that accumulates in channels and to construct additional placement sites for this additional material.

CONCLUSION

In summary, the Corps has served a major role in support of the Nation's ports. The Corps is facilitating commercial navigation in these ports by providing support for safe, reliable, highly cost-effective, and environmentally sustainable waterborne transportation systems.

Madam Chairman and members of the committee, I look forward to working with this Committee on these issues. Thank you.

Environment and Public Works Committee Hearing
January 31, 2013
Follow-Up Questions for Written Submission

Questions for

Ms. Darcy

Questions from:

Senator Barbara Boxer

1. Assistant Secretary Darcy, while expenditures from the Harbor Maintenance Trust Fund have been less than the revenues collected, the Administration's recent budget requests for harbor maintenance funding have increased. Is increasing funding for harbor maintenance a priority of the Administration?

   Answer: Increasing funding from the Harbor Maintenance Trust Fund (HMTF) was a priority for the Administration in FY 2013, when the President's budget proposed $848 million from the HMTF, the highest amount ever budgeted.

2. Assistant Secretary Darcy, the Army Corps of Engineers has estimated that the nation's 59 busiest ports have access to their full channel dimensions only 35 percent of the time. These ports are critical for commerce and international trade.

   a. What would be the estimated cost to dredge the full authorized widths and depths at the nation's 59 busiest ports?

      Answer: The Corps estimates that it would cost approximately $3.5 billion to restore authorized channel dimensions for the top 59 projects.

   b. If the Corps received adequate funding, how quickly could this be accomplished?

      Answer: The Corps estimates that this work could be accomplished in five years.

Environment and Public Works Committee Hearing
January 31, 2013
Follow-Up Questions for Written Submission

Questions for Darcy

Senator Frank Lautenberg

1. Coastal communities and businesses in New Jersey were devastated by Superstorm Sandy, but those protected by Army Corps beach projects fared much better than those that were not. However, the beaches and dunes that protected many towns were wiped away by the storm. Will the Corps expedite the construction of beach projects so that coastal communities are protected in time for the summer hurricane season?

   Answer: The Corps is currently working to complete repairs to projects damaged by Hurricane Sandy as quickly as possible. The Corps will be repairing projects as well as restoring projects to their authorized design level, as provided for in Public Law 113-2.

2. The Harbor Maintenance Trust Fund provides critical support to ports in the New Jersey region, but the harsh budget cuts in the Budget Control Act mean increases in spending have to be offset with cuts elsewhere. If the Administration were required to increase spending for harbor maintenance, what would the impact be on the Corps' other programs?

   Answer: If the Administration is required to increase spending for harbor maintenance without increasing the overall Army Civil Works budget, reductions would have to be taken in flood risk management, navigation, hydropower, recreation, aquatic ecosystem restoration, and other Civil Works mission areas.

3. As the planet continues to warm, extreme weather events like Superstorm Sandy will become more frequent. In my state, Sandy devastated our infrastructure and shut down the Port of New York and New Jersey—the largest port on the East Coast—for more than a week. What investments should we be making now to prevent these costly shutdowns in the future?

   Answer: The Corps is making efforts to mainstream climate change adaptation in all activities to help enhance the resilience of our built and natural water-resource infrastructure and reduce potential vulnerabilities to the effects of climate change and variability. For example, the Corps is undertaking collaborative efforts to define user needs for actionable science, developing a training program to build technical capabilities, and conducting adaptation pilot tests. The Corps is working closely with science agencies to compile, evaluate and select from the best available and actionable science to support risk-informed decision-making at local to national scales.

4. Many beach projects impacted by Superstorm Sandy were inadequate before the storm hit. We were successful in allowing funding for Sandy relief to be used to improve projects—not just rebuild them as they were. Shouldn't the Corps be given the permanent authority to improve projects following future natural disasters?

   Answer: Of the communities impacted by Superstorm Sandy, those communities that were protected by a Corps of Engineers project were, in general, significantly less impacted. Currently the law allows for the Corps to repair projects to the condition they were before an event. In the case of Public Law 113-2, Congress included authority and funding to restore projects to their authorized design level. The Administration does not have a position on a proposed permanent authority in lieu of the current process following future disasters.

Senator Cardin

1. When it comes to prioritizing where Harbor Maintenance Trust Fund dollars go, what weight is given to ports that have both outstanding needs and are large revenue sources?

   Answer: The Army focuses on those projects that provide the greatest economic, environmental, and public safety returns to the Nation. Navigation projects are categorized as high, moderate and low commercial navigation use. Funding is focused on the projects with a high risk of failure (need) and high commercial use (greater than 10 million tons of cargo/year) or moderate commercial use (greater than one million tons of cargo/year), which move 90 percent and 9 percent, respectively, of the Nation's waterborne commercial cargo. Consideration is also given to other factors, including those projects with high export and import values and contribution to the Harbor Maintenance Trust Fund.

2. What is the Corps' plan for utilizing the U.S. Port and Inland Waterways Modernization report for determining the Corps funding strategy the Corps is pursuing?

   Answer: The Corps report looked programmatically at the U.S. harbor and channel improvements needed to accommodate post-Panamax vessels and identified strategic level opportunities. The report did not make recommendations at the port level. The Army will continue to focus primarily on those high commercial use navigation studies and projects that have the greatest potential for providing navigation improvements that realize transportation savings from using larger and more efficient vessels. Low commercial use navigation projects that are subsistence harbors, used by public ferry services, or that serve as a critical harbors of refuge will also be considered in future funding decisions.

Senator Vitter

Expanded Use of HMTF monies

1. "We are looking at taking monies from the HMTF and looking at more national investment in ports beyond just the original purposes of navigation...we are looking at the entire balance for harbor maintenance as a whole, including navigation dredging, but in addition, other needs, Federal interests, investment needs in ports, in national ports, including things like security."- Jo-Eilen Darcy's March 9, 2011 Testimony before the House T&I Water Resource Subcommittee: She stated,

   "The Administration plans to develop legislation to expand the authorized uses of the HMTF so that its receipts are available to finance the Federal share of other efforts in support of commercial navigation through the nation's ports." -- Jo-Ellen Darcy, March 9, 2011 testimony before House E&W Appropriations Subcommittee

   "I am sure there is the possibility of expanding uses of the HMTF." --Darcy March 27,2012 testimony before the House T&I Water Resources Subcommittee hearing,

   a. Why, when the top 59 ports that transport 90% of the US commercial cargo in this country are only maintained at their authorized width and depth 35% of the time, is the Administration proposing to expand the uses of HMTF money?

   Answer: While the Administration proposed to expand the uses of the Harbor Maintenance Trust in the FY 2012 budget submission, the Administration is not considering expanding the uses of the HMTF at this time.

Doubling Exports

2. "At the current appropriated amounts from the HMTF, we believe that we can meet the President's initiative of doubling exports by 2015."- Darcy's March 27,2012 testimony before the House T&I Water Resources subcommittee

   a. A report from the Department of Commerce's Bureau of Economic Analysis, released yesterday, shows real exports decreased 5.7 percent in the fourth quarter of 2012. How can you believe that the Corps will meet the President's initiative of doubling exports by 2015 if exports are on the decline?

   Answer: Maintaining navigation channels to authorized dimensions alone will not achieve the President's initiative to double exports by 2015. Doubling exports is far more dependent on U.S. manufacturing and trade agreements than on channel maintenance. The Corps continues to maintain its harbor and channels at sufficient depths to move in excess of 2.2 billion tons of cargo annually. We believe that these harbors and channels could handle a doubling of exports and do not impede doubling of exports.

Reduce the Deficit/Budget Gimmick

3. "The President's budget recognized a specific amount of funding for the purposes of maintaining a navigation channel", in this case $758 M for the FY 12 budget", and that "the balance of the fund goes to the Treasury".- Darcy's March 9, 2011 testimony before the House E&W Appropriations Subcommittee.

Darcy's March 8, 2011 testimony before the House T&I Water Resource Subcommittee: She concurred ("Yes, sir") with the statement by Congressman Bishop that the reason President's historically spend less than what's in the trust fund is to reduce our total deficit.

a. Based on the June 2012 report from the Corps' Institute for Water Resources titled, "US Port and Inland Modernization", in your opinion, do you believe using the $8 billion HMTF balance for a one-time expenditure to fully dredge our nation's ports and waterways would be a more effective method of reducing our Federal deficit, which currently exceeds a trillion dollars?

Answer: The amount of HMTF reimbursable expenditures proposed in the President's FY 2013 Budget was $848 million. This is the appropriate amount, given overall fiscal constraints.

Port Prioritization and Minimal Dimensions

4. "The spending out from the HMTF goes to those harbors that are in need of the most dredging and maintenance money. The priorities are based on the high performance of those ports."- Darcy's March 27, 2012 testimony before the House T&I Water Resources subcommittee.

"It is our purpose to ensure that the channels are sufficient dimensions to ensure the safety and economic success of a particular harbor. We are able through collaboration (with the Coast Guard and local port authority) to determine what we believe the minimum safe dimensions. So, because we are operating within the appropriated HMTF amount, virtually no harbor is getting full dimensions under those constraints."- Former Chief of Engineers LTG Bo Temple, same hearing.

a. According to your previous testimony and that of your former colleague, the Corps priority for dredging is for those ports and waterways that demonstrate the most need and are high- performing; yet only dredging to what the Corps believes is minimum safe dimensions. In your opinion, how can a port or waterway be high-performing and only have the bare minimum safe dimensions?

Answer: Harbors and channels are considered high performing if they carry a significant amount of cargo. Shippers continue to safely move in excess of 2.2 billion tons of cargo annually on the Corps harbors and channels, despite the channels not being at authorized dimensions.

Mississippi River

5. "For a port in New Orleans, it has a certain authorized width and depth...and when we dredge, that is what we try to get to. A lot of our ports and harbors are not to the authorized depth or authorized width. We prioritize and try to do the best we can with the funds available."- Former Chief of Engineers LTG Van Antwerp testimony before a March 9, 2011 House E&W Appropriations Subcommittee hearing.

When asked if the HMTF monies were to just maintain current levels, Van Antwerp answered, "That is its purpose."

a. If the Corps "goal" is to maintain current (width and depth) levels, why does the Corps

and Administration continue to under-budget funds from the HMTF to perform maintenance dredging on the lower Mississippi River?

Answer: The Administration budgets an appropriate amount for channel maintenance considering the Federal deficit and other competing civil works priorities. The Administration has increased the amount budgeted for the Mississippi River Baton Rouge to the Gulf project over the past five years, from FY 2009 to FY 2013, from $55 million to $82 million.

Senator Wicker

Port of Gulfport

1. Mississippi's state port at Gulfport has been dredged to its authorized depth of 36 feet only once since the destruction of Hurricane Katrina. Today, areas of the channel are as shallow as 32 feet. This restricts the port's throughput capacity and associated economic benefits.

   Because the Corps of Engineers prioritizes maintenance dredging based on tonnage, Gulfport becomes less and less competitive for funds each year as a direct result of inadequate dredging.

   a. What is the Corps doing to eliminate this self-perpetuating cycle, whereby a lack of past dredging lowers a port's priority for future dredging instead of raising it?

   Answer: Tonnage is not the only consideration in prioritizing maintenance funding. The Army also considers channel condition and risk of failure when prioritizing maintenance funds.

   b. What internal policy changes could the Corps make to ensure routine maintenance dredging occurs at ports like Gulfport, as opposed to the neglect we have been experiencing?

   Answer: Gulfport will continue to be considered for funding alongside many other worthwhile programs, projects, and activities across the Nation competing for limited Federal funding.

2. The federal government made an investment to restore and modernize the Port of Gulfport following Hurricane Katrina. The economic benefits of Gulfport's expansion will not be realized unless the channel is maintained at its authorized depth, and will not be fully realized until it is deepened to 45 feet.

   a. Has the Corps considered using additional criteria, such as state and federal investment in landside infrastructure at ports, to prioritize maintenance dredging?

   Answer: The Corps considers a variety of factors and criteria when prioritizing maintenance funding for projects, to include landside infrastructure development. Deputy Secretary John Porcari, U.S. Department of Transportation, and I executed a Memorandum of Understanding on March 1, 2012 to further collaboration between our respective organization on making federal investments in landside and waterside infrastructure development.

Harbor Maintenance Trust Fund

3. Revenue for the Harbor Maintenance Trust Fund comes from a fee assessed on the value of imported cargo.

   a. Has the Corps looked into prioritizing funds for maintenance dredging at ports based on cargo value – to be more consistent with the way the Harbor Maintenance Tax is assessed – rather than looking exclusively at tonnage?

   Answer: The Corps considers cargo value as one of the factors used in prioritizing project maintenance. However, this should not be the only factor considered since many ports deal primarily with bulk cargos that have a much lower cargo value or have significant exports, which are not assessed the Harbor Maintenance Tax.

4. Revenue deposited into the Harbor Maintenance Trust Fund far exceeds expenditures out of the Fund each year. The current surplus in collections is near $7 billion. And yet, according to the Corps' own estimate, full channel dimensions at the nation's busiest ports are available less than
35 percent of the time.

   a. Could our nation's maintenance dredging needs, such as channels being dredged to their authorized depths on a regular basis, be met if expenditures from the Harbor Maintenance Trust Fund matched receipts into the Fund each year?

   Answer: The Corps estimates that the annual dredging needs of high and moderate use harbors and channels and some low commercial use channels could be met if expenditures from the Harbor Maintenance Trust Fund matched annual revenues of approximately $1.6 billion to the Harbor Maintenance Trust Fund, although it would likely take about 5 years to restore authorized channel dimensions.

   b. It seems to me that spending down a portion of the Fund's surplus to address backlogged maintenance dredging could result in an increase in annual receipts that would cover future maintenance dredging costs. Might that be the case?

   Answer: We can not speculate on the impact that increased dredging would have on Harbor Maintenance Trust Fund receipts since the volume and value of commerce is driven by many factors beyond the condition of the Federal channels.

Panama Canal Expansion

5. According to the Corps of Engineer's Institute for Water Resources, expansion of the Panama Canal "could provide a significant and competitive opportunity for U.S. Gulf and South Atlantic Ports...regions geographically positioned to potentially be most impacted."

   a. What is the Corps doing to ensure our nation's ports – particularly those located in the Gulf of Mexico - are ready to receive and compete for post-Panamax vessels?

Answer: The Army continues to put a priority on funding maintenance of the high commercial use deep draft ports that are most likely to see the larger, deeper draft, post-Panamax vessels that will be calling on the East and Gulf coast ports in larger numbers as the world vessel fleet increases in size and completion of the Panama Canal allows larger and deeper draft vessels to transit. The Corps is also pursuing feasibility studies, preconstruction engineering & design, and construction of projects where non-Federal sponsors have expressed an interest and provided funding for economically justified projects.

b. Does the Corps project that post-Panamax ships will make up a significant portion of container ship capacity as global trade increases?

Answer: Based on data from other agencies and the industry, post-Panamax vessels will make up a significant portion of containerships capacity as global trade increases. The Journal of Commerce indicates that half the containerships on order exceed 10,000 twenty-foot equivalent units (TEU) in capacity (post-Panamax vessels are generally 5,200 TEUs or larger). In 2000, the average container vessel size was 2,900 TEUs. In 2012, the average vessel size had grown to 6,100 TEUs.

c. How many ports in the Gulf of Mexico are ready to receive post-Panamax vessels?

Answer: There are seven Corps projects in the Gulf, which currently have constructed channel depths of 45 feet: Mobile, New Orleans, Houston, Galveston, Texas City, Freeport, and Corpus Christi that can accommodate post-Panamax vessels, although the vessels could not load to their design drafts.

6. The Corps of Engineers anticipates the Panama Canal expansion could create a "cascade effect" whereby smaller vessels are redeployed to other service routes as larger post-Panamax vessels take their place.

   a. How is the Corps preparing for the anticipated "cascade effect" that could result from the Panama Canal expansion -particularly for ports in the Gulf?

Answer: The Corps is studying projects along the East and Gulf coasts to evaluate the potential deepening and widening of channels and harbors to accommodate post-Panamax vessels as well as larger Panamax vessels that may be displaced by larger vessels calling on the larger ports.

Obama Administration

7. Last summer, the Obama Administration announced it would expedite infrastructure projects at five major ports in the U.S. No ports along the Gulf of Mexico were named.

   a. Did the Corps recommend any coastal ports in the Gulf of Mexico be selected to participate in the Administration's so-called "We Can't Wait" initiative? We on the Gulf Coast can't wait any longer, either.

Answer: The budget recommendations of an individual agency are only one step in the process of formulating the President's budget. The budget is developed through an iterative process that must consider the President's overall priorities across the government.

8. Each year, the Obama Administration's budget request fails to reflect the true needs of the Corps of Engineers, including the demand for maintenance dredging.

   a. What is the process for identifying funding needs for Corps civil works projects that are included in the Administration's budget request?

      Answer: The Civil Works budget recommendations are developed by business line and by account. This process starts with recommendations from the District to Division, then Division to Headquarters, then Headquarters to Office of the Assistant Secretary of the Army for Civil Works (OASA(CW)), then OASA(CW) to Office of Management and Budget. Each business line uses a variety of criteria for prioritizing funding needs. The criteria for Construction and Operation and Maintenance projects and activities are provided with the budget justification sheets.

   b. How do identified funding needs change as they go from the District level, to Corps Headquarters, to OMB, and finally into the Administration's request to Congress?

      Answer: Changes typically result from prioritization, since many worthwhile programs, projects, and activities are competing for limited Federal funding.

Senator BOXER. Thank you very much for that. You know, you stay away from the bigger notion, bigger issue here, which is is it right to collect fees and then not spend them on this purpose that they are supposed to be used for, and I don't blame you for staying away from that because, in essence, you don't really have control over that; the Administration does and prior administrations did, and we do, and we intend to fix it to the greatest extent that we can.

Now, the Corps has estimated that the Nation's 59 busiest ports have access to their full channel dimensions only 35 percent of the time. These ports are critical for commerce and international trade. Restrictions on commerce as a result of inadequate port maintenance can have significant consequences. In fact, a recent report by the American Society of Civil Engineers, which we will hear about on our second panel, indicates that failure to adequately maintain our ports could result in a variety of economic impacts.

Do you agree that failure to invest in port maintenance could have economic consequences that we must seek to avoid?

Ms. DARCY. Senator, I do believe it could have consequences; however, I do see that we are investing in our ports. As I noted, the President has asked for more money for the Harbor Maintenance Trust Fund than ever before. He has also established the Interagency Task Force working with the Department of Management and Budget, as well as Transportation, to look at evaluating what resources are needed for transportation, and we are hoping that, in looking at transportation in the future, in addition to the three Rs, which are always rail, road, and runways, it can now be the four Rs and we can include rivers in that.

I think we need to look at the infrastructure all together, we need to expand the way we have traditionally looked at it as just mostly asphalt and make sure that we include the river systems that need to be reliable for our economy.

Senator BOXER. Well, I do appreciate the President moving in the right direction, but I still note he is still not spending all that came into the Fund, and I still note that 59 busiest ports have access to their full channel dimensions only 35 percent of the time, and I just think that is as clear as anything; it just shows that we are not doing enough. But yes, the President is definitely moving in the right direction, but he still isn't using all the funds that come into the Trust Fund.

When Congress created the Harbor Maintenance Trust Fund, it sought to recoup the cost necessary to operate and maintain U.S. ports and waterways, but, as we have said, much less is spent on operations and maintenance than is collected, and, as you point out, it is in the billions.

Do you believe it is important to increase the amount expended from the Harbor Maintenance Trust Fund so that we can better maintain the Nation's ports?

Ms. DARCY. Senator, I believe the amount that is in the President's request for the Harbor Maintenance Trust Fund is appropriate at this time, given all of the other fiscal constraints that we are faced with within not only the Corps, but across the Country.

Senator BOXER. Well, I hear you doing what you should do, which is defending the President's budget. I appreciate you are in

that situation, but, again, this, to me, isn't about this President. This President is doing more than any other president, there is no doubt, but we are in a bad situation here because we are the leading economy in the world and yet, still, we have problems at our ports. I can tell you, at our ports back home, just out of Los Angeles-Long Beach, about 40 percent of the imports; and you just can't afford to have problems at the ports.

Let me just go here. You said you would work with us, which I really appreciate, even though, perhaps, the Administration doesn't like what we have come out with on this particular issue. Would you be available for technical assistance? Because we may need to call on you for that.

Ms. DARCY. Absolutely, Senator.

Senator BOXER. Good.

Ms. DARCY. It would be the first time in my career that I had not worked on a WRDA bill.

Senator BOXER. I know. Well, we can't let that happen. We have to use all your experience here. But I think the bottom line is we are moving in the right direction, but we are certainly not there because we are still not spending the revenues that come in. Nobody has looked at the backlog and how we can possibly offset those billions, but Senator Vitter and I, and the rest of our colleagues, are very strong on this, so it is going to be a central piece of our WRDA bill.

Senator Vitter.

Senator VITTER. Thank you, Madam Chair, and thank you, Madam Secretary, for your service. This is something you can tell, I hope, we are communicating that we care passionately about and it is thoroughly bipartisan.

Madam Secretary, in your testimony you noted the authorized uses of this money. It was first set up in WRDA in 1986, Section 210. It was amended a little bit in WRDA 90, Section 316, and you listed the uses. Are there any other authorized uses?

Ms. DARCY. There is a certain percentage, about $30 million a year, maybe a little more, that goes to, the St. Lawrence Seaway, and then there is a portion I think it is about $3 million to $5 million annually that goes to the Treasury and the Customs Service for the administrative costs of the program.

Senator VITTER. Right. I was thinking of that too. But given that entire list, are there any other authorized uses?

Ms. DARCY. No, sir.

Senator VITTER. In fact, isn't that money spent on plenty of other things every year that are not those authorized uses?

Ms. DARCY. Senator, the receipts go directly into the Harbor Maintenance Trust Fund through the Treasury and then the Bureau of Public Debt, which manages 18 different trust funds across the Government, then is the dispenser of those funds when our agency says we have been appropriated this much money and that is what comes out of the Fund.

Senator VITTER. Doesn't the other money come out of the Fund for other unauthorized uses, unrelated uses?

Ms. DARCY. The balance of the funds are invested and accumulate interest, and it is up to the Bureau of Public Debt as to how those funds then are used.

Senator VITTER. Well, if there is this balance of $6.95 billion, what vault can I go to and look at it? That is what I am asking. Because it doesn't exist. So where can I look at that balance of almost $7 billion?

Ms. DARCY. Again, those are the Federal investments in securities, for the most part, I understand, and then the interest that accrues on that is what gets you to that balance.

Senator VITTER. Well, again, this is a big fiction, and I think the first important part of this conversation is to get beyond the fiction. It is the same fiction as the Social Security Trust Fund, because when you go and look at that balance, basically this is what you find, IOU $6.95 billion. It is gone, it is spent for unrelated purposes, and that is wrong when it is authorized for specific uses under the law.

Now, you mentioned this administrative task force looking at water infrastructure, looking at all of this big picture. Is that task force going to come up with a solution that ensures that all of this Trust Fund money is spent regularly for its intended uses?

Ms. DARCY. We will be looking at the uses of the Harbor Maintenance Trust Fund and how that can help to ensure that the future of the navigation system is adequate. I can't tell you, at this point, what it is we are going to say or do, but it is something that we will definitely be considering.

Senator VITTER. Well, what you have done previously in that regard is to just want to tremendously expand the uses. Now, there may be some room for that, but if you just expand the uses to all sorts of other things, you don't solve this problem, the same thing happens. That is what is happening now. So let me just repeat the question. Is the task force focused on our central question today, which is ensuring that all of the revenue into the Trust Fund is spent for authorized uses under statute?

Ms. DARCY. It is one of the issues that will be focused on, Senator. We will also be looking at the uses for the other trust funds, including the Inland Waterway Trust Fund. This is a navigation system; it is not just a port system, it is an inland waterway system as well, that we must maintain given the other competing uses, as well as what the other agencies, including OMB and the Department of Transportation, and Commerce, can bring to the table as we look at it as a system.

Senator VITTER. Let me ask a related question that I mentioned in my opening statement. A lot of folks, including me, think it is going to take more resources to fully maintain this vital infrastructure that is important for the economy. Do you think it is reasonable to expect the folks affected, like industry, to pay more into anything when it is being diverted, in this case, to unrelated uses?

Ms. DARCY. I don't think that we would expect people to pay more. I understand, that since the total balance is not being spent in the intended use, that there would be a concern by those paying the tax that there be some way to get the return on what it is they are paying for.

Senator VITTER. I will close with this. I am out of time. I think you all have already proposed they are paying more in some instances, like, for instance, lockage fees, just one instance. I am just pointing out I think it is a commonsense nonstarter to even have

that discussion if half of the Harbor Maintenance Trust Fund is being diverted for unrelated purposes. Thank you very much.

Senator BOXER. Thank you, Senator.

What we are going to do is Senator Boozman will ask his questions and then we will go to Senators Barrasso and Sessions to use their 5 minutes for either an opening statement, questions, or both.

Senator Boozman.

Senator BOOZMAN. Thank you, Madam Chair.

Again, thanks for being here, and we do appreciate your office. You have always been very open as we have approached you with different difficulties relating to all of this and, like I say, we appreciate that. You were a big help with the recent crisis on the Mississippi River, which is kind of an ongoing thing with the dredging and stuff, making it such that we were able to get our farm products out. Again, you can't always help us, but you always do listen, and we do appreciate that.

As Senator Boxer mentioned, in your data and in a recent CRS report, it keeps coming up the busiest 59 ports are available less than 35 percent of the time as far as their full channel width and depth; and then the CRS report goes on to point out that that makes it such that the vessels are less efficient, they can't carry as much, there is essentially more prone to accident and things like that. So that is a serious problem; I think we all agree with that.

In your testimony you mention while the Corps could spend more on harbor maintenance and related work, the amount proposed in the 2000 budget for this purpose, which is financed from the HMTF is an appropriate level, and then you go on considering the other challenges that you face.

I guess, for me, it is hard to reconcile that. If only 35 percent is operational on a given day, and yet to come back and say that you are happy with the funding that you are getting.

Ms. DARCY. I think I said appropriate, not happy. But in looking at the overall budget for the Corps of Engineers, we have to manage for all of the missions within the Corps, we operate under a cap, and we know that if you increase one mission, there must be a decrease somewhere else within the program.

As I said in my statement, over one-third of our budget, $1.7 billion, is spent on navigation, and that additional money that does not come out of the Harbor Maintenance Trust Fund is spent on other studies or construction, because the Harbor Maintenance Trust Fund does not fund construction.

Senator BOOZMAN. So you mention the cap, which is a concern, and you also mention that we are going to be increasing the money spent from the Harbor Maintenance Trust Fund. So where is that coming from, is that new money or is that money that you are essentially shuffling around, so that something else under the cap is going to suffer?

Ms. DARCY. The 2013 budget request which includes $848 million is $90 million more than Fiscal Year 2012. Within our program we had to make a decision as to how to balance preograms, because we are still under the $4.7 billion program. We did put more money on activities reimbursed from the Harbor Maintenance Trust Fund, so some of the other programs like some of our other operation and maintenance activities were reduced. Although operation and main-

tenance has also increased in our overall budget over the last couple of years. We would have to take decreases in some other programs, including some of our CAP programs, which are our small project programs. Again, the overall program has to be balanced across all the business lines within our budget.

Senator BOOZMAN. So I guess that is really the real problem. It doesn't matter how much we put into the Harbor Maintenance Trust Fund; the reality is it really wouldn't be any additional new money.

Ms. DARCY. No. But also within the budget process, when the appropriations committees get their 302(b) allocations, there is a cap in there, and there is Army Corps of Engineers within that 302(b), there is the Nuclear Program, there is the Energy Program. So the balance within that allocation would have to either be increased in order to accommodate increases across all the programs.

Senator BOOZMAN. Right. OK. Thank you very much.

Senator BOXER. Thank you.

Senator Barrasso, welcome.

OPENING STATEMENT OF HON. JOHN BARRASSO, U.S. SENATOR FROM THE STATE OF WYOMING

Senator BARRASSO. Thank you, Madam Chairman.

We agree in a bipartisan way that our Nation's harbors and ports are vital to the economic growth of the entire Country. The majority of our Nation's ports are along the coasts and the Great Lakes, the Gulf of Mexico, but the products that our Country exports come from all 50 States and, in the case of the west, many are exported from river ports. I think it is vital that the Country maintain all ports for the benefit of the people whose jobs depend on these exports and the communities where they live.

So American exports really are one of the backbones of our economy, and it doesn't matter which sector of the economy, whether it is high-tech manufacturing, whether it is the aerospace industry, automobile production, pharmaceuticals, ranches, farms, mineral extraction. All of these sectors require modern, fully functioning ports and growing ports to export our products.

Now, the White House has stated that it is putting a priority on maintaining and improving ports, streamlining the barriers to port projects. In July of last year, the President established the White House Task Force on Ports. The mission calls for "improved coordination and streamlined review of investments in port-related infrastructures.' Last July, on the 19th, the White House announced that five major ports in the eastern United States would receive help in making "the permitting and review process for infrastructure projects more effective and efficient, saving time while driving better outcomes for local communities.' Those ports include, as you know, Jacksonville, Savannah, New York, New Jersey, and the Port of Charleston.

Madam Chairman, I believe that all American ports, especially in the west, need a quicker, more efficient review process for building and expanding their operations as well.

So the questions that I have are do you agree with the President's initiative with regard to the need for expanding port projects across the Country?

Ms. DARCY. Yes, Senator.

Senator BARRASSO. In his State of the Union Address, going back even to 2010, President Obama announced the National Export Initiative, stating, "We will double our exports over the next 5 years, an increase that will support 2 million jobs in America.'

How close do you think we are to achieving that goal?

Ms. DARCY. I think we will achieve the goal by 2015. I think the fact that this budget reflects an increase in the Harbor Maintenance Trust Fund, as well as other investments in navigation, will help to prove that not only within the Army Corps of Engineers, but across the Government, including the Department of Transportation.

Senator BARRASSO. Yesterday, the Commerce Department reported that the U.S. economy had actually shrank, which would defy the expectations. CNBC reported that the economy shrank from October through December for the first time since the recession ended, and they had a number of different reasons that they listed, one of which was fewer exports. So I don't know if you are aware of the report, but do you believe we need to increase the export of all American goods by mobilizing and modernizing our Nation's ports in an expeditious and fiscally responsible manner to help address this falling exports?

Ms. DARCY. I think that we do, and I think that we will be able to meet the goal by 2015.

Senator BARRASSO. Finally, you said in your written testimony the White House created this Task Force on Ports in July of last year. According to the White House announcement, the Task Force, they said, will develop a strategy to inform future investment decisions and identify opportunities for improved coordination and streamlined review of investments and port-related infrastructures.

Now, your agency is one of the 10 Federal agencies involved in this project. Can you give us an update as to the progress of the Task Force?

Ms. DARCY. Yes, Senator. Actually, I think we have a meeting next week, but I have to check. What we have done is establish the principles of what it is we want to move forward on, and part of what we have already done, is working with the other Federal agencies, looking across programs as to where we are making our investments.

For example, the Corps of Engineers, as you know, operates and maintains and dredges ports and harbors, and the Department of Transportation has what is called the TIGER Grant Program, where they make investments on the land side at different ports around the Country. Working with the Department of Transportation, we have looked at where we have our ports deepening and where it would make sense for an investment to be made on the land side, so that we are not working at cross purposes with the Federal investment in that port on the land side.

Senator BARRASSO. Well, thank you. I think all of us look forward to seeing the Task Force recommendation in a timely manner.

Thank you, Madam Chairman.

Senator BOXER. Thank you very much.

Senator Sessions, welcome.

OPENING STATEMENT OF HON. JEFF SESSIONS, U.S. SENATOR FROM THE STATE OF ALABAMA

Senator SESSIONS. Madam Chairman, involved as I know Senator Inhofe is now with the Armed Services hearing on the confirmation of former Senator Hagel, and I am sorry to have missed earlier. Thank you for having this hearing, Madam Chairman. I congratulate you particularly because looking at the amount of money spent under the energy and water appropriations, harbor maintenance is about 1 percent. So it is an important 1 percent, and I am glad that you found time to have a hearing on it. It is not as much money as has been coming in.

We have a chart, I think, as you just pointed out, has been mentioned before, but this indicates in blue how much of the funds that are coming in are actually spent on harbor maintenance and how much finances the rest of the Government, and our smart staff found that that surplus would make a huge difference for harbors and ports, but only funds for the Government for 3 hours, in terms of what it would contribute to the overall spending.

So thank you for your presence here, and I think we will be looking at how to deal with some of the issues. I am skeptical about proposals that give the Corps more authority and Congress less control over water resources, and I am skeptical about creating new programs when we are having a hard time funding the ones we have, and I do think we have to confront this issue of our ports and how we get there.

I know the Chairman and Ranking Member understand that one of my problems is fixing this surplus or using more of it has budget consequences that we can't ignore, and that makes it harder than we would like it to be. The President has submitted spending the money in that fashion and Congress has gone along with that, so if we change it, it won't be as easy as a lot of people might think, but I think we need to work in that direction.

So I guess I won't ask any questions now, Madam Chairman. Thank you for giving me the opportunity to be here.

I guess I would just ask Secretary Darcy would this surplus, if it allowed to be utilized by you and for harbor maintenance, make a substantial improvement in our ability to meet the needs of harbor maintenance?

Ms. DARCY. It would.

Senator SESSIONS. That is an easy question. Thank you.

Thank you, Madam Chair.

Senator BOXER. Well, that is the point of this hearing. We thank you for your honest answer, and your very good question and your brilliant staff's chart.

Now, we thank you very much, and we will work closely with you, as we have in the past, on this whole harbor maintenance issue, because it will, Senator Sessions and Senator Boozman, a big part of our WRDA bill. So we really want to reform this situation so we don't put somebody like Jo-Ellen Darcy in a tough situation, and the future Jo-Ellen Darcys, because this is an issue that both Republican and Democratic presidents have handled the same way; they have never spent on the harbor maintenance what comes into the Fund. So we thank you very much.

We will ask our second panel to come up and, as they do, I will be introducing Michael Christensen and Senator Vitter will be introducing Mike Lorino, Senator Sessions will be introducing Mr. Lyons, and I will introduce Mr. Cairns. Is that right? OK.

So please step forward. This is an excellent panel we have coming forward because they work with these issues and these policies every single day.

So, Mr. Christensen, I will introduce you. You are the Deputy Executive Director of Development and No. 2 ranked executive at the Port of Los Angeles. That is a big job. You are responsible for oversight of the planning, the permitting, the design, and construction of all port infrastructure.

Mr. Christensen is a transportation engineer with over 35 years of experience in the planning, design, and construction of a wide variety of port, rail, and highway programs. Mr. Christensen also serves as Chair of the California Marine Affairs and Navigation Conference, and he is a member of the California Association of Port Authorities.

Well, welcome to you, and I am sure you can't wait to get back home after witnessing some of the winds out there. Please do begin your testimony.

STATEMENT OF MICHAEL R. CHRISTENSEN, PE, DEPUTY EXECUTIVE DIRECTOR OF DEVELOPMENT, PORT OF LOS ANGELES; CHAIR, CALIFORNIA MARINE AFFAIRS AND NAVIGATION CONFERENCE

Mr. CHRISTENSEN. Thank you very much, Chairman Boxer, Ranking Member Vitter, and Senators for this opportunity to testify on behalf of the Port of Los Angeles, the California Association of Port Authorities, and the California Marine Affairs and Navigation Conference. I am Michael Christensen and, as was mentioned, I am the Deputy Executive Director at the Port of Los Angeles responsible for all of the capital improvements and infrastructure at the Nation's largest container port.

The Port of Los Angeles, in conjunction with our neighbor, the Port of Long Beach, handles over 40 percent of all the containerized goods that come into the United States, worth approximately $311 billion. This cargo supports about 900,000 regional jobs, nearly $40 billion in annual wages and tax revenues, and nationally the goods that come through the port complex of Southern California support also about 3.5 million jobs throughout the United States.

We are not tax supported; instead, our revenues are all derived from fees and from other shipping service revenue.

Now, I am testifying today on behalf of a number of organization. One is the California Association of Port Authorities, which is comprised of the State's 11 publically owned commercial ports. It is dedicated to maintaining vigorous and vital port industry throughout the State of California.

I also serve right now as Chair of the California Marine Affairs and Navigation Conference, which is also a consortium of California harbors and ports, both large and small, along with marine interest groups dedicated to optimizing California's maritime benefits by supporting the maintenance and improvement of California's harbors, ports, and navigation projects.

We very much appreciate the purpose of this hearing on HMT. It is a critical source of funding, as has been mentioned a number of times, for the ports and harbors not only within our State, but also within the entire Country in order to keep us globally competitive. With the sense of Congress in support of full use of the HMT that was included in MAP–21 and the changes contemplated in this draft of the WRDA, we are encouraged that are being taken to improve HMT.

The maintenance that is funded by HMT supports a well-functioning navigation system that includes the ports and harbors that accommodate a wide variety of commodities: containers, bulk goods, agriculture products, automobiles, fisheries, and also serve these facilities of service critical harbors of refuge. The system not only supports jobs in operation and maintenance, but facilitates trade that supports jobs throughout the supply chain throughout the United States, reduces the transportation costs for American businesses, and ultimately keeps the prices lower for American consumers.

For this reason, the California ports support the following: No. 1, full utilization of HMT revenues for operations and maintenance purposes; No. 2, the prioritization of HMT funds for use on traditional O&M purposes, including maintenance of Federal navigation channels, disposal sites, selected in-water projects such as breakwaters and jetties, and studies; No. 3, more equitable return of HMT funds to the systems of ports of California; and, No. 4, a cost-share formula for maintenance that reflects the current cargo fleet.

First, we believe HMT should be fully used for O&M purposes. Appropriations from the HMTF have lagged behind receipts for several years, leaving a surplus and deferring maintenance on our Nation's system of ports and harbors. Achievement of full use of the HMT should be additive in nature. That is, in a given fiscal year, the guarantee of full utilization should not be achieved by taking funds from other U.S. Army Corps priorities.

We commend you for including the full utilization and the additive aspects in this draft of the WRDA. We support a more equitable allocution framework within WRDA. Even if HMT funds are fully utilized for O&M, we believe efforts should be made to increase the funding return to systems that contribute large amounts to the Harbor Maintenance Trust Fund.

One of the reasons we believe in this approach is because the users, not the ports, pay into the harbor maintenance tax. The users of the California port systems, for example, have reasonable expectation that the money they pay would be returned to the systems that they use.

Now, based on these facts, we believe that an equitable return should be part of an HMT reform effort and, in fact, the American Association of Port Authorities has come out with an equity principle that I am sure they will be sharing with you.

Senator BOXER. I am going to ask you to sum up, if you can.

Mr. CHRISTENSEN. In conclusion, I would like to again thank you again, Chairman Boxer and Ranking Member Vitter, for prioritizing the WRDA authorization and allowing me the opportunity to provide testimony on behalf of the California Ports and Harbors. I would like to reiterate our support for full utilization of

HMT for its intended purpose, an equitable return in updating the cost-share formulas. As you continue to work on the reforms for HMT, the California ports would like to offer our continued assistance and support. Please refer to my written testimony for some of the other information, and I am available for questions.

[The prepared statement of Mr. Christensen follows:]

Testimony of Michael R. Christensen
Deputy Executive Director of Development
Port of Los Angeles

Member
California Association of Port Authorities (CAPA)

Chair
California Marine Affairs and Navigation Conference (CMANC)

Before
The United States Senate
Environment and Public Works Committee
Dirksen Senate Office Building, Room 406

"The Harbor Maintenance Trust Fund and the Need to Invest in the Nation's Ports"

January 31, 2013

Thank you Chairman Boxer, Ranking Member Vitter, and Senators for this opportunity to testify on behalf of the Port of Los Angeles, the California Association of Port Authorities (CAPA), and the California Marine Affairs and Navigation Conference (CMANC). I am Michael Christensen, Deputy Executive Director of Development for the Port of Los Angeles. I oversee the capital improvement program, engineering and construction divisions, and environmental management division at America's largest container port, the Port of Los Angeles. The Port of Los Angeles, together with its neighbor, the Port of Long Beach, handles over 40% of all containerized imports entering the United States. Last year, we handled approximately $311 billion worth of cargo. This cargo supports approximately 900,000 regional jobs and nearly $40 billion in annual wages and tax revenues. Nationally, this trade reaches every congressional district in the United States and supports more than 3.5 million jobs. We are not tax supported; instead our revenue is derived from fees from a variety of shipping services.

I am testifying today on behalf of the California Association of Port Authorities, which is comprised of the state's eleven publicly-owned, commercial ports and is dedicated to maintaining a vigorous and vital port industry in California. I also serve as the Chair of the California Marine Affairs and Navigation Conference, a consortium of California harbors and ports, large and small, and marine interest groups dedicated to optimizing California maritime benefits by supporting the maintenance and improvement of California harbors, ports and navigation projects.

We appreciate the purpose of this hearing as the Harbor Maintenance Tax (HMT) is a critical source of funding for our system of ports and harbors and is essential to keeping our nation competitive in the global economy. With the "Sense of Congress" in support of full use of the HMT that was included in MAP-21 and the changes contemplated in the draft Water Resources Development Act (WRDA), we are encouraged by the steps being taken to improve the HMT.

The maintenance that is funded by the Harbor Maintenance Trust Fund (HMTF) supports a well-functioning navigation system that includes port and harbors accommodating containers, bulk goods, agricultural products, automobiles and fisheries, and serve as critical harbors of refuge. This system not only supports jobs in operations and maintenance, but it facilitates trade that supports jobs throughout the supply chain, reduces transportation costs for American businesses, and keeps prices lower for American consumers.

For these reasons, the California ports support the following:

1) Full utilization of HMT revenues for Operations & Maintenance (O&M) purposes;
2) Prioritization of HMT funds for use on traditional O&M purposes, including maintenance of federal navigation channels, disposal sites, selected in-water projects (that is, breakwaters, jetties, and groins), and studies;
3) More equitable return of HMT funds to the system of ports in California; and
4) A cost-share formula for maintenance that reflects the current cargo fleet.

First, we believe HMTF should be fully used for O&M purposes. Appropriations from the HMTF have lagged behind receipts for several years leaving a surplus and deferring maintenance on our nation's system of ports and harbors. Achievement of full use of the HMTF should be an additive in nature. That is, in a given fiscal year, the guarantee of full utilization should not be achieved by taking funds from other U.S. Army Corps priorities. We commend you for including both the "full utilization" and "additive" principles in the draft Water Resources Development Act of 2012 (WRDA).

Furthermore, we do not support use of HMT funds for new construction, including widening, deepening, and new landside projects. Such projects are worthy and essential for our national freight system, and for that reason, we believe the policies that govern funding for such projects should be formed within the context of a national freight policy discussion, not the HMT.

We support a more equitable allocation framework within WRDA. Even if HMT funds are fully utilized for O&M, we believe efforts should be made to increase the funding returned to systems that contribute large amounts to the Harbor Maintenance Trust Fund. One of the reasons we believe in this approach is because users, not ports, pay the Harbor Maintenance Tax. The users of our California ports system, for example, have a reasonable expectation that the money they pay will return to maintain the system of ports and harbors they use. This is not currently the case. In FY 2011, the California ports accounted for 32% ($431 million) of all Harbor Maintenance Trust Fund receipts ($1.35 billion). Yet, the California ports system received an average return of 8% ($54 million). According to the report by the Congressional Research Service, "Harbor Maintenance Trust Fund Expenditures" (January 10, 2011), the Port of Los Angeles alone generated 13.7% of all Harbor Maintenance Trust Fund (HMTF) revenues in 2005, yet it received essentially none of these funds in return.

Based on these facts, we believe an equitable return should be a part of any HMT reform effort. In fact, the American Association of Port Authorities (AAPA) recently adopted an "equity

principle" as part of their HMT reform platform. A funding framework that recognizes two key considerations – the total level of contribution made and the level of funding returned – is helpful and we thank you for including this within the language of the draft WRDA bill.

One of the challenges of achieving a more equitable return is that there are limited O&M uses for HMT funds. The California ports acknowledge the priority that should be given to traditional O&M purposes, but we support application of HMT funds for additional O&M uses. Specifically, we support use of funds for maintenance berth dredging and associated sediment disposal. This provision would allow coastal deep-water ports, like Los Angeles, that don't experience the same level of siltation as estuarine ports to access slightly more funding. Again, we commend you for including this technical correction to the definition of O&M within the draft WRDA bill.

Lastly, I want to thank you on behalf of all California ports and harbors for supporting a change in the cost share point for maintenance dredging. The 1986 Water Resources Development Act reflects the cargo fleet of the mid-1980s and we are appreciative of your efforts to include language in the draft WRDA that would help to modernize cost-share formulas to reflect today's international cargo fleet.

In conclusion, thank you again Chairwoman Boxer and Ranking Member Vitter for prioritizing WRDA authorization and allowing me the opportunity to provide testimony on behalf of California ports and harbors. I would like to reiterate our support for full HMT utilization for O&M purposes, equitable return, and updating of cost-share formulas. As you continue to work on reforms to the Harbor Maintenance Tax, the California ports would like to offer our continued assistance and support. I am available for any additional questions.

END TESTIMONY

ORGANIZED 1956
CALIFORNIA
MARINE AFFAIRS AND NAVIGATION CONFERENCE
20885 REDWOOD ROAD, # 345 ~ CASTRO VALLEY, CALIFORNIA 94546
PHONE: (925) 828-6215 ~ FAX: (925) 396-6005 ~ E-MAIL: Jim@cmanc.com ~ www.cmanc.com

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EXECUTIVE DIRECTOR

February 19, 2013

The Honorable Barbara Boxer
Chairman, Senate Committee on
Environment and Public Works
U.S. Senate, Dirksen 456
Washington, D.C. 20510

Dear Chairman Boxer:

On behalf of the Port of Los Angeles and the California ports system, I want to thank you for the invitation to participate in last month's hearing, "The Harbor Maintenance Trust Fund and the Need to Invest in the Nation's Ports." Your leadership on this issue is greatly appreciated and I'm happy to provide additional clarification on my testimony. Specifically, I would like to directly address the two follow up questions you have asked:

a. Can you explain the importance of the Harbor Maintenance Trust Fund (HMTF) to the operations and maintenance of ports in California?

b. Can you expand on how these provisions will help ensure all traditional operation and maintenance needs are met while also assisting ports that do not currently see much investment from the HMTF?

As a whole, the California system of ports and harbors currently handles more than 30.5% of all U.S. waterborne imports, 17.9% of all U.S. waterborne exports, or 26.4% of all U.S. waterborne trade by dollar value. With California facing a backlog of maintenance dredging projects, full use of the HMTF would help us support even higher levels of international trade and maritime activity. For example, in spite of channel draft restrictions limiting the ability of vessels to arrive and leave fully loaded, the Port of Redwood City saw a 51% increase in cargo movement last fiscal year.

But continued delay or deferred maintenance of our ports and harbors limits this system's ability to serve the local, state, and national economy. The Port of Stockton imports more than 90% of the fertilizer used in the agriculture rich

Central Valley. This port regularly experiences shoals in channels leading to the port that have reduced the draft of their 35-foot channel to 32 feet or less over the past 5 years. The restrictions cost shippers and tenants tens of millions of dollars each year. In fact, one of their tenants provided information demonstrating that their profits were reduced $200,000 per vessel per trip for every foot of shoaling. And, as dredging costs escalate and U.S. Army Corps funding remains flat, less dredging is completed every year.

While full use of the HMTF for O&M purposes will help the system of California ports, achievement of full use of the HMTF should be an *additive* in nature. That is, in a given fiscal year, the guarantee of full utilization should not be achieved by taking funds from other U.S. Army Corps business lines. We commend you for including both the "full utilization" and "additive" principles in the draft Water Resources Development Act of 2012 (WRDA).

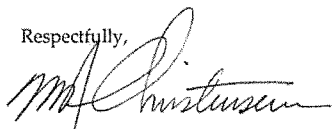
As stated in my testimony, the California ports support a more equitable allocation framework within WRDA. Even if the HMTF were fully utilized for O&M purposes, efforts must be made to increase the funding returned to systems that contribute large amounts to the fund. This is a sound policy because users, not ports, pay the Harbor Maintenance Tax. Customers of our California ports system have a reasonable expectation that the Harbor Maintenance Tax money they pay will return to maintain the system of ports and harbors they use. This is not currently the case. In FY 2011, the California ports accounted for 32% ($431 million) of all Harbor Maintenance Trust Fund receipts ($1.35 billion). Yet, the California ports system received an average return of only 8% ($54 million). Based on these facts, we believe an equitable return should be a part of any HMT reform effort. A funding framework that recognizes two key considerations – the total level of contribution made and the level of funding returned – is appropriate and we support inclusion of this framework within the draft WRDA bill.

In addition, we are encouraged by the fact you have addressed one of the key challenges of achieving a more equitable return. According to the report by the Congressional Research Service, "Harbor Maintenance Trust Fund Expenditures" (January 10, 2011), the Port of Los Angeles alone generated 13.7% of all Harbor Maintenance Trust Fund (HMTF) revenues in 2005, yet it received none of these funds in return. This is because the current uses of HMTF do not include O&M uses that would allow coastal deep-water ports – like Los Angeles and Long Beach – to access funds. Allowing the use of HMTF for maintenance berth dredging at ports and associated sediment disposal, while respecting the priority of traditional O&M uses, would correct this. We

commend you for including this technical correction to the definition of O&M, and prioritization of traditional uses, within the draft WRDA bill.

I appreciate this opportunity to provide additional feedback for your consideration. Once again, if you have any questions or require additional information, please don't hesitate to call on us.

Respectfully,



Michael R. Christensen, P.E.
Deputy Executive Director of Development, Port of Los Angeles
Chair, California Marine Affairs and Navigation Conference

Senator BOXER. Thank you so much, Mr. Christensen.

Due to his schedule, Senator Sessions, we are going to ask you to introduce your witness, Mr. Lyons, who will then testify, and then we will move to Mr. Lorino, introduced by Senator Vitter.

Senator SESSIONS. Thank you. Appreciate that very much.

Mr. James K. Lyons, we call Jimmy, has served as Director and CEO of the Alabama State Docks since 1999. He is a senior port director, one of them around the Country. A native of Mobile. He spent four decades in the maritime industry. The port has done exceedingly well, Jimmy. Congratulations on your leadership. We have seen hundreds of millions of dollars in capital improvements.

Those investments are paying off. Steel shipments were up in 2012 26 percent; containers were up 31 percent; export coal shipments increased substantially. So the port is doing well. It also is unusual in the sense that we export a lot more out of the Mobile Port than most ports as a percentage of the cargo, and that reduces, in some way, the money that comes in, but it is really great for job creation and that sort of thing.

So he is involved in many activities, including being on the Board of Directors of the Federal Reserve Bank in Birmingham and married to Beth Marietta Lyons, an attorney and prominent Mobilian herself.

Thank you, Madam Chairman.

Senator BOXER. Thank you so much.

Mr. Lyons, I won't call you by your first name, although I am extremely tempted to. Mr. Lyons, we really do welcome you, and the floor is yours.

STATEMENT OF JAMES K. LYONS, DIRECTOR & CEO, ALABAMA STATE PORT AUTHORITY

Mr. LYONS. Thank you, Madam Chairman, Ranking Member Vitter, and distinguished members of the Committee. Thank you for this opportunity to discuss the Harbor Maintenance Trust Fund.

I am going to try to bring a little bit of local perspective to some of the facts and figures that I have here in my written statement. These facts and figures have been quoted several times here today, but I will try to bring a little bit of local perspective and just sort of bringing it down into the micro aspect.

Mobile is amongst the 90 percent of the Nation's top 50 ports in foreign trade commerce that require regular maintenance dredging. In total, dredged ports move nearly 93 percent of all waterborne commerce by weight annually.

The 35 percent availability is a very real figure, something that we can attest to from Mobile, and in talking to my fellow port directors in other ports, I believe this is a very real number. As an example, between 2006, after we finished the dredging cycle that included supplemental funding that came as a result of Hurricane Katrina, and 2011, Mobile had only half of our authorized width in much of our 30-mile-long channel. These conditions caused numerous groundings, forced restrictions in vessel traffic, and, in short, cost the shippers using our port a great deal of time and money.

The budget versus the appropriation in Mobile is, again, very real, just as it is. We saw the figures in the chart that Senator Ses-

sions put up. Mobile's 2012 budget was $22.6 million, but we really need $28 million to fully maintain our authorized width and depth. So enough money is not being appropriated in the Mobile harbor project, and the same applies to many of our other projects that require dredging.

These poorly maintained harbors increase the cost for all port users, reduce U.S. global competitiveness, and exacerbate the maintenance dredging backlog, all of which adversely impact the U.S. tax base and the job market.

Aside from dredging backlogs and funding shortfalls, we are deeply concerned with how the Nation's ports will be expanded, funded, and maintained in the current fiscal climate.

As Congress considers requests for use of the Trust Fund to resolve the dredging conundrum, we ask Congress to consider the long-term relevance and economic impact of ports within the context of re-examining the base of all major Federal spending and tax programs.

There is legitimate need for port investment to serve larger vessels transiting most trade lanes. Any Federal project investments will ultimately draw on the trust as deepened and widened channels are brought online. We recognize the link between fee collections and expenditures is complicated. Increased maintenance spending on harbors will impact the Federal deficit unless spending in other areas is decreased or other collections are increased.

We also understand guaranteed funding for dredging, and the budget protects dredging obligations from competing interests with revenue sources of type. We are also mindful that any guarantee limits congressional discretion to make tradeoffs in spending priorities. Our fiscal realities necessitate policies that discourage zero balance or expanded uses of the Trust Fund.

The Committee has been very supportive of dredging in large and small ports, and we applaud the Committee's work in MAP–21. Congressional intent notwithstanding, there is still no provision to dedicate Trust revenues to fully maintain our ports.

Regardless of how increased allocation for port maintenance dredging is addressed absent offsets otherwise, solutions are likely to increase the Federal deficit.

The Port Authority supports fiscally responsible priorities in the use of the Trust Fund and encourages Congress to mandate full maintenance funding of existing Federal projects first and foremost. We also request Congress resist expanded use of the Trust to guarantee a reliable maintenance funding source for future growth.

The State Port Authority thanks the Committee for its leadership in recognizing the nexus between water resources and economic prosperity. Thank you for this opportunity, and I would be glad to address any questions.

[The prepared statement of Mr. Lyons follows:]

Testimony of James K. Lyons

Director and Chief Executive Officer

Alabama State Port Authority

Prepared for the

United States Senate

Committee on Environment and Public Works

Hearing on the

"Harbor Maintenance Trust Fund and The Need to Invest in the Nation's Ports"

January 31, 2013 – 10:00 a.m.

Room 406 / Dirksen Senate Office Building

Chairman Boxer, Ranking Member Vitter, and distinguished members of the Senate Committee on Environment and Public Works, thank you for the opportunity to be here today to discuss the Harbor Maintenance Trust Fund (Trust) and port infrastructure investments. My name is Jimmy Lyons, and for 14 years, I have served as the Director and Chief Executive Officer for the Alabama State Port Authority (Port Authority), Alabama's statutory authority over navigation and harbors at the Port of Mobile and its inland rivers. On behalf of my Board of Directors and our shippers, I would like to thank the members of this committee for your leadership in addressing critical funding issues that threaten the nation's commerce and jobs. Our comments

today are specific to our port, but are reflective of what is happening in many of our nation's seaports.

Established in 1928, the Alabama State Port Authority represents the public cargo terminals at the Port of Mobile. Between 2001 and 2011, the Port Authority, through its own revenues, public / private partnerships, and some federal grants, invested over $700 million in seaport infrastructure improvements, the bulk of which were in facilities that service the larger vessels, sometimes referred to as Post-Panamax ships. Today, these larger ships carrying containers, coal or steel for U.S. shippers call weekly at our terminals.

The Port Authority's investments, in part, were in response to an expanding Panama Canal, but the major driver for our investments was to support an expanding manufacturing base and shippers, who were taking advantage of shipping efficiencies deployed by the ocean carriers and logistics industries. The net effect of these investments in the past two years was double digit cargo growth moving through terminals handling the larger vessels.

The Port of Mobile's public and private terminals is consistently ranked in the top 13 U.S. ports in total trade handling 55 to 65 million tons of cargo annually, generating $22.3 Billion in economic value and creating over 141,000 direct, indirect, induced and related user jobs in Alabama alone.

Nationally, the U.S. Bureau of the Census reports deep draft ports accommodating ocean-going vessels move over 95 percent of U.S. overseas trade by weight and 75 percent by value.

U.S. Customs reports trade moving through U.S. ports will double or triple by the year 2020, and today trade represents nearly 25 percent of GDP.

Most U.S. seaports are not naturally deep harbors, and many are located on river systems where upstream runoff sediments move downstream and settle on harbor bottoms. The Port of Mobile is among the 90 percent of the nation's top 50 ports engaged in foreign waterborne commerce that require regular maintenance dredging. In total, these ports move nearly 93 percent of all U.S. waterborne commerce by weight annually.

Because river sediment can accumulate at a rate of several feet per year, dredging is absolutely necessary to prevent channel siltation that can render a harbor non-navigable in less than a year. The authorized depths and widths of America's federal navigation channels are available less than 35% of the time.

Nationally, the Army Corps of Engineers estimates annual maintenance dredging funding needs of $1.3 to $1.6 billion, which are comparable to the funds collected in the Trust. However, over the past five years, annual expenditures for channel maintenance have averaged less than $800 million, leaving a surplus and resulting in inadequately maintained channels.

In Mobile Harbor alone, the Army Corps of Engineer's annual budget ranged between $18.5 million in 2008 and $22.6 million in 2012, yet the annual funding requirement necessary to fully maintain authorized navigation and depth is $28 million.

As U.S. seaports shallow-up due to inadequate dredging funding, global shippers are forced to lighter vessels entering U.S. seaports; thereby, generating additional

handling costs associated with the practice, and increasing the likelihood of ship groundings, which leave waterways exposed to higher spillage and pollution risks. Between 2006 and 2011, the Mobile Ship Channel operated with only half of the channel's authorized width in much of our 30 mile long channel. During this period, limitations in the channel resulted in vessel traffic restrictions and numerous groundings.

The net result of failing to maintain our harbors is increased costs for waterborne transportation users, reduced competitiveness of U.S. exports in the global marketplace, an ever increasing backlog of maintenance dredging, and ultimately, higher prices to consumers - all of which adversely impact the U.S. job market and tax base.

The federal harbor maintenance fee is imposed on all U.S. imports regardless of the point of entry, and the taxes and jobs generated by U.S. shippers reliant upon our seaports benefit the nation as a whole. The Port of Mobile, while consistently remaining one of the nation's top ports in total trade, is, in some cases, the only strategic and cost effective seaport option for export coal, forest products, steel, agricultural products, and containerized freight generated by U.S. industries in our region.

Aside from increasing maintenance backlogs and inadequate dredging funding, the Port Authority is also deeply concerned with how the nation's federal projects will be expanded and ultimately how these projects will be funded and maintained given the current fiscal climate.

As Congress considers the importance of how we address immediate maintenance needs and how best to fully utilize the Trust to ensure our harbors

efficiently serve trade, the fiscal realities necessitate policies that discourage zero balance or expanded use of the Harbor Maintenance Trust Fund.

Currently, the Harbor Maintenance Trust collections are at a rate of approximately $1.4 billion annually. Corps officials and some stakeholders agree that there are good reasons to maintain a positive balance in the trust fund. While fees are expected to cover program costs, program costs do not necessarily decline should there be a drop in fee revenue.

Further, there is legitimate need to invest in the nation's harbors to serve the larger vessels transiting most trade lanes. These deepwater project investments will ultimately draw on the Trust as deepened and widened channels are brought online.

We recognize the link between fee collections and expenditures will be complicated. Aligning collections and expenditures could promote economic efficiency and enhance stakeholder support for the fee. Increased maintenance spending on harbors will impact the federal deficit, unless spending in other areas is decreased or other collections or revenues are increased. Moreover, providing guaranteed funding levels to any one activity in the budget protects that activity from competition for scarce resources with other areas in the budget and limits Congressional discretion to make trade-offs in spending priorities.

Regardless of the approach taken, a reduction in fee receipts or an increase in appropriations—absent offsetting changes elsewhere—will increase the federal deficit.

Given the fiscal pressures imposed by the nation's large and growing structural deficits, decisions about changing the Trust should consider U.S. ports' long-term

relevance and relative priority within the context of reexamining the base of all major federal spending and tax programs.

This committee has been very supportive of an adequate dredging program for all the nation's commercial ports, large and small. We were pleased to see the committee address the need for full use of the Trust's annual revenue in MAP21 this past summer. Congressional intent notwithstanding, there remain no provisions to dedicate Trust revenues to fully maintain our nation's harbors and channels. All seaport and harbor users are paying into the Trust, but up to this point, are only getting half in return. This approach is costing industry and commerce billions and limiting our manufacturers' ability to remain competitive in the global marketplace.

The Alabama State Port Authority advocates fiscally responsible priorities in the use of the Harbor Maintenance Trust Fund. Congress should mandate full maintenance funding of existing federal projects, first and foremost.

Secondly, the Port Authority encourages Congress to develop fiscally sound and prudent policy to long range public port infrastructure investments that must draw on the Trust for critical maintenance funding.

Lastly, the Port Authority strongly supports sustaining Congress' intended purpose and use of the Trust to guarantee a reliable harbor maintenance funding source for future growth and expansion.

The Alabama State Port Authority commends the Committee leadership for recognizing the nexus between water resources development and economic prosperity. Under-investment in the nation's seaports will limit job creation, resulting in higher

consumer prices and penalizing shippers through higher transportation costs. Our trading partners are investing in their waterways in order to address their ongoing economic sustainability and prosperity. In order for the U.S. to continue as a global economic power, we must immediately address the current budget inadequacies that are derailing our nation's once world-class transportation system.

Thank you again for this opportunity.

Question from Senator Barbara Boxer

1. *Mr. Lyons, we are working on legislation to ensure the complete expenditure of revenues deposited in the Harbor Maintenance Trust fund. Can you explain why increased spending from the Trust fund is necessary and important to your local ports and to our national commerce?*

   Answer: During my 14 years tenure as the Director and CEO of the Alabama State Port Authority, there have been very few years when enough funds have been allocated to the Corps of Engineers to fully maintain the Mobile Harbor to its full project dimensions. These dimensions are easily justified in considering the volumes handled at our port, which regularly arrive in ships requiring the port's full authorized draft. Our port is important to many industries, including the forest products, steel, automotive, mining and agricultural industries. The port is heavily weighted towards exports which support the U.S. economy.

   The imports handled by our port are largely semi-finished or finished materials and components that directly go to regional, and in some cases national, manufacturers.

   The siltation in our harbor is most prevalent in the late spring, due to winter snow melt from the north and heavy rains. This year, the seaport is already experiencing siltation resulting in 38-foot draft restrictions in certain sections of the harbor causing vessels to carry less than the full allocation of cargo planned.

Questions from Senator Wicker

1. *The Alabama State Port Authority recently announced record revenues of $144.6 million for fiscal year 2012. Mobile Harbor is the second most expensive channel to maintain in terms of HMTF expenditures for annual maintenance dredging.*
   a. *How critical is maintenance dredging to operations at the port of Mobile?*

      Answer: The Mobile ship channel is authorized to 45 feet for the southern harbor which contains the seaport's container terminal, steel terminal and coal terminal. These terminals weekly service vessels that require 45 feet of draft. Our shippers rely on economies of scale and cost advantages to move their cargoes on these larger ships through Mobile, so full draft is critical to shipper competitiveness in the global market. The remainder of our harbor is limited to 40 feet which serves all of the oil and gas industry, grain, general cargo and other bulk operations. On almost a daily basis, the ocean carriers that serve these shippers call at our port and also require the full 40 foot draft. Therefore, maintenance dredging is critical to this seaport and the shippers that rely on its capabilities.
   b. *Would record revenues for FY2012 have been possible without routine maintenance dredging at the Port of Mobile?*

      Answer: Without routine maintenance,it would have been very difficult for us post record revenues in 2012 much less the growth this seaport has experienced in the last 10 years.

c. *Has the Port of Mobile received federal grants and investments for shoreside infrastructure?*

Answer: Yes, we have received federal grants for shoreside infrastructure, including $12 million TIGER GRANT to construct Phase I of an Intermodal Container Handling Facility. This facility can provide import/export and domestic shippers access to intermodal rail on potentially five national railroads. The Port Authority is currently working with the Maritime Administration on implementing the grant..

d. *How could the return on investment for shoreside infrastructure be impacted if Mobile's shipping channel was not maintained at its authorized depth?*

Answer: Currently, Mobile is one of only two ports in the U.S. Gulf that has direct container ship service from Asia. When the Panama Canal is completed, there is no question that more of these larger vessels, which already serve our port weekly from Asia, will need the full 45foot draft in our lower harbor. In addition, 45 foot draft will continue to serve the steel and coal vessels that call almost daily in our port.

2. *Last summer the Obama Administration announced it would expenditure infrastructure projects at five major ports in the U.S. No ports along the Gulf of Mexico were named.*

a. *Do you believe ports in the Gulf are in need of expedited activities related to the Corps of Engineers?*

Answer: During my 14 year tenure, we have had to work with the Corps of Engineers on four different occasions on project expansion. We have not experienced the delays that we understand others have experienced. The principal reason for this is that our projects have very little in the way of public or environmental opposition. From our experience, this opposition causes more delays than the Corps' process.

b. *Are ports in the Gulf uniquely positioned to benefit from the Panama Canal expansion and growth in global maritime commerce?*

Answer: The Gulf ports will certainly experience some increases in business due to the expansion of the Panama Canal. It is our belief that this growth will be incremental and will be spread evenly between the East coast and the Gulf coast ports along the lines of the market shares currently enjoyed in the Asian trades.

Senator SESSIONS. Madam Chair.

Senator BOXER. Yes, go right ahead.

Senator SESSIONS. Thank you for that.

One point I would like to make that is important, I think, to all our ports, Jimmy, and that is the ports themselves are supported locally, too, by State funding and bond issues and that kind of thing. We are not asking the Federal Government to do all of this work. Can you give us an indication of how much the State has helped you maintain your operation?

Mr. LYONS. Our State really does not provide—they have provided us with some capital funding. In my tenure, in the last 14 years, they have provided some capital funding that enabled us to serve as a basis for a large capital program, a 10-year program that we did. That was $100 million out of $700 million. But as far as operations, debt service, etcetera, we are a self-sustaining entity. We are an enterprise agency; we strive to make money so that we can generate capital to continue to reinvest in our facilities and pay our share of the Federal project.

Senator SESSIONS. That is a bond issue that you pay back?

Mr. LYONS. It is.

Senator BOXER. Thank you.

Senator SESSIONS. Thank you.

Senator BOXER. So am I right to assume that this funding for O&M is very important to you, because the State doesn't do that?

Mr. LYONS. Yes, it is critical. The State has not stepped in on any of the O&M or any of the expansion projects that we have done over the last 14 years; it has been all Port Authority.

Senator BOXER. I think that is an important point because, Senator, this is really a classic case of private-public partnership. But we do have this important role, and you will be happy to know, before you came in, I am sure you know this, that we are working very closely with your staff and all of us to make sure that these funds are spent for their purpose, the purpose for which they are being collected, and it is critical because right now the funds are, frankly, going to make it look like we have a stockpile of $6 billion somewhere, which, as Senator Vitter points out, is illusory.

So what we are going to do now is turn to Senator Vitter to introduce his witness, Mr. Lorino, and then we are going to go to Mr. Cairns. After that we will turn to Senator Cardin and Senator Cardin will have the opportunity, after the last witness, to make his opening statement and then ask whatever questions.

OK.

Senator VITTER. Thank you, Madam Chair.

I want to welcome Captain Mike Lorino. Captain Lorino is a lifelong resident of Louisiana, living along the Mississippi River for almost 40 years of his life. He was first elected to the oldest pilot association on the entire river in August 1972, and after a 5-year apprenticeship he was fully commissioned as a bar pilot in 1978. Then he served on the board of that bar pilot's association, then as vice president, and today he serves as president of that important association.

For those of you who aren't familiar with what a pilot, a river pilot, not an airline pilot, is, they safely guide those huge ships entering the mouth of, in this case, the Mississippi River to ports and

avoid accidents, any one of which could cause a multibillion dollar industry to come to a dead stop and maybe be an environmental disaster. So he is a true expert.

He proved his expertise a couple years ago, in June 2011, June 9th. A big ship, the Ratna Puja, ran aground in the lower Mississippi, just above Cubits Gap. The way I found out about it at 6:30 in the morning is Mike Lorino called me and said the entire lower Mississippi is shut down right down.

Authorized depth is 45 feet. That depth at the time was, maximum, 42 feet; and it ran aground, shut the whole river down. What is even more interesting is the way the Corps found out about it. General Peabody, who is in charge of dredging, was when I called him at 6:32 in the morning. I had been arguing with General Peabody to properly dredge the lower Mississippi for a week right at that time. He had resisted. Needless to say, the dredges arrived that afternoon, finally.

But that is what we need to avoid, shutting down something like the entire lower Mississippi. By the way, it could have been much worse because the cargo on the Ratna Puja was black oil. Thank God we didn't have a big spill.

Thank you, Mike, for being here.

STATEMENT OF MIKE LORINO, PRESIDENT, ASSOCIATED BRANCH PILOTS

Mr. LORINO. Thank you, Chairman Boxer and Ranking Member Vitter and distinguished members of the Committee.

Chairman, I was honored to be here last year at this, but I can say this, listening to the conversations thus far this morning, I can see this process has grown legs and is moving forward, and I need to commend you and also the Ranking Member and members of this Committee for doing that. It is unbelievable how much can be done in 1 year when you put your mind to it, as we do, too.

But the Harbor Maintenance Trust Fund is not a Louisiana issue, it is a Nation issue. It is an ad valorem tax for dredging jetties, breakwaters, and it is being abused. Seven million dollars is just being moved somewhere else.

A little bit about the Mississippi. The Mississippi River touches 31 States and two Canadian provinces. We have five deepwater ports, the largest complex in the world. Not in the United States; in the world. Last year, my association that I represent, we did 12,000 ships in the Mississippi River. There was 40,000 movements of vessels from the mouth of the river to Baton Rouge, 40,000 in 1 year. It is unbelievable. Thirty percent of the Nation's oil, 60 percent of the Nation's grain is shipped out of the Mississippi River system.

If we would shut down the Mississippi River, and that has happened a few times, it is $295 million a day for the Country, and grows exponentially after the fourth day. A hundred percent of the channel helps us maintain cost effectiveness in the world market, $0.13 per bushel saving over highways or rail when dimensions are 100 percent.

Narrow channels hinder our ability to compete globally. What happens there, a ship will come in to load cargo and he can't get it all on that ship. So one would think, well, we will send it to the

West Coast. That works for 1 year. After that we cannot compete with Brazil and Argentina. Now our prices are gone. Our farmers in the heartland lose that business. It is not acceptable when we have this money coming in.

A closed Mississippi River system would dramatically affect gas prices, grain prices, all exports and imports. After our Hurricane Katrina, gas prices went up overnight because we had the refineries on the river. We couldn't get fuel oil out; we couldn't get aviation oil out. It is unbelievable. We need this.

Someone mentioned about environmental. That is gigantic. We had an oil spill down there with BP. We have tankers coming in the Mississippi River system with 600,000 barrels of oil on one ship. If that ship runs ground and puts a hole, we have another BP in the Mississippi River system. But the travesty for that is very simple: that ship is paying. It is importing here, paying that tax, and here he could run aground and have another problem after he is paying money to come into the United States. That is unacceptable, ladies and gentlemen.

Current draft at the present time is 45 by 700 feet. Channel width is crucial. Last year we were down to 100 feet from 750. We had to have one-way traffic.

Now, I must say something. The Corps of Engineers does a great job when they have equipment and money, Chairman. I just wanted to make sure I said that for the record.

The cost for the Mississippi River for the last 5 years, we have been underfunded by approximately $50 million a year. Fifty million a year. You know what I have to look for, and it is a shame in our great Country? I have to look for a catastrophe to put a supplemental on there to get funding. That is not the way it should be. That is not the way it should be.

Safety. Safety is a huge, huge factor. Chairman, you had an incident out there in California a few years ago. You know what happens when oil is dropped in the water: everybody is concerned; especially a pilot, especially the owners. We can't have that. It happens sometimes with human error. It happens sometimes with mechanical. But it is not acceptable to have it happen when we have money coming in to keep our channels and ports open to project dimensions.

The Administration said they would like to double exports. How can we double exports when I can't load what we have today? It is impossible. I am just a pilot.

Solutions? We need the legislation that the Chairman and Ranking Member and this Committee are talking about. We need the point of order to be used. I know why the point of order, nobody wants it, because then you can challenge it and stop it. We need to have it like they have it in the Aviation Fund, so we can have this money directed for what it needs to be used for. This is a problem that can be fixed with no new taxes. The money is being collected.

Solution? Yes, ma'am, I am finished. Solutions? We need 100 percent.

I thank you once again, Chairman Boxer, for this invitation, Ranking Member and distinguished members, and I would be happy to answer any questions.

[The prepared statement of Mr. Lorino follows:]

ASSOCIATED BRANCH PILOTS
(BAR PILOTS)
PORT OF NEW ORLEANS
SUITE 100
3813 N. CAUSEWAY BLVD.
METAIRIE, LOUISIANA 70002

TELPHONE: 504-831-6615
FAX: 504-831-4536

BOARD OF DIRECTORS
MICHAEL R. LORINO, JR., PRESIDENT
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Testimony by Michael R. Lorino, Jr. Before the Senate Committee on Environment and Public Works Thursday, January 31, 2013

I appreciate the chance to offer this testimony on "The Harbor Maintenance Trust Fund and the Need to Invest in the Nation's Ports." We are a maritime nation. As our ports go, so goes our economy. And, it is the Corps of Engineers who are most directly responsible for the channel infrastructure that keeps our ports open and moving goods in and out of our nation. Properly funding their efforts and our harbors is not a Louisiana issue, it is a challenge for our entire country – one that we are currently failing at. As I sit here today, more than $7 billion from the Harbor Maintenance Tax (HMT) has not been used on approved harbor maintenance projects.

In 1986, with the Water Resources and Development Act, the federal government decided to fund harbor maintenance through the Harbor Maintenance Fund with the HMT. This ad valorem tax was set aside to fund dredging, dredge placement areas, jetties, breakwaters, and the federal cost share of beneficial use of dredged material. Or so we thought. On average, the HMT generates $1.5 billion annually while approximately only half is used for their intended purposes.

As I said before, this is an issue for the nation, not just for Louisiana. The Mississippi River connects 31 states and 2 Canadian provinces by water, making it an unrivaled highway for commerce. The five deep-draft ports on the Lower Mississippi River make it the largest port complex in the world with over 250 miles of deep-draft channel. Last year almost 12,000 ships sailed in and out of the Mississippi. They carried 30% of the nation's oil or petroleum products and over 60% of the nation's grain.

The Mississippi River is critical to our nation's success in world trade and yet it is common for the Corps' New Orleans District to be underfunded by roughly $50 million each and every year.

Currently, the majority of the Lower Mississippi River deep-draft channel is authorized to 45 feet (depth) by 750 feet (width). However, because of inadequate funding and the inability to properly dredge, the channel at Southwest Pass has been limited to just 100 feet wide. This is a critical failure and directly impacts our nation's economy, our ability to compete globally and the safety by which we transport goods.

The issue of channel width and safety on a river like the Mississippi can be complex but I will try to explain. A channel at less than authorized dimensions is like a highway with only one lane open, causing painful and costly delays while also increasing the possibility of an accident. Further, these ineffeciences increase transportation costs significanty, making it even more difficult to compete globally with other nations who may already have an edge in manufacturing costs. For example, the American farmers appreciate about a 13 cent per bushel savings when the Mississippi River channel is at fully authorized dimensions over highway or rail transits to their markets. This cost savings directly aids American farmers by helping their agricultural products remain cost effective in world markets. As the world populations increases these grain cargoes will become more and more important and will also offer the U.S. economy an advantage no other country in the world has - an agriculture zone with over 135 million hectares of crops connected to a major river system.

Additionally, had we been using the HMT for its intended purpose, the state of Louisiana would literally be larger than it is today. Historically, the deposition of Mississippi River sediments built much of the state of Louisiana. The Harbor Maintenance Trust Fund offers a funding mechanism to use more of this material to help restore our coast and to offer more protection to our cities and ports infrastructure. If the material dredging in Southwest Pass was used for marsh restoration, approximately 775 acres of wetlands per year could be created to further protect our coastal areas.

Maintaining fully authorized dimensions is critical to all deep-draft channels, not just the Mississippi. More than 90% of the nation's top 50 ports in foreign waterborne commerce, representing 99% of U.S. international trade by weight and 61% by value, require regular annual

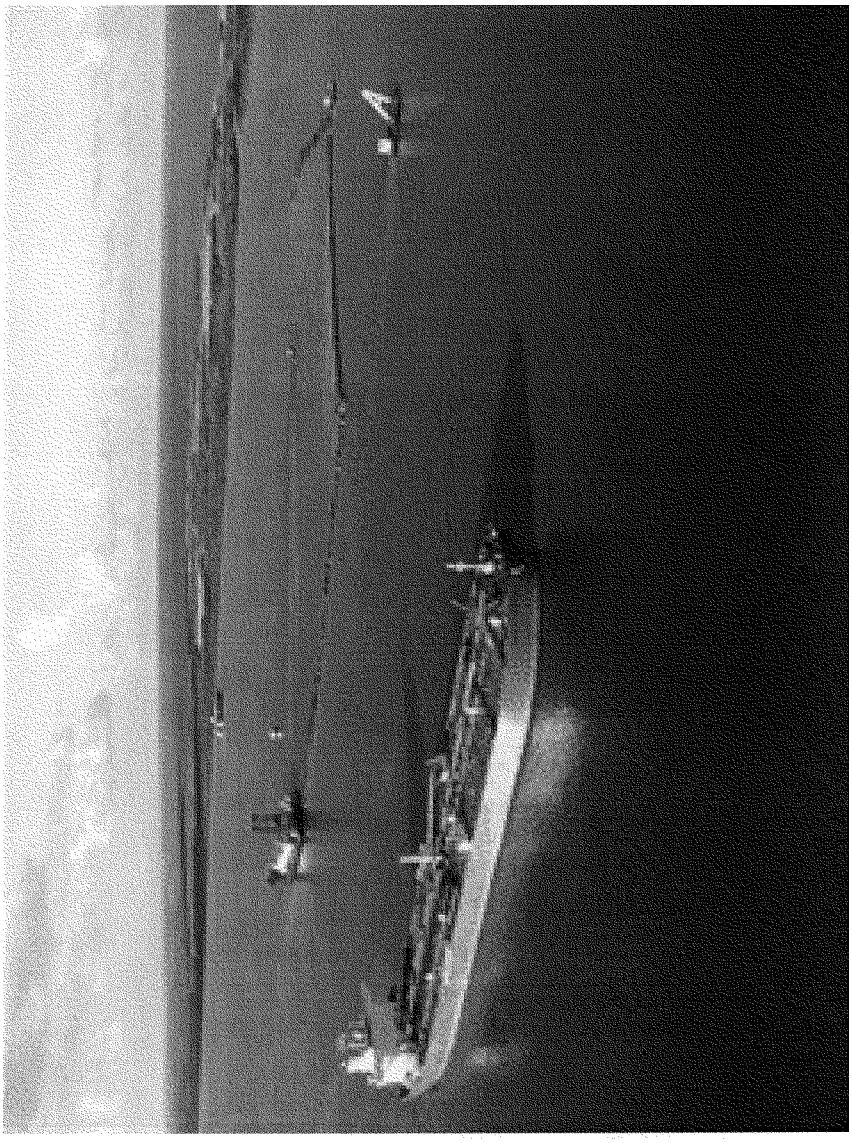
maintenance dredging to remove the sediments deposited in these arteries of trade. According to the Corps of Engineers, the 59 busiest U.S. ports authorized channel dimensions less than 35% of the time. This is simply unacceptable, especially to an administration that wants to double trade and a nation which stands to benefit greatly if it can accept larger post-Panamax vessels when the new locks are operational on the Panama Canal. Reduced channel dimensions increase safety concerns, increase transportation costs through delays and light-loading, hurt our trade efficiencies and weaken our job market.

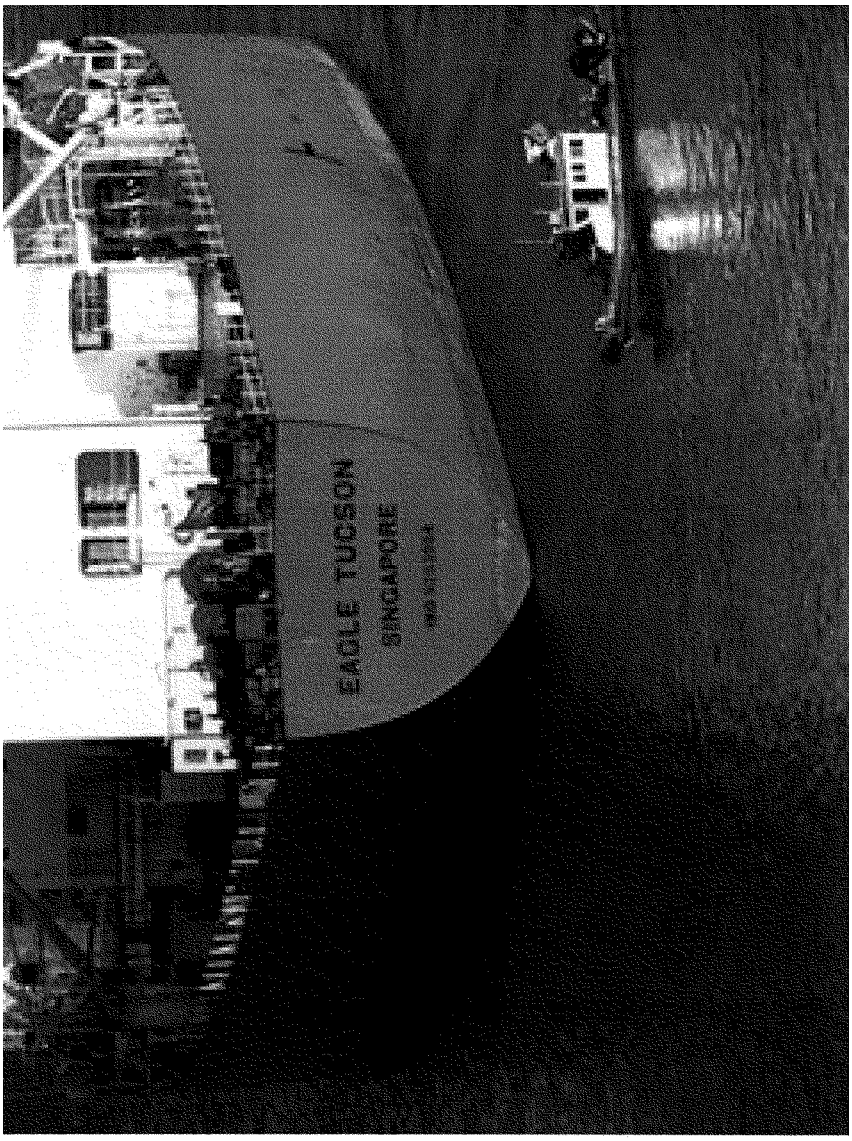
Now we must ask that this Committee seek legislative fixes that allow the full flow of funding into our waters.

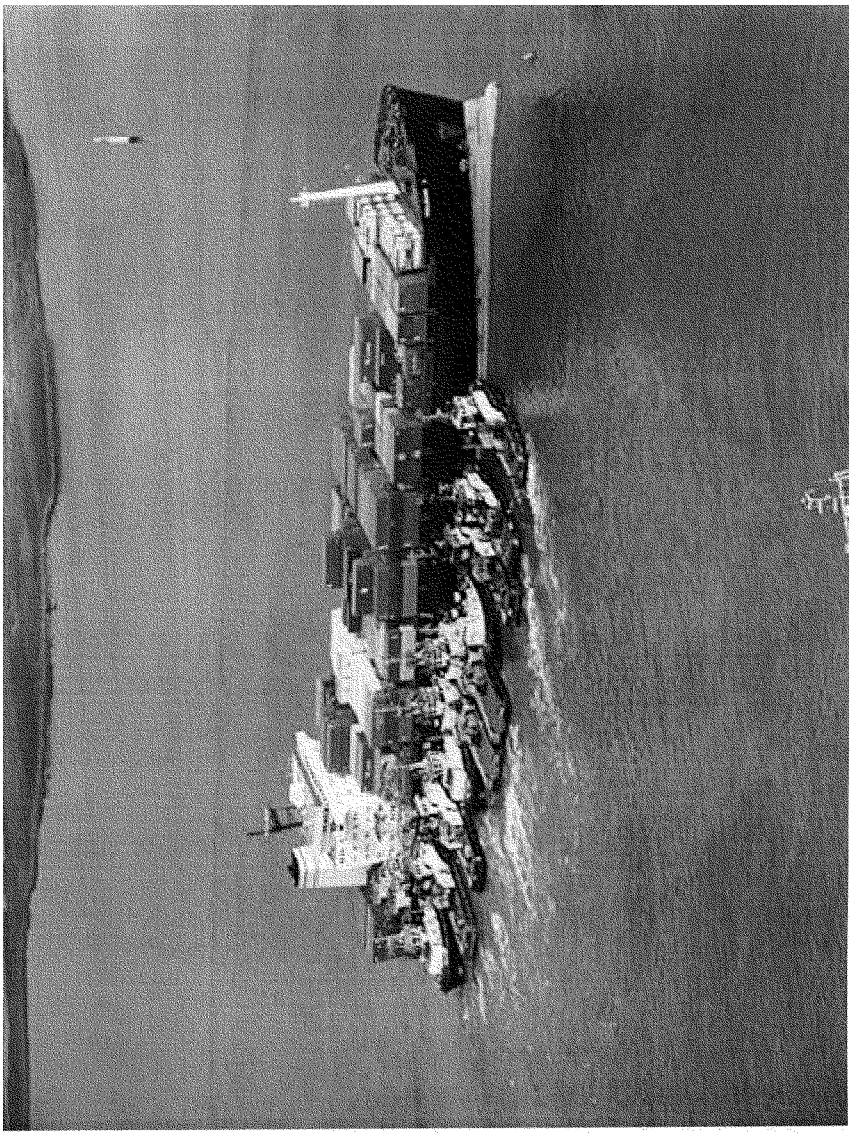
As you are aware, there have been several recent Acts proposed to offer this repair to our maritime highways, but each of you understands that process better than I. The request has to be made that our Congress fix this broken mechanism. In the past, there have been challenges to the point of order mechanism used successfully to repair the Aviations and Airways Trust. However, the path forward must guarantee full usage of the annual HMT revenues for their intended purposes. There is no doubt hard decisions have to be made, but our economic futures are being compromised and as a Pilot I must simply request that these monies be used for their intended purposes.

O&M Mississippi River, Baton Rouge to Gulf Project

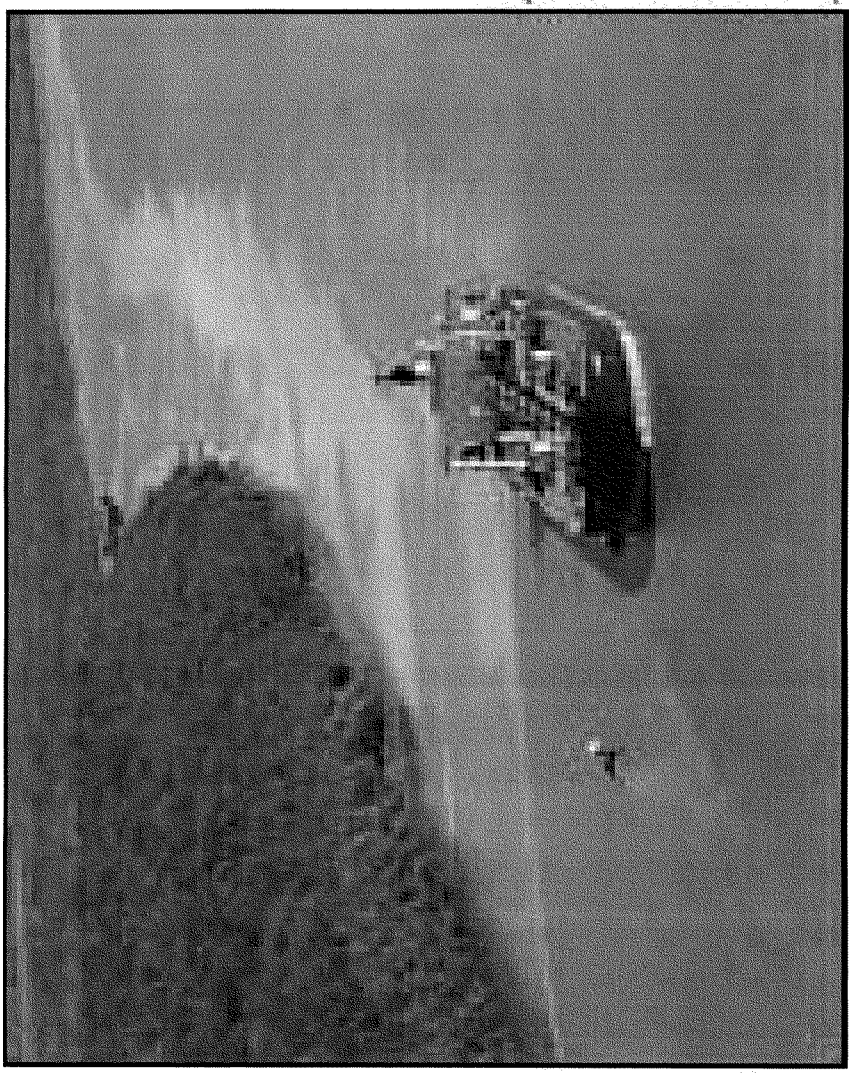
Year	Conference Amount	Supplemental	Reprogram	ARRA	Total Funded	
2005	$ 59,125,000	$ 60,000,000	$ 1,775,000	$ -	$ 120,900,000	2005 Hurricane Katrina Supp/Reprogram
2006	$ 48,648,000	$ 6,300,000	$ -	$ -	$ 54,948,000	2005 Hurricane Katrina Supp
2007	$ 51,830,000	$ -	$ -	$ -	$ 51,830,000	
2008	$ 54,973,000	$ 32,047,000	$ 28,795,000	$ -	$ 115,815,000	$32M 2008 High Water Supplemental $29M 2008 Reprogram High Water
2009	$ 51,354,000	$ 66,600,500	$ 3,322,000	$ 57,804,000	$ 179,080,500	$58M 2009 American Recovery and Reinvestment Act $67M 2008 Hurricane Gustav & Ike Supplemental $3M 2009 Reprogramming High Water
2010	$ 52,263,000	$ 5,210,000	$ 61,094,882	$ -	$ 118,567,882	$5M 2010 War Supplemental $61M 2010 Reprogramming High Water
2011	$ 73,569,000	$ 10,000,000	$ -	$ -	$ 83,569,000	$10M 2010 Deep Water Horizon Oil Spill Mitigation
2012	$ 66,664,000	$ 84,000,000	$ 6,000,000	$ -	$ 156,664,000	$84M 2012 Disaster Relief Supplemental $6M Reprogramming Operation Watershed
5 Year Average	**$ 59,764,600**	**$ 39,571,500**	**$ 19,842,376**	**$ 11,560,800**	**$ 130,739,276**	




EAGLE TUCSON
SINGAPORE



(AP PHOTO)



Environmental and Public Works Committee Hearing
January 31, 2013
Answers from Michael Lorino
to Follow-Up Questions from Senator Boxer

Question 1.: Mr. Lorino, in your testimony you discuss the fact the inadequate funding has reduced the available channel width in the Mississippi River channel.

a. Can you elaborate on some of the safety concerns that arise from the reduced channel sized?

Answer: The USACE project dimensions for Southwest Pass of the Mississippi River, which is the entrance and exit that all deep-draft navigation must use to the Gulf of Mexico, are 750 feet wide and 45 feet deep. When these project dimensions were established, the recommendation was made based on an evaluation of shipping traffic and vessel size to assure navigational safety. Traffic does not decrease and large ships do not get smaller if the river is not maintained, so safety is compromised as the channel dimensions are reduced.

The primary safety concerns regarding the impact of reduced channel dimensions are vessels running aground and collisions. Both of these concerns have dangerous consequences for individuals, the environment, and the economy. When the channel is not deep enough, vessels can run aground and if the channel is not wide enough they can collide when passing. Depending on the vessel and cargo, the concerns can vary greatly but almost always include lives and safety of crew and passengers, oil and chemical spills in the river and Gulf of Mexico, and damage to vessels and facilities.

To prevent these things from happening, river pilots may have to impose a draft restriction, and only allow vessels that are not in danger of running aground to enter and exit the river. The pilots may also have to impose one-way traffic restrictions, forcing vessels to wait in line and pass through certain areas of the channel one at a time. Either or both of these measures are taken to avoid groundings and collisions so that the river system can stay open when channel size is reduced.

b. Can you explain why increased spending from the Harbor Maintenance Trust Fund is necessary and important to our national commerce?

Answer: Using the Harbor Maintenance Trust Fund for its intended purpose will keep our nation's port operating at their full project dimensions. In the lower Mississippi, when the channel is at 45ft or more, ships can traverse the river with a full load, minimizing the number of ships necessary to import and export goods. Additionally, when the channel is at 750ft wide, incoming and outgoing ships can pass each other safely, allowing the river to accommodate two-way traffic. This ultimately reduces the time and money necessary for farmers, coal miners and shipping companies to export our

nation's goods to the rest of the world. Additionally, this keeps down the costs of importing goods into our nation. Increasing spending from the HMT will directly and positively impact the costs and time associated with importing and exporting goods to and from our ports.

Environmental and Public Works Committee Hearing
January 31, 2013
Answers from Michael Lorino
to Follow-Up Questions from Senator Wicker

Question 1.: According to the Associated Branch website, the nation's inability to maintain channels at their authorized depths has the effect of diverting ships away from U.S. ports towards Canada, Mexico, and the Caribbean.

a. How are jobs like yours impacted when our nations is unable to maintain port channels at their authorized depths?

Answer: In my position as a river pilot, I am sometimes forced to make decisions that can negatively impact the maritime industry as well as the local, state, and national economy due to safety concerns. Safety of individuals, the environment, and vessels and cargo remain our priority at all times. When the shipping channel is not adequately maintained to project dimensions, we have to make safety choices that force ships to load less cargo and restrict traffic to one-way transits in some parts of the river. While these measures help to ensure safety, they increase shipping times and costs by hundreds of thousands of dollars, reducing the ability of the United States to compete internationally. The impact is felt in every job at every step of the production and transportation process, and serves to increase costs and decrease profit. Our goal is to be one part of a larger port system that leads the world in global trade, and when project dimensions are inadequate that goal is impossible to reach.

b. What policy changes should the Corps of Engineers consider to improve harbor maintenance and support jobs that depend on port efficiency?

Answer: It is my opinion that the Corps of Engineers does the best job they can with the funding available to them and that the policy change needed to improved our ports and harbors is to use 100% of the HMT for its original and intended purpose. That is the single most impactful decision our government could make to resolve this issue.

Senator BOXER. Well, Mr. Lorino, let me thank you for that excellent testimony, beautiful testimony. You make the point. If our roads, well, you didn't say roads, I am saying if our roads and our waterways are clogged, we can't double exports. We can barely keep up with what we have got. Your State and my State particularly understand this, other States as well.

I am going to call on Senator Vitter just to bid his farewell, because he is going off to give a—I mean to question Senator——

[Laughter.]

Senator VITTER. Well, I want to particularly thank Mike for his very concrete, persuasive testimony. I just want to underscore two things about what he said and then make a final comment about what we are working on.

First of all, I want to underscore, because maybe not everybody heard it, lower Mississippi River, biggest waterway in the Country, one of the biggest in the world, reduced in some cases to one-way traffic. That is like having the biggest interState in the Country and people around there get up 1 day and there is an announcement, oh, I–10 is one-way today for the foreseeable future. If you want to go east, you better go from midnight to noon; if you want to go west, plan on noon to midnight. Crazy. Crazy.

Second, funding for the lower Mississippi, this is the last 5 years Mike talked about, average funding in the normal process, under $60 million. The average total funding after the supplementals we need to manufacturer, over $130 million. That is not the full need because that even involves restricted width and depth.

My final statement is we are hard at work and making a lot of progress on a fully bipartisan WRDA. We are going to come out with that relatively soon and it absolutely is going to address this crucial challenge. I thank all of you and all the Committee members, particularly the Chair, for that work.

Senator BOXER. Thank you so much, Senator Vitter.

Mr. WHITEHOUSE. Madam Chairman?

Senator BOXER. Let me just tell you what I plan to do, and then I will call on you. I was going to have our last witness, because we interrupted our witnesses, our last witness, then I was going to go to Senator Cardin, Senator Whitehouse for your opening statement and questions. Did you have a particular response?

Mr. WHITEHOUSE. I had hoped to respond before the Ranking Member left, but he has now left.

Senator BOXER. Oh.

Mr. WHITEHOUSE. So I will make my point during my opening statement time.

Senator BOXER. That would be wonderful. I am sorry. I know he is rushing off to question.

So we will move on to Mr. Cairns is a professional engineer with over 25 years of engineering and management experience, with the last 20 working exclusively in the port and maritime engineering field. Mr. Cairns presently serves as the Northeast Regional Manager for the ports and marine groups within AECOM. He is the past chairman of the American Society of Civil Engineers Committee on Port and Harbor Engineering. He is presently a member of the Board of Coasts, Oceans, Ports and Rivers Institute of the

ASCE. So he understands these issues from a very broad perspective.

We look forward to your testimony.

STATEMENT OF ANDREW H. CAIRNS, PE, PMP, BOARD MEMBER, AMERICAN SOCIETY OF CIVIL ENGINEERS' COASTS, OCEANS, PORTS AND RIVERS INSTITUTE; PORTS & MARINE—NORTHEAST LEAD, AECOM

Mr. CAIRNS. Thank you, Madam Chairwoman. Senator Vitter and members of the Committee, it is an honor for me to appear on behalf of the American Society of Civil Engineers to discuss the importance of the Harbor Maintenance Trust Fund and to our Nation's overall economic health.

The United States has approximately 300 commercial ports, 12,000 miles of inland and intercoastal waterways, and 240 lock chambers which carry more than 70 percent of the U.S. imports. However, in order for this system to remain competitive, U.S. marine ports and inland waterways will require investment in the coming decades beyond the $14 billion currently expected to be spent.

According to the ASCE's Failure to Act Economic Study, aging infrastructure for marine ports and inland waterways threatens more than 1 million U.S. jobs. Additionally, between now and 2020, investment needs in the marine ports and inland waterways sector will total $30 billion nationwide.

With planned expenditures only expected to be about $14 billion, a total Federal investment gap of nearly $16 billion remains.

Meanwhile, the costs attributed to delays in the Nation's inland waterways system were $33 billion in 2010, the cost is expected to increase to nearly $49 billion by 2020.

Unfortunately, even with the ever-growing price tag, these costs do not address the landside connections or "inside-the-fence" infrastructure that is the responsibility of the port authorities. Therefore, the Nation will either need to pay for much needed investments in our ports and harbors now, or will pay more severely in lost labor, exports, and GDP down the road.

Historically, the Nation's marine ports and inland waterways have been the critical link that make international commerce possible. However, with the scheduled expansion of the Panama Canal by 2015, the average size of container ships will increase significantly, while many U.S. ports still require significant harbor and channel dredging to handle these larger ships.

If the Nation makes an additional investment of $15.8 billion between now and 2020, the United States can eliminate this drag on our economic growth. However, if the Country does not make the needed investments, transporting goods will become costlier, prices will rise, and the United States will become less competitive in the global market.

Therefore, the key solution to ensuring that the Nation's ports remain competitive is restoring trust back into the Harbor Maintenance Trust Fund.

In 1986 Congress enacted the Harbor Maintenance Tax to recover operation and maintenance costs at U.S. coastal and Great Lakes harbors. The tax is based on the value of goods that are

being shipped and then placed into a trust fund that is used for maintenance dredging of Federal navigational channels. However, dredging the Nation's ports and harbors has suffered from years of under-investment.

The Corps of Engineers estimates, as we have heard many times today, that the dimensions of the Nation's 59 busiest ports are available less than 35 percent of the time. This creates an environment where vessels must carry less cargo or adapt to increasing delays.

In Fiscal Year 2013, the Obama administration requested $839 million to be appropriated from the Harbor Maintenance Trust Fund. This amount equals only 50 percent of the total estimated revenues in the Trust Fund, and nowhere near the estimated needs, which, according to the Army Corps of Engineers, is between $1.3 billion and $1.6 billion annually.

This troubling trend toward reduced investments has led to ever-greater balances in the Trust Fund, with the unexpended balance growing to more than $6 billion by September 2013, according to the Office of Management and Budget. Therefore, the Committee should include a provision in the Water Resources Development Act requiring the total of all appropriations from the Harbor Maintenance Trust Fund be equal to all revenues received by the Trust Fund that same year.

While ASCE understands that this is a complex issue, the long-term viability of our Nation's ports requires action to be taken to ensure revenues in the Harbor Maintenance Trust Fund are expended for their intended purpose.

ASCE supported language that would do just that in the WRDA draft that this Committee discussed last fall. ASCE has also supported bipartisan legislation from the last Congress that would tie Harbor Maintenance Trust Fund expenditures to revenues.

In the 112th Congress, Senator Levin's Harbor Maintenance Act received 37 cosponsors from both sides of the aisle. While the companion legislation in the House, the Realize America's Maritime Promise, or RAMP, Act, received 196 cosponsors.

Congressman Boustany reintroduced the RAMP Act last week, and the bill has already seen 48 Members of Congress sign on.

In conclusion, ASCE applauds the Environment and Public Works Committee for working to fix the funding for shortfalls out of the Harbor Maintenance Trust Fund and looks forward to working with the Committee on a WRDA bill this year. ASCE also looks forward to sharing with this Committee the inland waterways and ports grades in our 2013 Report Card, scheduled to be released on March 19.

Thank you, Senator Boxer. This concludes my testimony, and I would be pleased to answer any of your questions.

[The prepared statement of Mr. Cairns follows:]



Washington Office
101 Constitution Ave., N.W.
Suite 375 East
Washington, D.C. 20001
(202) 789-7850
Fax: (202) 789-7859
Web: http://www.asce.org

TESTIMONY OF

Andrew H. Cairns, P.E., M.ASCE

ON BEHALF OF

THE AMERICAN SOCIETY OF CIVIL ENGINEERS

BEFORE THE

ENVIRONMENT AND PUBLIC WORKS COMMITTEE

UNITED STATES SENATE

ON

THE WATER RESOURCES DEVELOPMENT ACT

JANUARY 31, 2013

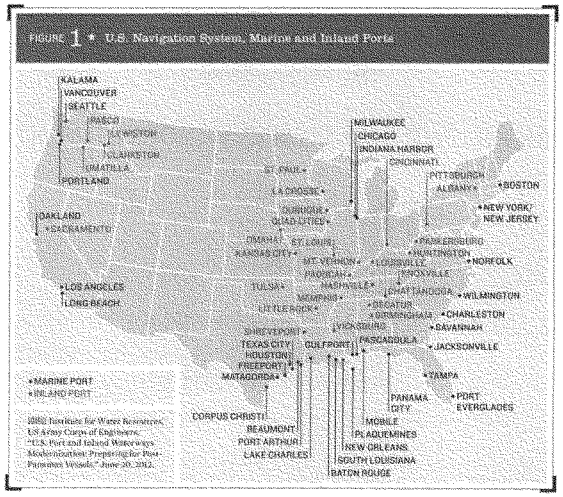
Madam Chairwoman, Senator Vitter, and Members of the Committee:

It is an honor for me to appear before this committee on behalf of the American Society of Civil Engineers (ASCE)[1] to discuss the importance of water resources projects, specifically the Harbor Maintenance Trust Fund, to our nation's overall economic health.

ASCE commends the Environment and Public Works Committee for holding a hearing today on the Water Resources Development Act (WRDA) and for continuing to make the legislation a priority in the 113th Congress. The Society is pleased to present to the Committee our views on the nation's Harbor Maintenance Trust Fund and to express the impact that our water resources infrastructure has on the nation's ability to compete in a global economy. A Water Resources Development Act that fosters economic growth and job creation through policies that strengthen U.S. infrastructure will allow the nation to remain competitive in the Twenty-First Century.

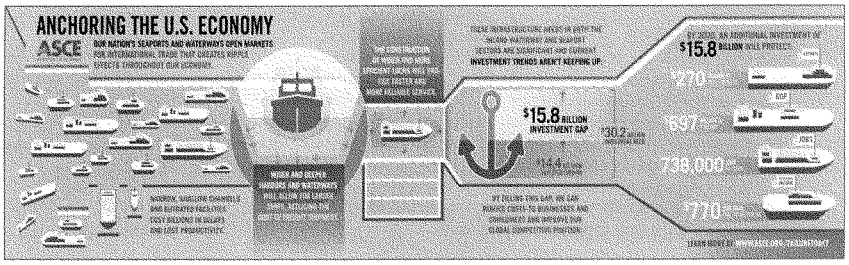
THE IMPACT OF UNDER-INVESTING IN OUR NATION'S PORTS AND INLAND WATERWAYS

The United States has 300 commercial ports, 12,000 miles of inland and intra-coastal waterways and about 240 lock chambers, which carry more than 70 percent of U.S. imports by tonnage and just over half of our imports by value. In 2009, ASCE gave the nation's waterways infrastructure an overall grade of "D" due to the age of many facilities and the fact that the current system of inland waterways lacks resilience. To remain competitive on a global scale, U.S. marine ports and inland waterways will require investment in the coming decades beyond the $14.4 billion currently expected.



[1] ASCE was founded in 1852 and is the country's oldest national civil engineering organization. It represents 141,000 civil engineers individually in private practice, government, industry, and academia who are dedicated to the advancement of the science and profession of civil engineering. ASCE is a non-profit educational and professional society organized under Part 1.501(c) (3) of the Internal Revenue Code.

According to ASCE's 2012 *Failure to Act*[2] economic study on the nation's marine ports and inland waterways, aging infrastructure for marine ports and inland waterways threatens more than 1 million U.S. jobs. Additionally, between now and 2020, investment needs in the nation's marine ports and inland waterways sector will total $30 billion, while planned expenditures are only about $14 billion, leaving a total, federal, investment gap of nearly $16 billion over the upcoming years. However, the costs attributable to delays in the nation's inland waterways system were $33 billion in 2010. These costs reverberate throughout the economy given the heavy reliance of energy inputs like petroleum and coal on inland waterway transportation. Furthermore, this cost is expected to increase to nearly $49 billion by 2020. These costs are large, and do not even address the landside connections or the "inside the fence" infrastructure that is the responsibility of the port authority. Therefore, the nation will either need to pay for much needed investments in the nation's ports and harbors now, or will pay more severally in lost labor, lost exports, and lost GDP down the road.



The nation's marine ports and inland waterways have historically been the critical links that make international commerce possible. However, with the scheduled expansion of the Panama Canal by 2015, the average size of container ships is likely to increase significantly, affecting the operations of those major U.S. ports that handle containerized cargo. Currently, many of those U.S. ports will still require significant infrastructure upgrades to handle the larger ships and therefore remain competitive. The needed investment in marine ports will include harbor and channel dredging, while inland waterways will require new or rehabilitated lock and dam facilities.

TABLE 16 ★ **Lost Trade Due to the Gap in Inland Waterways and Marine Ports Investments** *(in billions of 2010 dollars)*

YEAR OR PERIOD	EXPORTS	IMPORTS	TOTAL TRADE
2020	-42.8	-20.5	-63.3
2040	-141.6	-63.6	-205.2
2012–20	-270.1	-157.4	-427.5
2021–40	-1,711.8	-775.6	-2,487.4
2012–40	-1,981.9	-933.0	-2,914.9

SOURCE: EDR Group and LIFT model, University of Maryland, INFORUM Group, 2012.

If the nation makes an additional investment of $15.8 billion between now and 2020, the U.S. can eliminate the current drag on economic growth and protect:

[2] www.asce.org/failuretoact

- $270 billion in U.S. exports.
- $697 billion in GDP.
- 738,000 jobs in 2020.
- $872 billion in personal income, or $770 per year for households.

Unless America's infrastructure investment gaps are filled, transporting goods will become costlier, prices will rise, and the United States will become less competitive in the global market. As a result, employment, personal income, and GDP will all fall. One of the key solutions to ensuring that the nation's ports remain competitive is restoring trust back into the Harbor Maintenance Trust Fund.

History of the Harbor Maintenance Trust Fund

In 1986, Congress enacted the Harbor Maintenance Tax (HMT) to recover operation and maintenance costs, primarily dredging, at U.S. coastal and Great Lakes harbors from shippers. The tax is based on the value of the goods being shipped through ports and then placed in a trust fund to be used for maintenance dredging of federal navigational channels. The tax is assessed at a rate of 0.125 percent of cargo value ($1.25 per $1,000). Without dredging, many port facilities and navigation channels would be rendered unsafe and non-navigable to users in less than a year, thus forcing ships to carry only a fraction of their intended load or render a ship unable to enter a channel at all. In 1990, Congress more than tripled the HMT to recover 100 percent of maintenance dredging expenses. Since that time a surplus has been created in the Harbor Maintenance Trust Fund (HMTF).

However, dredging of the nation's ports and harbors has suffered from years of under investment. More specifically, the busiest U.S. harbors are currently drastically under maintained. The Corps of Engineers estimates that full channel dimensions at the nation's busiest 59 ports are available less than 35 percent of the time. Additionally, 47% of all locks maintained by the U.S. Army Corps of Engineers were classified as functionally obsolete in 2006. Assuming that no new locks are built within the next 20 years, by 2020 another 93 existing locks will be obsolete, rendering more than 8 out of every 10 locks now in service outdated.

The current situation can increase the cost of shipping as vessels carry less cargo in order to reduce their draft or wait for high tide before transiting a harbor. It could also increase the risk of ships grounding or of a collision. For these reasons, ASCE supports the deepening and widening of ship channels, as necessary to accommodate new, larger ships, as well as continued maintenance dredging of ship channels for the efficient handling of maritime commerce. ASCE also fully supports programs that limit erosion and sedimentation in ports, harbors and waterways.

Restoring Trust in the Harbor Maintenance Trust Fund

For Fiscal Year 2013 the administration had requested $839 million to be appropriated from the HMTF—only 50 percent of total estimated revenues. Total revenues are currently estimated at $1.659 billion in the Trust Fund for FY 2013. However, the FY 2013 budget request does not come close to meeting the requirements of the nation's ports and harbors, which have an annual need for maintenance dredging between $1.3 billion and $1.6 billion, according to the Army Corps of Engineers.

This trend toward reduced investments in our ports and harbors has led to ever greater balances in the HMTF, and the unexpended balance in the Trust Fund is growing with a bookkeeping balance of more than $6 billion by September 30, 2013, the Office of Management and Budget reports.

Therefore, the Committee should include a provision in WRDA requiring the total of all appropriations from the HMTF each fiscal year be equal to all revenues received by the HMTF that same year. The Committee should

also guarantee that appropriations are not taken from other Corps of Engineers programs due to the potential increased funding from the HMTF.

ASCE supported language that would restore trust to the Harbor Maintenance Trust Fund in the EPW draft that was discussed in the fall of 2012. That draft stated that "the total budget resources for a fiscal year shall be equal to the level of receipts for harbor maintenance for that fiscal year, which amounts shall be used only for harbor maintenance." The text was also critical for its guarantee that appropriations are not taken from other Corps of Engineers programs due to the potential increased funding for the HMTF.

Realize America's Maritime Promise

Legislation which would allow Harbor Maintenance Trust Fund expenditures to match revenues has proven extremely bipartisan, and popular, in the past. In the 112th Congress, Senator Levin (D-MI) introduced the Harbor Maintenance Act of 2011, which would require all revenues flowing into the Harbor Maintenance Trust Fund any fiscal year be appropriated for operations and maintenance expenses at harbors and channels, thus ensuring that U.S. ports are prepared to meet modern shipping needs. The legislation received 37 cosponsors from both sides of the aisle, while the companion legislation in the House, the Realize America's Maritime Promise (RAMP) Act, received 196 cosponsors. Congressman Boustany (R-LA) reintroduced the RAMP Act last week and the bill has already seen 48 other Members of Congress sign on.

Conclusion

In conclusion, ASCE applauds the Senate Environment and Public Works Committee for taking strides to address our nation's aging water resources. In the 2013 Report Card, due out March 19th, ASCE will once again grade the nation's inland waterway and will also, for the first time, grade the nation's marine and inland waterway ports. With the current levels of investment it is not likely that either category will receive top marks.

Deferring water resource projects creates costs that reverberate throughout our economy, causing exports and GDP to fall, threatening U.S. jobs, causing a drop in personal income, and putting vessel operators at increased risk. Fixing the funding shortfalls out of the Harbor Maintenance Trust Fund will be a critical element to a final WRDA package. ASCE looks forward to working with the Senate Environment and Public Works Committee as you move forward on this legislation.

Thank you, Senator Boxer. This concludes my testimony. I would be pleased to answer any questions.

AMERICAN SOCIETY OF CIVIL ENGINEERS

Washington Office
101 Constitution Ave., N.W. Ste. 375 East
Washington, D.C. 20001
(202) 789-7850
Fax: (202) 789-7859

Question from Senator Boxer

1. *Mr. Cairns, we are working on legislation to help ensure the increased expenditure of revenues collected in the Harbor Maintenance Trust Fund (HMTF). Can you explain why increased spending of Trust Fund revenues is necessary and important to our national commerce?*

The nation's marine ports and inland waterways have historically been the critical links that make international commerce possible. Underinvesting in this critical infrastructure today threatens more than 1 million U.S. jobs and leaves the country at risk to lose $270 billion in U.S exports and $697 billion in GDP by 2020. The costs attributable to delays in the nation's inland waterways systems totaled $33 billion in 2010 alone. Future outlooks are more threatening, with these delay costs expected to rise to nearly $49 billion annually by 2020. These are huge costs that reverberate throughout our entire economy.

Narrow, shallow channels and outdated facilities cause delays in shipping and add to the cost of goods shipped and add to the loss in productivity. Wider and deeper harbors will allow for larger ships, reducing the cost of freight shipment. The construction of wider and more efficient locks will provide faster and more reliable service, resulting in lower cost of goods.

The United States has 300 commercial ports, 12,000 miles of inland and intra-coastal waterways and 240 lock chambers, which carry more than 70 percent of U.S. imports by tonnage and just over half of our imports by value. However, according to ASCE's report, *Failure to Act: The Impact of Current Investment Trends in Airports, Inlands Waterways, and Marine Ports Infrastructure*, in order to remain competitive on a global scale, our ports and inland waterways will require an investment in the coming decades beyond the $14.4 billion currently expected. In fact, the report finds that between now and 2020, investment needs in the nation's marine ports and inland waterways sector will total $30 billion, leaving a total, federal, investment gap of nearly $16 billion in the upcoming years.

Additionally, with the scheduled expansion of the Panama Canal by 2015, the average size of container ships is likely to increase significantly, affecting the operations of those major U.S. ports that handle containerized cargo. Currently, many of those U.S. ports still require significant infrastructure upgrades to handle the larger ships and therefore remain competitive internationally. The needed investment in marine ports will include harbor and channel dredging, while inland waterways will require new or rehabilitated lock and dam facilities. If the ports cannot keep up with the demand, large container ships will go elsewhere, for example the Ports of Canada and Mexico, which have been making significant investments over the past several years.

For the investment needs outlined above, the Harbor Maintenance Trust Fund (HMTF) will play a critical role. By unlocking all of the revenue available in the trust fund for the intended purpose, the nation

could be doubling investments in our ports, harbors, and inland waterways. The HMTF revenues are currently estimated at nearly $1.7 billion, while the Army Corps of Engineers estimates that the country has annual maintenance dredging needs between $1.3 billion and $1.6 billion. Why then are we only investing half of that $1.7 billion in revenue? The funds are available to maintain U.S. ports in peak condition; however we are diverting revenues away from the very investments that are so important to our national, economic, well-being. Therefore, ASCE will remain a vocal advocate for a provision in WRDA that would require the total of all appropriations from the HMTF each fiscal year be equal to all revenues received by the HMTF that same year.

Senator BOXER. Well, thank you all very much.

So here is the way we are going to go. We are going to give 10 minutes each to Senators Cardin and Whitehouse and Boozman. So go ahead.

OPENING STATEMENT OF HON. BENJAMIN L. CARDIN, U.S. SENATOR FROM THE STATE OF MARYLAND

Senator CARDIN. Thank you, Senator Boxer. I don't intend to use the 10 minutes, but first let me apologize for not being here for this entire hearing, because this is a critically important subject matter and hearing. But, as you know, the conflicts are I had to chair a Senator Foreign Relations briefing. The urgency here is clear.

Mr. Lorino, put me down with your enthusiasm as to the urgency of this matter, I am totally with you. I am going to ask my full statement be put in the record.

Senator BOXER. No objection.

Senator CARDIN. Madam Chair, I will have questions for the record for Ms. Darcy as it relates to specific projects in Maryland.

The economic impact of the work that we are doing here is clear: this is jobs, jobs. It is making America competitive. The globalization of commerce. We have to be competitive. We have set up a mechanism in which to be competitive and we are not using that mechanism; the funds are sitting there.

I applaud the Chairman, I applaud the Ranking Member. We work together; this is not a partisan issue. Working together on an extremely important bill, the Water Reauthorization Act. We have to get it done. We have to get this to where it needs to be done.

As we have already stated, the top ports in our Country handle 90 percent of the commerce and they are only dredged to their authorized depth and width 35 percent of the time. The impact here is incredible.

I can talk about the Port of Baltimore. Since 2005, the costs in the Port of Baltimore has gone up 55 percent to maintain our port to the competitive depth and width. The funding during that period of time has been flat. Well, you can just do the simple arithmetic here, Madam Chairman. We are not going to be as competitive as we need to be.

The equity issue here. From 2004 to 2010, the Harbor Maintenance Trust Fund generated revenue through the Port of Baltimore at $227 million. We received $157 million. Where is the fairness here? The moneys are there. The Harbor Maintenance Trust Fund was created to produce the revenues needed to do the work, and now we are not using those revenues. We have to do a better job.

What is the impact? Well, vessels are loaded at a lower level; less efficiency, less competitiveness, and we lose jobs in the United States as a result of not doing what the law intended to be done. So there is a sense of urgency here.

The Port of Baltimore is ranked ninth among U.S. commercial ports in terms of total value of goods moved through the port. In July 2012, the Port of Baltimore handled a record 853,000 tons of general cargo. This cargo would not have reached the port if it were not for the projects financed through the Harbor Maintenance Trust Fund.

In preparation for the opening of the expanded Panama Canal, the Army Corps, the Maryland Port Administration, and the regional freight logistics companies have been working fast to make the Port of Baltimore the East Coast premier international shipping destination. Between the newly operational super post-Panamax cranes at Seagirt, the planned intermodal transfer facilities in Baltimore City, and the deepening of the Federal channel, the Port of Baltimore is open for business.

But let me make it clear. We need the projects to maintain the dredging capacities for this to work. My predecessor, Senator Sarbanes, originally got authorization for Poplar Island. I mention it frequently here. It is a dredge site. It also is an environmental treasure, Madam Chair. We did both. We have a dredge site plus a restoration of our barrier islands that were disappearing in the Chesapeake Bay.

Well, we need to make sure that the Poplar Island expansion is adequately authorized, and I am working for the Corps, and I will have a question for Ms. Darcy, that we have to make sure that that is, and I thank you, Chairman and Ranking Member, for working with us on the WRDA bill to make sure that that is handled. That is an important site for dredge material and environmental restoration.

We have a Hart Miller Island issue that we are working between the State and the Army Corps. We have Pearce Creek, which is another site for dredge material that we have to work through. On the environmental front we have the Conowingo Dam. I mention that because there is incredible environmental risk to sediment being contained by the Conowingo Dam. We have had a couple studies. We have to get a game plan to deal with that.

So, Madam Chair, I just want to underscore the importance of the work that you are doing, that the Ranking Member is doing. There is an urgency here. It is very much competition and it is very much the investments that we make paying off for our Country. As I said, I applaud the witnesses that are before us for being here, for your working with us, for your somewhat understanding of the political process that we have to go through here. But this should be one in which we reach out together and do what is right for our Country.

I will have some questions for the record for Ms. Darcy, and I thank again the Chairman for her courtesy.

[The prepared statement of Senator Cardin follows:]

STATEMENT OF HON. BENJAMIN L. CARDIN, U.S. SENATOR
FROM THE STATE OF MARYLAND

Madame Chairman, I appreciate you holding this hearing today to discuss the importance of America's ports and the work the Corps does to maintain the economic viability of our ports. I also want to congratulate Senator Vitter on becoming our new Ranking Member. I appreciate and share his interest in reauthorizing the Water Resources Development Act and I am grateful that the two of you are not wasting any time in getting back to work on the 2013 WRDA bill.

I am hopeful that our committee will build on the bi-partisan success we had in passing MAP–21 in the last Congress.

The high quality jobs associated with maintaining and building our infrastructure makes reauthorizing WRDA all the more important. The Harbor Maintenance Trust Fund, and the Army Corps projects it supports, keep our shipping channels open and maintain America's leadership in today's global economy.

The 2007 WRDA received overwhelming bi-partisan support from this committee. The projects that bill supported provided critical employment opportunities at a time when were beginning to face uncertain economic times. Now, we've come back from the brink of economic catastrophe and reauthorizing WRDA this year will help keep our economy on the right course.

IMPACTS OF WRDA TO NATIONAL ECONOMY

WRDA projects are critically important for to the U.S. economy. For example, according to the Research and Innovative Technology Administration, today 1 in every 11 shipping containers engaged in global trade is either bound for or originates from a U.S. port.

However, the Corps of Engineers estimates that our top-priority harbors, those that handle about 90 percent of the commercial traffic, are only dredged to their authorized depths and widths about 35 percent of the time.

Costs have risen more than 55 percent for the Baltimore District and 40 percent for the Philadelphia District since 2005, while funding levels have remained essentially flat. As a result the Baltimore District is performing about 20 percent less dredging each year, the Philadelphia District about 50 percent less.

In the Philadelphia District, some dredging funding is also diverted to address other needs, such as bridge maintenance.

The Port of Baltimore has been affected by underfunding for maintenance dredging. Over the period 2004–2010, Harbor Maintenance Trust Fund taxes generated by imported cargo at the Port of Baltimore totaled approximately $227.7 million. Yet during this period, only $154.7 million of dredging was completed in the channels leading to the Port.

Each year approximately 4–5 million cubic yards of material must be removed from the Port of Baltimore's channels to maintain the authorized depth and width. Given the highly competitive nature of maritime commerce, it is important that Port of Baltimore channels be maintained at their authorized depth and width on a year-round basis and that adequate dredged material placement capacity is available in order to retain and enhance the advantages of the Port of Baltimore.

This results in ships having to light-load, which increases the cost of shipping and, in turn, increase the cost of goods at the cash register. These days many Americans are watching very carefully what they spend at the store and any change in the cost of goods has a direct impact on their consumer decisions.

Moreover, well maintained harbors decrease costs for American companies who are shipping goods abroad, thereby giving American producers an advantage in the global marketplace. It is therefore imperative that we ensure that the resources are in place to maintain the shipping infrastructure that our nation relies on.

BENEFITS OF WRDA TO MARYLAND'S ECONOMY

Every year the Army of Corps Engineers, in partnership with the Maryland Port Authority, works to maintain Maryland's vital navigation channels by clearing tons of eroded sediment from the Federal navigation channels leading in and out of the Port of Baltimore. Keeping our port open and the channels dredged is essential not just for Maryland, but for the Nation.

The Port of Baltimore is ranked ninth among all U.S. commercial ports, in terms of total value of goods moved through the port. In July 2012, the Port of Baltimore handled a record 853,818 tons of general cargo. This cargo would not have reached the port if not for Harbor Maintenance Trust Fund projects.

In preparation for the opening of the expanded Panama Canal, The Army Corps, the Maryland Port Authority and our regional freight logistics companies have been working fast to make the Port of Baltimore the East Coast's premiere international shipping destination. Between the newly operational Super-Post Panamax Cranes at Seagirt, the planned Intermodal transfer Facility in Baltimore City and the deepened Federal channel: The Port of Baltimore is open for business.

All of the cargo that comes through the Port would not be possible without the dredging projects that are supported by revenues paid into the Harbor Maintenance Trust Fund.

The extensive work that is done to maintain Maryland's shipping channels generates a great deal of dredge material that needs to be disposed of in a safe and responsible manner. The Corps and the State have worked successfully over the years to redevelop the barrier islands that have historically been present in the Chesapeake Bay using dredge material from the Harbor. As the constructed islands reach their designed capacity the State and the Corps need work to close these facilities and move on to the next disposal site.

I was recently informed that the Baltimore Corps District is working to revise its Dredge Material Management Plan (DMMP) to reflect the closure of Hart-Miller Island (HMI). The new Cox Creek facility will replace HMI as the disposal site for dredge material in the DMMP for Baltimore dredging projects. I am pleased that the discussions I facilitated between the Baltimore Corps District and the State are resulting in revisions to the DMMP in that reflect a mutually agreeable fee structure and location for where dredge material will be disposed of in the future. I will continue to follow the development of this process and will be in contact with the Assistant Secretary as the revised DMMP makes its way to her for approval.

I'd be remiss if I didn't also take this opportunity to mention the important work the Corps is doing in Maryland, and throughout the Bay region, to provide critical environmental restoration of natural resources. The Corps' shoreline protection, sediment management, and oyster and habitat restoration programs are integral to Chesapeake Bay restoration efforts. And since oysters represent more than just a source of income for Maryland's watermen—they are natural biological filters continually cleaning up the Bay ? WRDA's habitat restoration is leading to long-term solutions for water quality in the Bay.

It has been more than 5 years since Congress passed the last WRDA legislation. It is essential to our Nation's infrastructure, economy, and environment that we work together to craft a strong, effective bill. I look forward to working with my colleagues on the latest reauthorization of WRDA. Thank You.

Senator BOXER. Well, we thank you for your passion, because this is really serious business, and we are lucky to have the Committee that we have.

Senator Whitehouse.

OPENING STATEMENT OF HON. SHELDON WHITEHOUSE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator WHITEHOUSE. Thank you, Madam Chair, and thank you for holding this very important hearing. I just want to say that I come at this issue with a particular history and a particular context, and particularly when I hear Mr. Lorino and his wonderful voice and the message that he brings from the Mississippi and the Gulf Coast about the urgency of their problems, and that is that not too long ago in Congress we passed a piece of legislation that conferred an enormous multibillion dollar benefit along the Gulf Coast, and we did so as the result of an agreement that was reached that the bulk of the benefit was going to flow to the Gulf Coast, but that there would be a small portion that would accrue to the benefit of all coastal and Great Lakes States.

After the agreement that allowed that to go forward was reached, the part that went to the benefit of all coastal and Great Lakes States was stripped out. An agreement was made and an agreement was broken. I am inclined to, and I want to, support enhanced traffic on the Mississippi River. I want to support the protection and growth of the port in Louisiana and, frankly, in Los Angeles and Alaska, and everywhere else. But the past bargain has to be honored for me to be very enthusiastic about going forward with further benefit that goes to the Gulf and to the Mississippi, and I just want to make that point.

Senator BOXER. I understand how you feel. I certainly shared that disappointment. All I can say is we need to move forward on a WRDA bill, and I would like to work with you because you have a couple small ports there. Maybe there is a way to help you through this WRDA bill.

Bettina, I would like to work with Senator Whitehouse and the ways that we can work with his State, because there is no question we need this WRDA bill for the good of the Country.

Senator WHITEHOUSE. But it is also, if I might say, Madam Chairman, it is a matter of the good of the Senate. If agreements are that easily broken after they are made, then the sinews of the Senate begin to come apart, and I think it is fair for Senators who have been on the receiving end of a broken agreement to insist on the honoring of an agreement that I believe, thought, everybody had entered into in good faith.

Senator BOXER. Right. There is a lot of reasons for this; some of them come from the House, et cetera. But the point is, in my view, if you listen to John Kerry yesterday, which you did, he made an unbelievable speech, and I hope all colleagues would read it. We have to treat each other better. Yours is an example of not treating each other the way we should. However, there is always tomorrow and a chance to recoup and come together and move forward, and I pledge to you that I will try to do that in the WRDA bill.

We are going to have a WRDA bill, and let's make sure that everybody is enthusiastic about it, including the small States and the States with inner harbors and the rest. We need this for the good of our Country, and we are going to always have these problems if we don't come together and keep our bargains.

So as somebody who always has kept her bargains, as far as I can remember, I would love to work with you on this WRDA bill in a way that gives you some redress. It is not going to make up all the ground, but I hope you would work with me on that. Would you do that?

Senator WHITEHOUSE. We will, of course, work with you.

Senator BOXER. Good.

Senator WHITEHOUSE. I appreciate the support that you were able to give to our efforts in the previous effort that has turned into a broken agreement.

Senator BOXER. Well, we are going to make another effort. There may be a way we can do something for the smaller ports here that really gives them an opportunity, because when you listen to Senator Whitehouse talk about his State, his State is in jeopardy right now, we know that, because of what is happening with the rising sea levels. He just needs to have some attention paid. In the last WRDA bill he was knew, I remember it. We really didn't do what we should do.

By the way, just saying to colleagues who are here, we had a really hard time drafting this bill because there are no more earmarks, and we have to take care of our States. So the way we did it here is to make sure that any project that had a complete Corps report which was sent down from the Corps would get funded without naming any projects or getting into all that. This could be very well the last WRDA bill that we can figure out how to do without naming projects; after this one it is going to get increasingly more difficult.

But I think we figured out a way to walk the walk on here without the earmarks and get it done right, and I look forward to working with you, Senator Whitehouse, to make sure that this bill reflects the priorities of your State. That is all I can say. I can't undo what was done, but I can move forward and make sure that we try to look at your priorities and answer them in this bill.

Senator.

Senator BOOZMAN. Thank you, Madam Chair. I think we all agree, the panel, the Committee, the audience, whatever, that we need to, I would like to say, protect the integrity of the Trust Fund, but we need to establish some integrity, almost, before we protect it and go forward, much like the Highway Trust Fund and the Aviation Trust Fund and things like that. So that is pretty easy. It is difficult to get done, but we can at least reach agreement.

The more difficult thing is, and we really have a varied panel with our ports and our engineer, is, once you have the trust fund, how do you divvy it up, realizing that it is a system-wide whatever? Los Angeles is remarkable in the sense that you have all this high-value stuff coming in there. You are creating about, I think, over 13 percent of the revenue that comes in, and because of the nature of your port you need more than what you are getting, but you are not getting very much of that 13 percent out. Some of our other ports, again, through no fault of their own, are in situations where there is a lot more silting; there is just a lot more need for dredging and things, and that is the difference in the East Coast and the South. It is just the way it is.

So I guess what I would like to know from you all, that is not, and then the other thing that we have is the protection of, as Senator Crapo mentioned, again, my ports that lead into the Mississippi River that ultimately come out and create some of this traffic, how do you do all that? I guess what I would like to know from you all is what are your thoughts on that, how we can address the problem of, once we get the Trust Fund dollars that we like, or even dealing with what we have, what are your thoughts on equalizing the funding mechanism? We will start with California, the port that is funding a large part of it.

Mr. CHRISTENSEN. Thank you for your question, Senator. I believe that the biggest hurdle is getting the full use for intended purposes. That is the biggest hurdle that we can see. As Captain Lorino mentioned, and Mr. Lyons, the Corps of Engineers, from our perspective, does a pretty good job once they are funded, once they get the money they need for things. They have a system for racking and stacking and prioritizing. In our State they do a pretty good job; they just don't have enough money to cover the priorities that have already been established. So, from my perspective, if the HMT could be spent fully for its intended purpose, the major part of the problem would be dealt with.

Senator BOOZMAN. OK.

Mr. LORINO. Senator, thank you for the question. As I mentioned when I started my testimony, this is not a Louisiana issue, this is a Nation issue. I just wanted to make sure that was there. But how do you do it? It is going to be tough, but you hit the nail on the head. Every port is not the same; every port is unique to itself. The Mississippi River, the area where we pilot, where my association pilots, shows up every year. I can look at you right now and say we will spend $83 million next year, at least. The only question is is it going to be more than that.

So do you look at it on what the value that your port is bringing in or exporting? Do you tie it into jobs? Do you tie it into the amount that you have to spend over a 10-or 12-year period? I don't have those answers right off the top of my head, but I do know one

thing, and I have been told this by the Corps: that if we can receive the full authorization from the Harbor Maintenance Trust Fund, it should take care of all of our ports, no matter where they are, for their projects. That is the way it should be, because every port is importing cargo that is paying that money. I really believe the answer to it would be get all the money and then figure it out on an economic basis or a condition basis, one of those two.

So that is the best I can say on that, sir.

Senator BOOZMAN. Mr. Lyons real quick, and then Mr. Cairns.

Mr. LYONS. Senator, one thing I have learned about being around ports for about 40 years is that they have one thing in common, and that is that they are all different. They are different in the types of cargos that they handle; some high-value, some low-value. Some ports handle a lot of electronics; some ports handle a lot of low-value manufacturing raw materials. Some ports need a great deal of dredging; some ports need none.

The Harbor Maintenance Tax, in my view, is a tax that is paid by the consumers of these goods that are imported into our Country, whether they are a person who buys a TV in Arkansas or Alabama, or a company that is buying wood fiber from Brazil and using it to manufacture something else. They are who are paying this tax. So that tax is paid by all the taxpayers. The tax, like all of our taxes, should be allocated to where they are needed. I think our biggest concern really needs to be that we, first of all, direct all of the money to take care of all of the dredging needs that we have throughout this Country. I agree with you that the inland waterways, which is a separate issue from the Harbor Maintenance Tax, is a big, big issue. We have it in Alabama, as you do in Arkansas.

So I think the big issue is to, first and foremost, get the tax allocated out to take care of all of the dredging needs, whether in Louisiana or whatever State or whatever port. Second, if there is something left over, then we can talk about that.

Senator BOOZMAN. Very quickly, Mr. Cairns.

Mr. CAIRNS. Sure, Senator Boozman.

ASCE agrees with you that it is really trying to get the intended funds used for what their purpose is, so if the harbor maintenance funds are there, they should be used and spread about to the projects that have those needs. As far as the equity, really, ASCE doesn't have a position on which ports and how that should be.

Senator BOOZMAN. You are a wise man.

Thank you very much.

Senator BOXER. Thank you, Senator.

So I have just a few questions.

Mr. Christensen, you laid out four recommendations in your testimony: first, full use of the Harbor Maintenance Trust Fund; second, equity for ports that contribute the most; third, allowing the Highway Maintenance Trust Fund to fully maintenance up to 50 feet; and, fourth, prioritization of traditional maintenance dredging.

I am asking you, because these are so important to California, that moves 40 percent of the cargo through, the imports, could you elaborate on why these recommendations would be beneficial for ports around the Country?

Mr. CHRISTENSEN. Yes, Senator. Before I start, Senator, let me reiterate my thanks to you and the Ranking Member and the Committee for doing this. This is such a great thing to be talking about.

As I mentioned, full utilization gets us mostly where we need to be, and I think, as we have heard from some of the other members of the panel, that is the big issue; get it spent for its intended purpose. So that is our No. 1 ask.

The No. 2, about prioritization of funds for their traditional purposes, we agree that that needs to be in the water. This needs to be spent on things that have a direct——

Senator BOXER. You think that is important for all the ports, not just our port? That is the point I am making.

Mr. CHRISTENSEN. Absolutely. This is, I think, as Captain Lorino had mentioned, it is a nationwide issue, it is a nationwide problem. It is a California-wide problem. In California, our ports operate as a system, and while you have three larger container ports, you also have quite a number of other ports that are working to support their niche functions. The ports, by their very nature, are entrepreneurial; they operate as a business.

The free market system has, in essence, brought these ports in California to their own specialty; they each do something very well. We feel we do containers very well. There are other ports that do bulk shipments very well. They all have to be maintained to keep this system operating. If they don't, if one of the wheels comes off on one of those other ones, it affects everyone, because those other uses get piled on.

Senator BOXER. We call our ports a river highway.

Mr. CHRISTENSEN. We do.

Senator BOXER. Which I think was Ray LaHood's idea, looking at all the ports together as a highway.

Mr. CHRISTENSEN. That is right. In fact, we have a demonstration project in California, as you are well aware, Senator, in the Port of Stockton.

Senator BOXER. Yes.

Mr. CHRISTENSEN. But even the Port of Stockton is suffering because of lack of maintenance funding. They have shoaling that means that iron ore ships loaded in Stockton cannot leave full, they have to leave light-loaded; they go to Oakland and then they get topped off. That is extremely inefficient.

Senator BOXER. Well, let me thank you for your very clear testimony on those four things, because I do think they apply across the board here. As we look at extreme weather we see more problems with dredging, too, because there is more silt coming down and more problems. So this is absolutely essential.

Mr. Lorino, my final questions are for you, and then I will turn it over to Senator Whitehouse, should he have some followup questions.

I just thought your testimony was so good because I know what you have gone through in Katrina; I was there and I understand the unique challenges in some way because the beauty of that State is all around, and in the middle of all that you have all this heavy industry and all this port activity. The balance of that is so important is so important. If there is a problem, everything is hurt.

So I wanted to ask you about beneficial uses of dredge material. In your testimony you raised the possibility that increased spending from the Harbor Maintenance Trust Fund could create additional opportunities for beneficial use of dredge materials, such as wetlands restoration, and it was mentioned by Senator Cardin. Could you elaborate on some of the beneficial uses of dredge material that might be realized if we increased investment in dredging navigation channels?

Mr. LORINO. Chairman Boxer, yes, ma'am. First of all, I did meet you down there during that time, and I just wanted to say thank you very much. It was very nice for you to come down and do that, along with other Members of Congress.

But beneficial use in the State of Louisiana is a very tough issue, and it is only tough because of one thing: money. As I discussed a few minutes ago, we have $83 million to spend, and that is picking up sediment that comes down every year. The State would love us to use that for beneficial use. We would love to use that for beneficial use. But we are barely keeping our channel open. To use it for beneficial use, we have to transport it further. That would take time. There is not enough dredges to do that at the present time. So we have this conflict that is going back and forth.

What I would like to see, if we could, and we are looking at a 50-foot channel also on the Mississippi River. Someone mentioned on the East Coast about the port study to get the 50 feet. They left out the bulk port, and that is very important. The Mississippi River is a bulk port. But if we could dredge, we could use a cutterhead dredge and build the coast down in Plaquemines Parish that was devastated by Katrina.

But we need the money and it has to be a combination between our State and the Federal Government; it can't just be the Federal Government, it has to be the State also. We work on that a lot, but it is a very difficult issue to tackle when we can barely keep our head above water to keep the channel open the way we are doing it now, if I am making any sense.

Senator BOXER. You do. You do. I mean, it all comes down to the resources. It just seems so unfair to me when people pay into a fund and then the fund is not used for that purpose. I just feel it is, in a way, defrauding people. It is not right, and that is why we are going to hope to move in a very bipartisan way to change that.

I would ask Senator Whitehouse if he has some closing questions.

Senator WHITEHOUSE. I have time for questions, but I have no time for answers, so what I would like to do is to ask the questions for the record and ask you to get back to me, if I could, and it is for the port operators who are here.

Senator BOXER. Well, why don't you ask your questions.

Senator WHITEHOUSE. Two questions. The first is, in your particular port, what are you seeing, looking forward, that would affect you as the result of bigger storms, rising seas, and other effects of climate change, and how are you responding to those threats? That is question one.

Question two is the American Port Operators Association is a strong and staunch supporter of a process that goes by the rather

unhelpful name of Marine Spatial Planning. Are you engaged in that in your areas? Is it beneficial, and how?

AMr. Lorino, you may very well have views on that. You are invited to join, if you would like to. Any witness who cares to add something to that is welcome to add.

But I have a noon meeting that I have to be on time for and I apologize. But I want to again thank the Chairman for this hearing and for bringing us together around this very important issue.

Senator BOXER. I thank you, Senator, so much. We really do look forward to working together, and I hope on a pretty fast track. There is a lot that the Senate is going to be doing, and we want to sort of maybe get it started in a very positive direction.

All of you have been so articulate, every one of you, and I couldn't imagine a better panel for what we are trying to accomplish here.

We stand adjourned. We thank you and we look forward to working with you. We are asking you to help us get this WRDA bill. We will call you when we feel we are running into some waves. Thank you very much.

[Whereupon, at 11:57 a.m. the committee was adjourned.]

[Additional statements submitted for the record follow.]

STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM THE STATE OF NEW JERSEY

Madam Chairman,

The Water Resources Development Act is about strengthening our water infrastructure, and nowhere have we seen a clearer reminder of the need to improve our water infrastructure than in my State of New Jersey.

Since Superstorm Sandy hit our shores, we have seen the catastrophic damage that can be caused when infrastructure is unprepared for the force of an extreme weather event.

The storm sounded the alarm that the Federal Government must invest in infrastructure to recover from the storm and build it stronger so we are prepared for the next storm.

That's why the Sandy supplemental appropriations law I helped write contains funding to rebuild and expand Army Corps beach projects and other infrastructure projects critical to protecting communities.

But let's be clear: our changing climate means severe storms will become more and more common, and that means a new WRDA bill must make it permanent policy to build these infrastructure projects stronger than before.

During Sandy, we also saw the limits of our outdated water infrastructure when two (2) water treatment facilities were damaged, with one (1) plant leaking millions of gallons of sewage into Newark Bay as a result.

So we must include smart financing programs in the WRDA bill, to ensure our clean water infrastructure is modern and effective.

Sandy also damaged the Port of New York and New Jersey, which is the largest port on the East Coast and serves more than one-third (1/3) of the country. More than two-hundred seventy thousand (270,000) jobs depend on this port.

But the majority of the port's terminals were shut down for more than a week because of power outages, structural damage, and hazards in the water that could impair ships.

We learned from Superstorm Sandy that the effects of extreme weather events on our ports can be devastating to the economy.

Madam Chairman, the Harbor Maintenance Trust Fund is critical to maintaining and repairing our ports. We need to ensure the strength of this fund, but we must do so in a responsible way that does not compromise the Army Corps' flood control projects.

I look forward to working with Chairman Boxer and our new Ranking Member, Senator Vitter, on a new WRDA bill that can take the important next steps to modernize our infrastructure, strengthen our ports, and protect our communities.

STATEMENT OF HON. ROGER F. WICKER, U.S. SENATOR
FROM THE STATE OF MISSISSIPPI

I want to thank the Chairman and Ranking Member for holding this hearing on a matter that is vital to America's economic prosperity and important to my State of Mississippi.

Our ports are gateways to global commerce, fuel economic development, and support millions of American jobs. Failing to make the proper investments at this critical time would have a serious impact on jobs and economic growth. The expansion of the Panama Canal has generated new interest in U.S. ports along the Gulf Coast and Eastern Seaboard.

By 2015, the Canal will have the capacity to accommodate significantly larger cargo ships. As global trade increases, we must be ready to take full advantage of growing import and export opportunities. According to a June report by the Army Corps of Engineers' Institute for Water Resources, the expansion of the Panama Canal could provide significant opportunities for our Gulf and South Atlantic ports to become more competitive. Geographically, ports in these regions are positioned to be the most impacted by the expansion. U.S. ports need to be ready for post-Panamax vessels, which will play a major role in facilitating greater global trade. These vessels are expected to make up an estimated 62 percent of all container ship capacity by 2030. The boost in maritime commerce means States like Mississippi will be able to capitalize on international trade opportunities that would benefit the entire country.

Because shipping is less expensive than other types of transport, reliable port capabilities help keep our country's trade market competitive. Yet, there are challenges. Despite opportunities for maritime commerce, our Nation's ports face numerous hurdles. America's 59 busiest ports are maintained at authorized widths and depths only 35 percent of the time. The Corps estimates a backlog of $2.2 billion in current harbor maintenance projects.

Although the Harbor Maintenance Trust Fund collects sufficient revenue each year—and has a surplus of nearly $7 billion—these funds are not utilized for their intended purpose. Mississippi's State port at Gulfport has been dredged to its authorized depth of 36 feet only once since recovering from the destruction of Hurricane Katrina. Today, some areas of the channel are as shallow as 32 feet. This restricts Gulfport's throughput capacity and its associated economic benefits.

I would like to know Assistant Secretary Darcy's views on this issue and what the Corps is doing to address dredging needs—particularly when lack of maintenance dredging makes a port less competitive in securing future maintenance dredging. For Mississippi's State port, this has become a vicious cycle that must be addressed. I am also curious to know why the Corps' funding needs for dredging and other activities are not accurately reflected in the Administration's budget from year to year.

Again, I thank the Committee for holding this important hearing.

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