

**United States Senate
Committee on Environment and Public Works
Subcommittee on Transportation and Infrastructure**

**Hearing on the
“Needs and Opportunities of our Nation’s Ports, Waterways and Army Corps of
Engineers Lakes/Properties and to Examine Funding and Financing”**

May 9, 2017 – 2:30 p.m.

Room 406 / Dirksen Senate Office Building

Testimony of James K. Lyons

Director and Chief Executive Officer

Alabama State Port Authority

Chairman Inhofe, Ranking Member Cardin, and distinguished members of the Subcommittee, thank you for the opportunity to discuss the nation’s need to modernize its seaport infrastructure. My name is Jimmy Lyons, and for the past 18 years, I have been the Director and Chief Executive for the Alabama State Port Authority (Authority).

The Authority represents the public cargo terminals and is the federal project sponsor at the Port of Mobile, currently ranked 10th largest U.S. seaport in total trade¹. Our nation’s economic growth in the 21st century will largely depend on global trade as 95% of the world’s population and 80% of global consumption occur outside the U.S. To cost efficiently service that trade, the ships commonly referred to as Post-Panamax or wide-bodied vessels are getting bigger – much larger than our current system of deep-water seaports can handle. The Port of Mobile is one of the few of our top 50 deep-water ports currently handling, albeit inefficiently, these types of ships. At our port, these ships

¹ U.S. Waterborne Commerce Statistics 2015

are servicing the container, petroleum, coal and steel trades. Because of our capabilities, the region has attracted both domestic and foreign manufacturing and retail distribution investments, including Walmart's recently announced 2.5 million square foot super international distribution center.

Between 2001 and 2016, the Authority invested over \$850 million in shore-side facilities and federal channel infrastructure to meet the infrastructure needs of shippers and ocean carriers, and to ensure market competitiveness. In the past two years, two of our recent new terminal investments have experienced double-digit cargo growth. Additionally, our private petroleum terminals have experienced double-digit growth. Both the public and private terminals at Mobile generate \$23.5 billion in economic value and employ over 154,000 people, in Alabama alone.

Seaport cargo activities across our nation accounts for 26 percent of the U.S. economy generating \$4.6 trillion in total economic activity and contributing more than \$321 billion in federal, state and local taxes. In 2016, the American Association of Port Authorities surveyed its U.S. member ports as to how much they and their private-sector partners planned to spend on port-related freight and passenger infrastructure over the next five years. The answer was a whopping \$154.8 billion. This five-year investment by seaports and their partners represents more than a three-fold increase over the combined \$46 billion figure obtained from the same survey five years ago. I am proud to report that of the six U.S. port regions polled, U.S. Gulf ports' port and private capital investment planned through 2020 totaled \$127.7 billion or 82% of the total planned U.S. port investments. Aside from the economic activity these investments generate, Lancaster, Pa.-based Martin Associates, an internationally recognized maritime economic analysis

firm, calculated a whopping 1.6 million direct, indirect and induced domestic jobs created from that \$155 billion in port capital investments. Seaports deliver significant return on federal investment and both the seaports ports and the private sector are clearly investing in tomorrow. Now we need full consideration and weight in the nation's federal infrastructure planning, budgeting and investment programs.

Mobile is in need of federal channel modernization to accommodate the increasing vessel size, improve efficiencies and generate cost savings for shippers. Further, 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, dredged ports move nearly 93% of all waterborne commerce by weight annually.

Under-investment in seaport channels and harbors and under-funding of the Corps' civil works programs result in inefficient channels and poorly maintained harbors increasing costs for port users, reducing U.S. global competitiveness, and exacerbating the maintenance dredging backlog, all of which adversely impact the U.S. tax base and job market.

I would offer that both Congress and the U.S. Army Corps of Engineers consider revisions to law, regulatory reforms and administrative procedural tweaks to better plan, fund, implement and maintain waterway infrastructure necessary to U.S. commerce.

1. Water Resources Development Act should receive biennial review and updates in Congress. I applaud the hard work of this committee to take up timely review of WRDA. To augment the work of Congress and to improve funding delivery to the US Army Corps of Engineers, the Corps should submit a comprehensive annual status report on its Civil

Works program implementation. This report would provide line item insight as to project progression and costs.

2. The U.S. Army Corps of Engineers should implement strategic budgeting in five (5) year cycles providing line item specifics for Investigations, Construction and Operations & Maintenance (O&M). That budget exercise should receive annual updates to reflect authorized project progression. Currently, the Corps Districts submit annually their respective budgets and then compete with the other districts for limited dollars, particularly in O&M. The current practice (two-year budget development process) fails to capture a majority of the projects' full capital needs through implementation. For example: Under the 3-3-3 Rule, or for those projects that receive waivers to 3-3-3, the two-year budget development process and annual funding only addresses one of the three plus years of authorized study funding needed and provides no guaranteed funding for project engineering and design or construction phases. Further, the two-year budgeting process does not request funding for Project Engineering and Design (PED) until Record of Decision (ROD) adding in many cases up to two years to the project schedule, if funded. From a practical standpoint, PEDs, if funded, can be started at the Agency Decision Milestone, typically six months to a year prior to finalizing a decision document. I urge Congress and the Administration to recognize once authorized projects are in the pipeline, it means funding through completion should be in the pipeline to avoid costly delays. The start-stop mentality is inefficient and adds unnecessary cost burdens to the process. The proposed strategic 5-year budgeting cycle method could help identify in advance funding requirements necessary to complete those authorized projects providing clear advance direction for budgeting and appropriations.

3. Congress should commit to full allocation of available funds in the Harbor Maintenance Trust Fund to guarantee year in-year out funding for the maintenance of authorized obligations identified in the Corps Civil Works budget. A system of annual budget reporting and 5-year budget cycles should provide a higher level of insight into long-range construction and maintenance funding obligations, while providing Congress the knowledge base and appropriate tools to evaluate the feasibility of authorizing new project construction and added long-range federal maintenance obligations.

4. Streamline the 3-3-3 Rule waiver process. It is fully acknowledged by local sponsors that large, complex studies require extensive study and new data to address modeling or environmental condition. The necessary science to comply with NEPA can be costly and take more than a year to obtain leaving a 3-3-3 process unachievable. Waivers are an appropriate tool; however, waivers can cost a project schedule up to a year in delays. Under recent Corps guidance, waivers are held until the Corps approves their Tentatively Selected Plan. Streamline this process and delegate waiver decision authority to the Division Commander.

5. Reduce or eliminate altogether Independent External Peer Reviews (IEPRs) to reduce study and permitting time. The Corps is staffed with qualified, licensed or accredited professional engineers, scientists, economists, etc., capable of delivering sound engineering and program delivery. Many of these external experts have little understanding of Corps processes or Congressional mandates and much of the peer review time is spent educating consultants on the why and not necessarily on the soundness of the engineering. The entire program adds unnecessary time and costs to projects.

There is legitimate and urgent need for seaport investment to serve the larger vessels transiting most trade lanes. Modernization of our nation's deep-water seaport infrastructure will cost billions of dollars. Further, federal project investment in ports will ultimately draw on the Harbor Maintenance Trust Fund, as deepened and widened channels are brought online. While the Corps has made significant gains in asset management through risk based analysis and performance based budgeting, there are compelling reasons to realize program savings can be achieved by using strategic 5-year budget cycles and streamlining bureaucracy.

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