

DEPARTMENT OF THE ARMY

COMPLETE STATEMENT

OF

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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**

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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.