



Committee on Transportation and Infrastructure
U.S. House of Representatives

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July 8, 2014

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BACKGROUND MEMO

TO: Members, Panel on Public-Private Partnerships
FROM: Staff, Panel on Public-Private Partnerships
RE: Roundtable Policy Discussion on “Public Private Partnerships for America’s Waterways and Ports”

PURPOSE

On Thursday, July 10, 2014, at 10:00 a.m., in 2167 Rayburn House Office Building, Members of the Panel on Public-Private Partnerships will participate in a roundtable discussion on “Public Private Partnerships for America’s Waterways and Ports”. The panel will hear from Mr. Jim Hannon, U.S. Army Corps of Engineers; Mr. John Crowley, Executive Director, National Association of Waterfront Employers; Mr. Mike Toohey, President and CEO of the Waterways Council; and Mr. Dave Kronsteiner, the President of the Board of Commissioners for the Port of Coos Bay, Oregon.

JURISDICTION

The Transportation and Infrastructure Committee has jurisdiction over the Army Corps of Engineers’ (Corps) civil works program, which is the Nation’s largest water resources program. The Corps’ responsibilities include navigation, flood control, shoreline protection, hydropower, dam safety, water supply, recreation, aquatic environmental restoration and protection, and disaster response and recovery. In addition to oversight of Corps’ programs and projects, the Committee sets priorities through the Water Resources Development Acts, the most recent of which, the Water Resources Reform and Development Act of 2014 (Public Law 113-121), was signed into law on June 10, 2014. Public Law 113-121 includes authorization for the evaluation of the use of Public-Private Partnerships (P3’s). The Committee also has jurisdiction over the civilian activities of the Maritime Administration (MARAD) which implements programs to assist ports in infrastructure planning, development and finance, such as the Title XI Federal Ship Financing Program and MARAD’s Office of Port Infrastructure Development and Congestion Mitigation.

BACKGROUND

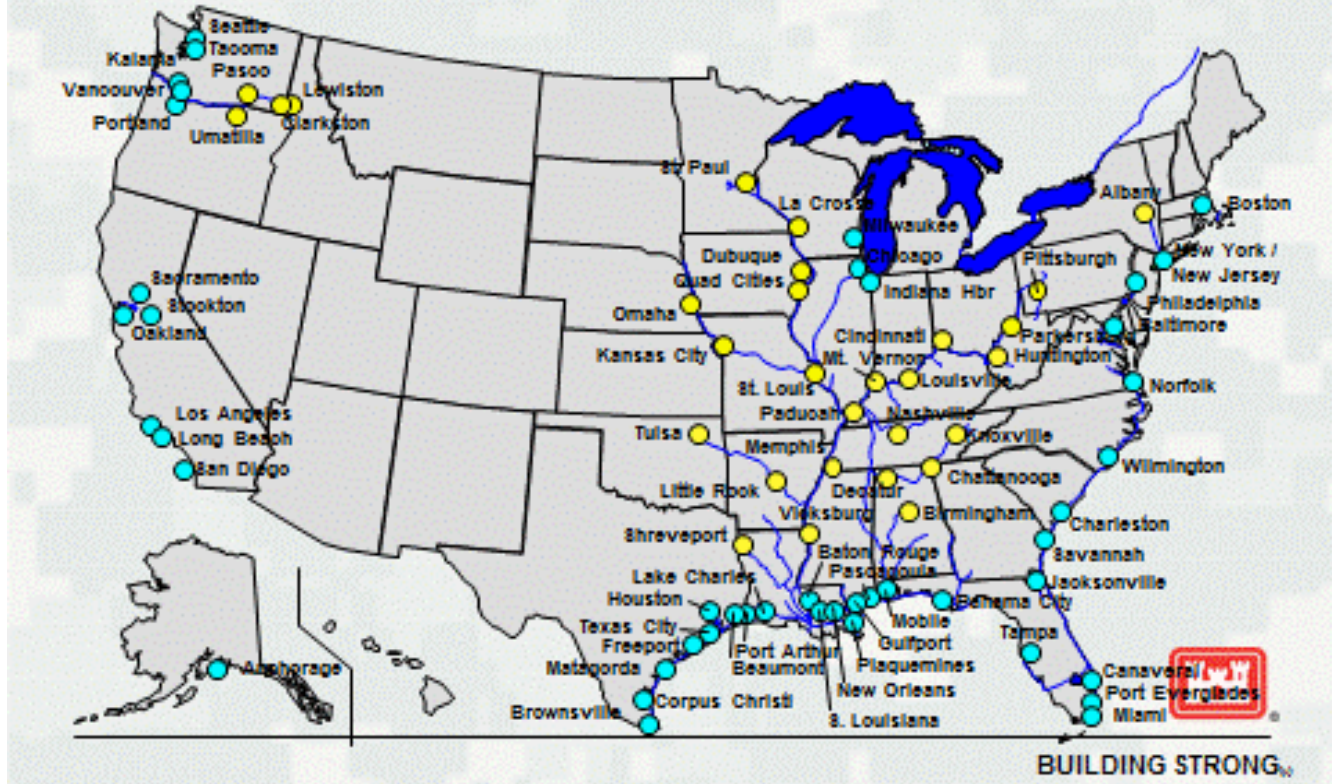
Inland Waterway and Ports System

The United States enjoys an extensive network of ports and inland waterways that support a significant portion of the Nation's trade corridors. 41 States are served by ports and inland waterways, including all states east of the Mississippi River. Seaports of the Western Hemisphere combined handle about 7.8 billion tons of cargo each year and generate nearly \$8.6 trillion of total economic activity. Each of our 50 states relies on at least 15 seaports to handle its imports and exports, which total more than \$3.8 billion worth of goods moving in and out of U.S. seaports each day. More than 13 million people are employed by the Nation's seaports, and seaport-related jobs account for \$650 billion in personal income.

With the recovery of the import and export trade volumes after reductions in 2008 and 2009, many ports in the Americas are dusting off plans to expand and upgrade their ports. Port authorities in North America are looking to plan, finance and construct new projects, adjust and expand their ports for larger vessels, and modernize their road and intermodal connections. Various ports aim to expand capacity in order to stay competitive with ports in Canada and to accommodate the anticipated increase in volume and size of ships as a result of the expansion of the Panama Canal and the changing commodities dynamics occurring globally.

The United States also maintains an extensive inland waterway system that is critical to the Nation's movement of agricultural and other commodities. There are 12,000 miles of commercial inland channels operated and maintained by the Army Corps, which if lined up, would stretch halfway around the world. This network includes 707 dams owned and operated by Corps. There are 139 lock chambers in operation that are over 50 years old; the average age of all locks is 59.1 years. Over 60 percent of America's grain exports move by barge along the nation's inland waterways, accounting for \$8.5 billion in exports. Barges carry 20 percent of the nation's coal, enough to produce 10 percent of all U.S. electricity used annually and barges also move an estimated five percent of the nation's ethanol. The Corps also provides funding for dredging of 300 deep draft commercial harbors and 600 shallow coastal and inland harbors.

The Marine Transportation System



Traditional Financing Methods for Port Investments

Typically, port authorities consider two alternatives to finance their new port expansion plans: (1) securing public sector grants and bonding proceeds; or (2) inducing the private sector to make investments through long-term concessions or full privatization of terminals within port facilities. When local governments have limited fiscal resources, public financing of capital expenditure projects can become more limited.

Public port authorities have a long and successful track record working with the private sector. In the U.S. it is very common for port authorities to grant private operators concessions to build and operate container and bulk terminals under long-term lease contracts or to operate existing container and bulk terminals under long-term leases. However, this model does not solve the need to finance the expansion and improvements of common user facilities (non-terminal assets) and port expansion projects. Private operators tend to resist investment in common user facilities and new terminal capacity that create extra costs and can make their

investment uneconomical. For any private investor, consideration is going to be focused on two key questions:

- Who is going to own the facility?
- Who is going to guarantee a revenue stream?

At the same time, port authorities have concerns with private sector involvement in that they could lose operational control and influence on future development. Despite these concerns, the need to consider alternative financing mechanisms is great given the needs of the infrastructure. According to MARAD, funding remains available for high quality port infrastructure investments because of the returns these assets provide their investors. The key challenge for infrastructure investment today is transaction costs, especially time delays as lenders complete their due diligence and review. Although the bid process is being delayed, investment is still occurring because the long-term fundamental outlook for port assets remains strong due to: (1) the recent downturn in trade growth is expected to return to its normal upward trajectory as the U.S. economy recovers, (2) trade must move through our ports, and (3) ports and marine terminals provide solid returns, an important factor influencing institutional investors and private equity.

Federal Resources for Inland Waterways and Ports

Army Corps of Engineers Water Resources Program

The Corps studies the potential for water resources development and recommends projects that are economically justified and environmentally sound. The Corps assesses potential projects through an extensive feasibility study process. It is important to remember that the Corps focus is in three areas associated with harbors and ports: (1) dredging channels and berths; (2) dredging turning basins; and (3) dredge sediment management. Land side development is the responsibility of the individual port authorities or local communities.

When authorized to study a harbor or channel project, the Corps performs a reconnaissance study at federal expense, usually taking 12-18 months to complete. This phase defines the water resources problems and opportunities; assesses the potential sponsor's level of interest and support for the identified potential solutions; and evaluates federal interest, economic costs and benefits, and environmental impacts of potential solutions.

If the reconnaissance study indicates that there may be a viable federal project and that a more detailed feasibility study should be undertaken, the Corps prepares a feasibility report, financed equally by the federal government and the non-federal sponsor. The feasibility study examines project alternatives and recommends a project that is technically sound, environmentally acceptable, and economically justified. If the study recommendations are favorable, the next step is securing a project authorization from Congress.

The Corps of Engineers also has authorities to construct certain small projects without specific authorization by Congress. These authorities, known as the "continuing authorities program," include beach erosion, navigation, flood control, stream-bank and shoreline

protection, snagging and clearing, modifications to existing projects for the benefit of the environment, and aquatic ecosystem restoration.

The Army Corps' appropriation for recapitalization projects is funded at roughly \$2 billion per year. However, the Corps is currently engaged on projects that are estimated to require an additional \$23 billion to complete. Additionally, a 2013 review found the Corps faces a total backlog of \$60 billion in recapitalization projects.

Inland Waterway and Harbor Maintenance Trust Funds

Inland Waterways Trust Fund

Water Resources Development Acts (WRDA) and their predecessors have been authorized by Congress since the 1800's. Later WRDAs established the Inland Waterways Trust Fund and the Harbor Maintenance Trust Fund to help pay for the modernization of locks and dams on America's inland navigation system and maintenance of waterways and ports.

Revenues in the Inland Waterways Trust Fund are derived from a 20-cent-per-gallon user fee on diesel fuel used by commercial vessels engaged in inland waterway transportation, plus investment income. The Trust Fund is used to pay one-half of the costs associated with the construction, replacement, expansion, and major rehabilitation of federal inland waterways projects; the other half comes from the General Fund of the United States Treasury. Currently, due to an overextended lock and dam project on the Ohio River and the fact that the Corps of Engineers is using the money at the same rate that it is collected, insufficient funds exist to maintain an efficient construction schedule for necessary projects or to begin any significant new investments. The Inland Waterways Trust Fund collects approximately \$80 million to \$90 million per year while the balance in the fund is approximately \$40 million.

The infrastructure along the inland waterway system is old and in need of repair, replacement, and rehabilitation. Of the 257 locks in operation in 2009, more than one-tenth were built in the 19th Century. The average age of federal locks is 60 years; they were built with an expected lifespan of 50 years. By 2020, more than 80 percent of America's locks will be functionally obsolete.

Harbor Maintenance Trust Fund

The Harbor Maintenance Trust Fund was implemented by Congress to pay for harbor maintenance needs across the Nation. Funds are collected through a 0.125 percent tax imposed on the value of cargo loaded or unloaded at United States ports. The fund collects approximately \$1.6 billion per year and under the recently enacted *Consolidated Appropriations Act, 2014*, appropriations for fiscal year 2014 have increased to approximately \$1 billion for 2015. The balance in the fund is approximately \$8 billion. The Trust Fund pays for the federal share of the maintenance of federal channels at ports. Funds collected are distributed across the spectrum of harbors in the United States, including large, medium and small scale commercial locations.

America's businesses and consumers depend on these ports as 70 percent of America's imports and 75 percent of its exports go through its ports. The number of ships calling at American ports is rising and with the upcoming expansion of the Panama Canal, the size of ships will grow. With an expanded and deepened Panama Canal, very large container ships will become the norm, but the number of American container ports that can receive such ships is limited. The American Society of Civil Engineers (ASCE) estimates that underinvestment in America's inland waterways cost American businesses \$33 billion in 2010 and that without significantly increased investment those costs could rise to \$49 billion by 2020.

The Committee is aware that the current rate of revenue collection and investments in both Trust Funds is not sustainable in the long term if we are to keep inland waterways and ports as a viable part of a multimodal transportation system. In addition, the Corps of Engineers is challenged with aging infrastructure, increased demands, reduced budgets, and severe weather and water conditions.

Public Private Partnership Potential

Port authorities have a long and successful track record working with the private sector when it comes to leasing out the construction and operation of individual terminals. However, while there are a number of private ports in Europe, they are rare in the United States.

During the past several years, however, a number of private entities have invested in marine terminals at public ports. American International Group purchased terminal leases in six U.S. ports from DP World, as well as the operations of Marine Terminals Corporation. A Deutsche Bank subsidiary has purchased Maher Terminals, the Port of New York and New Jersey's largest container volume terminal. Goldman Sachs purchased a 49 percent stake in Carrix Incorporated, parent of SSA Marine. The Ontario Teachers' Pension Plan bought two marine container terminal leases in the New York area.

The Port of Baltimore is one of the few examples in the United States of a port authority entering into a concessionaire agreement with the private sector. In January 2010, the Maryland Port Administration (MPA) and Ports America Chesapeake, LLC entered into a 50-year agreement for the improvement, operations, and maintenance of the Seagirt Marine terminal at the Port of Baltimore. This \$1.3 billion dollar project included dredging a channel to 50-foot depth to enable the Port of Baltimore to serve Post-Panamax cargo ships. Over the agreement period, the concessionaire is required to provide \$378 million in fixed annual payments and \$699 million in variable payments to the MPA. The Maryland Transportation Authority also received an upfront payment of \$140 million, to be used for highway and bridge improvements.

The recently enacted Water Resources Reform and Development Act (WRRDA, Public Law 113-121) included several provisions designed to encourage more private sector participation in water resources projects, in response to the large backlog of capital needs, and the constrained fiscal environment for all levels of government. WRRDA establishes a Water Infrastructure Public Private Partnership Program, including the establishment of innovative financing mechanisms to carry out and manage the design and construction of Corps projects by

involving the private sector. WRRDA also expands opportunities for non-federal interests with new options for locals to carry out feasibility studies and projects.

WRRDA also establishes a Water Infrastructure Finance Innovations Authority (WIFIA) to provide credit assistance for drinking water, wastewater, and water resources infrastructure projects. This program is modeled after the highly successful Transportation Infrastructure Finance and Innovation Act (TIFIA) program for surface transportation. The five-year WIFIA pilot program leverages federal funds by attracting substantial private or other non-federal investments to promote infrastructure development.

Finally, an opportunity exists for the expansion of private hydropower at currently non-powered Corps of Engineers dams. The Corps and DOE conducted a review of potential hydropower development, called for in the Energy Policy Act of 2005, and identified 58 sites that had the physical and economic conditions sufficient to warrant further exploration for power development. With many states now requiring renewable energy standards as part of their electrical supply portfolio, the use of public-private partnerships may bear consideration.

ATTENDEE BIOGRAPHIES

Mr. Jim Hannon, Chief of Operations and Regulatory Division

U.S. Army Corps of Engineers (USACE)

- Mr. Jim Hannon is Chief, Operations and Regulatory Division for the U.S. Army Corps of Engineers. Mr. Hannon also provides leadership and oversight for activities within the USACE Lakes and Rivers and North Atlantic Regional Integration Teams. Prior to this assignment, he was Director of Regional Business for the Southwestern Division, U.S. Army Corps of Engineers, Dallas, Texas from July 2010 until August 2012.
- Mr. Hannon has been with USACE since 1980 and is a member of the Society of American Military Engineers and the American Society of Civil Engineers.
- He earned a bachelor's degree in civil engineering from Mississippi State University in 1980 and began his career with the U.S. Army Corps of Engineers as a civil engineer with the Mobile District at the Lock C Resident Office.

Mr. John Crowley, Executive Director

National Association of Waterfront Employers

- Mr. Crowley was appointed Executive Director for the National Association of Waterfront Employers (NAWE) in March 2014.
- Prior to becoming NAWE's Executive Director, Mr. Crowley served for six years as Senior Vice President, Law and Regulatory Affairs for APM Terminals North America

Inc. including corporate leadership responsibilities in safety, environment and security in North, Central and South America.

- Mr. Crowley also served and retired as a Rear Admiral in the U.S. Coast Guard. He served in both senior operational and legal positions as well as a Special Assistant to the Secretary of Homeland Security and Interim Director of the Homeland Security Center at the Department's inception.
- Mr. Crowley is a graduate of the U.S. Coast Guard Academy, and holds a J.D. from American University's Washington College of Law

Mr. Mike Toohey, President and Chief Executive Officer

Waterways Council, Incorporated (WCI)

- Mr. Toohey serves as WCI's President and CEO and joined the association in August 2011.
- Prior to joining WCI, he served as Consultant with The Livingston Group's Transportation, Shipbuilding, Shipping and Ports practice area. Prior to that, he served as Vice President of Government Affairs for Ashland Inc., a global chemical, energy and construction company.
- Mr. Toohey served as Assistant Secretary of Transportation from 1992 to 1993. Mr. Toohey also served as Staff Director for the Republican Staff of the Committee on Public Works and Transportation, and the Committee on Merchant Marine and Fisheries during his 14-year tenure with the U.S. House of Representatives.
- Mr. Toohey earned a Bachelor of Science degree in forestry from the University of California, Berkeley.

Mr. Dave Kronsteiner, President of the Board of Commissioners

Port of Coos Bay, Oregon

- Mr. Kronsteiner is the Port Commission President and represents the Port on the South Coast Development Council Board of Directors. Currently serves on the Board of Directors of the Oregon, Columbia Chapter of the Associated General Contractors.
- Mr. Kronsteiner is also the Owner and President of West Coast Contractors, Inc., which is a heavy and commercial construction company. He has run West Coast Contractors for the past 29 years
- Mr. Kronsteiner graduated from Oregon State University where he received a Bachelor of Science degree in Math.