

November 5, 2013

The Honorable Barbara Boxer, Chairman
Environment and Public Works Committee
United States Senate
Washington, D.C. 20510
c/o Staff Director Bettina_Poirier@epw.Senate.gov

The Honorable Bill Shuster, Chairman
Transportation and Infrastructure Committee
U.S. House of Representatives
Washington, D.C. 20515
c/o Staff Director Christopher.Bertram@mail.house.gov

Dear Chairmen Boxer and Shuster:

The American Association of Port Authorities (AAPA) commends you for your leadership in passing water resources legislation (S. 601 and H.R. 3080) to spur vitally needed maintenance and improvements in America's seaport-related infrastructure and waterways. As you begin to negotiate the final legislation, AAPA would like to offer the following recommendations for the conference negotiations.

Water Resources Policy/Program Reforms, Reports and Streamlining

Both the House and the Senate bills include extensive reforms to make the study and construction process more efficient. AAPA is very supportive of these efforts, and below is a list of provisions we would strongly recommend maintaining in the final bill.

- S. 601: Section 2010 – Clarification of work-in-kind credit authority
- S. 601: Section 2011 – Transfer of excess work-in-kind credit
- S. 601: Section 2023 – Operations and maintenance of certain projects (assumption of maintenance)
- S. 601: Section 2025; H.R. 117 – Non-Federal project pilot program
- S. 601; Section 2026 – Non-Federal implementation of feasibility studies
- S. 601: Section 2033; H.R. 3080: Section 103 – Project acceleration and the environmental review process. AAPA supports environmental streamlining, including concurrent reviews and set deadlines for review
- S. 601: 2034 – Feasibility studies
- S. 601: Section 2037 – Project partnership agreements
- S. 601: Section 2042; H.R. 3080: Section 102 – Funding to process permits – makes permanent the Corps' ability to accept funds for expedited permit review
- S. 601: Section 2059 – Maximum cost of projects
- S. 601: Section 2062 – Creating authority for Federally authorized navigation projects
- H.R. 3080: Section 104 – Consolidation of studies by eliminating the initial reconnaissance study
- H.R. 3080; Section 106 – Removal of duplicative analyses
- H.R. 3080: Section 107 – Expedited approval of modifications and alterations of projects by non-Federal interests
- H.R. 3080: Section 108 – Construction of projects by non-Federal interests
- H.R. 3080: Section 109 – Expands who can make contributions
- H.R. 3080: Section 111 – Additional contributions by non-Federal interests

- H.R. 3080: Section 112 – Contributions by Non-Federal Interests prior to authorization of final feasibility reports.
- H.R. 3080: Section 119 – Actions to be taken in conjunction with the President's annual budget submission to Congress.
- H.R. 3080: Section 204 – Consolidation of deep draft navigation Center of Expertise

Authorization of Current and Future Projects

AAPA is pleased to see provisions in both the House and Senate bill that address authorization of current and future navigation projects. The Senate gives more authority to the Secretary of the Army while the House focuses more on passing WRDA every two years. While AAPA strongly supports Congress' return to the timetable of passing WRDA every two years, since this has not been the case in recent years, AAPA encourages the conference committee to work on a solution that provides a mechanism to identify and advance needed improvement projects in a timely manner.

In regard to new feasibility studies, AAPA strongly supports speeding up studies, including the implementation of 3x3x3 as called for in both the House and Senate bills (S. 601: Section 2032 and H.R. 3080: Section 101). However, we are somewhat concerned about the impact of the House provision in Section 101 that would terminate authorization of a feasibility study after a one-year extension. This could have a detrimental impact on more complex port projects.

Harbor Maintenance Reform

S. 601: Title VIII and H.R. 3080: Title II A – Both address the Harbor Maintenance Tax (HMT) and call for different solutions to the level of spending, donor equity - including the timing of expanded use, and prioritization of spending.

In relation to your conference negotiations, AAPA urges the adoption of S. 601: Section 8004(c)1 - operation and maintenance, which modernizes the cost-share formula for maintenance projects from 45 feet to 50 feet.

In regard to other sections related to HMT, AAPA urges you to consider the following **six** guiding principles for HMT reform which has been adopted by AAPA's U.S. Legislative Policy Council. These principles call for:

- **Principle 1** – AAPA advocates for full use of all HMT revenues.
- **Principle 2** – Funding from HMT revenues first should be used for historical intended purposes, ensuring: 1) all federal navigation channels are brought up to and maintained at their constructed depths and widths; 2) needs are met for disposal of maintenance dredged material and construction and maintenance of confined disposal facilities; 3) jetties and breakwaters are properly maintained, and 4) related studies and surveys are funded.
- **Principle 3** – AAPA is supportive of providing more equity for HMT donors.
- **Principle 4** – U.S. Tax Policy should not disadvantage U.S. ports and maritime cargo.
- **Principle 5** – The U.S. must have a process to efficiently study and construct deep draft navigation projects.
- **Principle 6** – The cost-share formula for maintenance and deepening should be reflective of the current cargo fleet.

Other Comments

S. 601; Section 2007 – Extends by five years the independent peer review requirement. AAPA does not support extension of the pilot peer review system. These reviews increase cost and add additional review time, with no significant findings to date from these reviews.

Maintaining America's link to the global marketplace by creating and maintaining modern and efficient seaport and waterway infrastructure will provide significant benefits to our nation's economic vitality, job growth, and international competitiveness, as well as creating sizable tax revenues from cargo and trade activities.

AAPA applauds your leadership in developing and advancing water resources legislation, and we encourage you to carefully consider the recommendations provided above.

Sincerely,



Kurt J. Nagle
President and CEO
KJN:sjm

cc: Senate appointed conferee(s):
The Honorable John Barrasso
The Honorable Max Baucus
The Honorable Benjamin Cardin
The Honorable Thomas Carper
The Honorable James Inhofe
The Honorable David Vitter
The Honorable Sheldon Whitehouse