

FUTURE OF THE JAMES RIVER “GHOST FLEET”

FIELD HEARING
BEFORE THE
SUBCOMMITTEE ON SURFACE TRANSPORTATION
AND MERCHANT MARINE
OF THE
COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE
ONE HUNDRED EIGHTH CONGRESS
FIRST SESSION

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JULY 7, 2003
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Printed for the use of the Committee on Commerce, Science, and Transportation



U.S. GOVERNMENT PRINTING OFFICE

88-771 PDF

WASHINGTON : 2014

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ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

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FUTURE OF THE JAMES RIVER “GHOST FLEET”

MONDAY, JULY 7, 2003

U.S. SENATE,
SUBCOMMITTEE ON TRANSPORTATION AND MERCHANT
MARINE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Newport News, VA.

The Subcommittee met, pursuant to notice, at 11 a.m. at the Fort Eustis Transportation Museum Auditorium, Newport News, Virginia, Hon. George Allen, Chairman of the Subcommittee, presiding.

OPENING STATEMENT OF HON. GEORGE ALLEN, U.S. SENATOR FROM VIRGINIA

Senator ALLEN. Good morning. I want to call to order the Subcommittee on Surface Transportation and Merchant Marine. I want to welcome you all here today and wish you good morning. I want to thank all our witnesses for appearing today and meeting in an effort to gather information on the precarious and very dangerous situation and nature of the obsolete National Defense Reserve Fleet, and those ships particularly stored on the James River.

Let me first thank Major General Dale for hosting this. Cindy Eure, where are you? Thank you and all the folks at Fort Eustis for allowing us to use this facility. I know you welcomed home 300 troops last Saturday, soldiers coming home, and more will be coming home. Thank you for all you do logistically to help out in our efforts to support our troops.

I also want to thank—he’s not here—but the Chairman of the Commerce, Science, and Transportation Committee, Senator John McCain, for acceding to my request to have a hearing of the Commerce, Science, and Transportation Committee, and in particular the Surface Transportation and Merchant Marine Subcommittee.

This hearing is very important in making sure that the Chairman and all the Members, including the Ranking Member, Senator Hollings of South Carolina—that all our Members are aware of the facts, the evidence, and the need for action with this dangerous situation environmentally here in the Lower James River. I do want to thank them again for allowing me to hold the hearing.

These ships as they rust and as they deteriorate, fuel oil aboard these ships—and it’s estimated there is still a great quantity on these ships—certainly places the James River and jobs and citizens and wildlife that depend on this river in great danger. This is a

danger, though, that can be mitigated and preventable with expeditious, prompt, and long overdue action.

I think it's important to note that the James River Reserve Fleet, or the National Defense Reserve Fleet, ships stored on the James River—that's what they are known as. It's not only the reserve fleet that the government utilizes, but there are—just here, but there are other similar fleets in Texas, a few in Alabama, and some in California, but none are nearly—anywhere nearly as large or as old as the fleet that we have here in Virginia.

In my estimation, having seen this Ghost Fleet for many years, having actually toured on several of those ships, recognizing the danger of even working on those ships, whether it's the cold, blustery winter weather or let's say a hurricane that might hit in the middle of the summer, this is a fleet that—you know, it's disaster, in my view, waiting to happen.

This disaster waiting to happen should not continue. There are about 94 ships. These are government ships that can be activated in a time of national crisis. That's the logic; however, 69 of these ships have been deemed to be nonretention, obsolete, meaning they will not be returned to service.

I had a wonderful tour. I will say the Administrator did a great job, as well as others from transportation, on that tour. They do a great job in understanding and trying to manage this precarious situation.

We're very eager to hear from particularly the Honorable William G. Schubert, who is the Administrator of the United States Maritime Administration, in how—and also from witnesses on proposals of disposing of these obsolete, dangerous, deteriorating vehicles.

In my view, the testimony that we're going to hear today from our witnesses will bolster my efforts and those of my colleagues, whether it's Congresswoman Davis or my good colleague John Warner and, indeed, the entire Virginia delegation, particularly Randy Forbes and Bobby Scott, Ed Schrock, and the tiger in the House, Jo Ann Davis, John Warner and I on the Senate side. We're working as a team in the effort.

Many of these ships contain—and you can see them when you go on board—toxins. Some of them you can't see, but nevertheless some toxic chemicals, PCBs, asbestos. As I'm wandering around there I was actually glad it was pouring down rain so the asbestos wouldn't be in the air.

They hold an estimated 13 million gallons of oil and fuel in these rusted, deteriorating hulls. When you think of 13 million gallons, think back on the EXXON VALDEZ disaster in Alaska, that was 11 million gallons. So, could you imagine something of that nature or devastation here in Virginia?

These ships were once proud satellite tracking device ships, helicopters being moved, cargo, missiles, troops all across all the seas of the world, but they're all now tied together. They have these cables—you know, cable wires, and 21 of the 69 obsolete ships are listed by the Maritime Administration as being at high risk for leaks or breaking apart.

According to a report by the Department of Transportation's inspector general, some of the ships have deteriorated to the point

that a hammer can penetrate their rusting hulls. If just two of these toxic, latent ships broke apart, more than 50 miles of the James River could be contaminated within 48 hours, or 2 days, requiring, obviously, years of cleanup of the spill and costing billions of dollars.

This is not something you can say: Oh, this is just, you know, speculative. This is not an unlikely event. Indeed, over the last 3 years there have been nine oil spills on the fleet. The Lower James River, as we all know here, includes four State wildlife sanctuaries, marshes, national and State historical parks, including the original Jamestown Fort, where we'll be celebrating in 2007 the 400th anniversary of the cradle of American democracy.

There also are species that live and breathe in the Lower James, including federally protected eagles, bald eagles, also egrets and blue—great blue herons. Just south of the fleet are some of the largest remaining public oyster grounds in Virginia. Hard-shell and soft-shell clams and blue crabs are also harvested from these waters.

The James River, as we all know, served as the first major transportation way during the birth of this Nation, as part of one of our Commonwealth's largest and most popular tourist destinations.

The health of the historic James River represents health of jobs and security for thousands of Virginians. So, in my view, in view of even these difficult economic times, it's important for Congress and the Federal Government to be fully cognizant of the danger these ships pose to the people in the Commonwealth of Virginia, and until recently—I will say there's been progress made, but until recently the Federal Government has regulated the coast fleet administration into a corner, making it nearly impossible for environmental concerns to remove the ships from the river.

Disposal of vessels was further hampered in 1997 when the Clinton Administration imposed a moratorium prohibiting overseas ship scrapping based on their environmental concerns. That has now changed, and it is imperative that the Federal Government provide the funding for the Maritime Administration to find a safer haven for these rotting giants.

On numerous occasions I have contacted the President and my Senate colleagues and have joined—been joined by my colleague Senator Warner and Congresswoman Davis in calling for adequate funding and increased funding for disposal of the ships.

The Virginia delegation last year for this fiscal year was able to secure \$31.2 million, which is unprecedented increased funding for proper disposal of these dangerous ships.

Now, during this hearing we'll discuss the options for increasing competition for the disposal of ships. Because of taxpayers benefiting from competition, we are in favor of competition. If the price is close, I'd like to see U.S. jobs being able to do the scrapping, because the—the scrapping of it, because, after all, those are U.S. jobs, and if you have a relatively close price, those people doing that work will be paying Federal income taxes.

So, as an enterprise sense it does make sense, but we do need competition, and that should not be a preclusion of those from overseas competing to do this work.

We're also going to examine and discuss the proposals that are put forth and seek out the most appropriate and expeditious plan for the protection of the James River and all who depend on it.

The point is: This is the time for action on this time sensitive and important issue, and I thank you all for joining us this morning.

Our first panel will be a panel of one, as I said, a tiger. I'm delighted to have with us today Congresswoman Jo Ann Davis. She has been a terrific champion of the need to take action to prevent a disaster on the James River. I'm pleased to work with her on this important matter, someone who is articulate and as knowledgeable as Congresswoman Davis. She will be our first witness.

[The prepared statement of Senator Allen follows:]

PREPARED STATEMENT OF HON. GEORGE ALLEN, U.S. SENATOR FROM VIRGINIA

Good morning.

I call this hearing of the Subcommittee on Surface Transportation and Merchant Marine to order. I want to thank our witnesses for appearing before us today. This morning we meet in an effort to shed more light on the fragile and dangerous nature of the obsolete National Defense Reserve Fleet (NDRF) ships stored in the James River. As these ships rust and deteriorate—fuel and oil storage aboard these ships place the James River—and the wildlife, jobs and citizens that depend on this river—in great danger.

I think it's important to note that the James River Reserve Fleet, as the National Defense Reserve Fleet ships stored in the James River are known, is not the only reserve fleet the government utilizes. There are other similar fleets in Texas, Alabama and California—but none are nearly as large or as old as the one we have in Virginia.

The Ghost Fleet, which is made up of 94 ships, is a disaster waiting to happen. It is currently the largest and oldest floating parking lot in the country, designed to hold government ships that can be reactivated in a time of national crisis. However, 69 of these ships are deemed to be non-retention obsolete—meaning that they will not be returned to service.

I am eager to hear from our witnesses the proposals for disposing of these junked vessels and for doing it before the September 2006 deadline—as set by Congress.

These ships are packed with toxic chemicals and asbestos. All together they hold an estimated 13 million gallons of oil and fuel in rusted, deteriorating hulls.

Once, this fleet carried cargo, missiles, and rescue equipment, helicopters, satellite-tracking devices and troops around the globe. Now, they are tied together with thick wire cable and 21 of the 69 obsolete ships are listed by the Maritime Administration as being at high risk for leaks or breaking apart.

According to a report by the Department of Transportation's Inspector General, some of the ships have deteriorated to the point that a hammer can penetrate their rusting hulls.

If just two of these toxin-laden ships broke apart, more than 50 miles of the James River could be contaminated—requiring years to clean up the spill and costing millions of dollars. This is *not* an unlikely event—just within the past 3 years there have been nine oil spills from the fleet.

In just one of the incidents—October 11, 2002, the Virginia Department of Environmental Quality reported that a fuel leak caused an oil sheen measuring more than a mile long and 25 yards wide. A larger spill would place the vital and important tourist and fishing trades that flourish in this area at severe risk.

The lower James River includes four state wildlife sanctuaries, national and state historical parks, marshes and undeveloped beaches. Species that live and breed there include federally protected terns, bald eagles and piping plovers, egrets and great blue herons. Just south of the fleet, in Burwells Bay, are some of the largest remaining public oyster grounds in Virginia. Hard-shell and soft-shell clams and blue crabs also are harvested from the waters.

The James River served as the first major roadway during the birth of this Nation and is part of one of the Commonwealth's largest and most popular tourist destinations. The health of the historic James represents the health of jobs and security for thousands of Virginians.

In 2001, Congress, as part of the National Defense Reauthorization Act, extended the deadline for the disposal of all obsolete National Defense Reserve Fleet ships to 2006.

The law requires that Maritime Administration dispose of obsolete vessels

“without any predisposition toward foreign or domestic facilities taking into consideration, among other things, the ability of facilities to scrap vessels—(1) at least cost to the government; (2) in a timely manner; (3) giving consideration to worker safety and the environment and; (4) in a manner that minimizes the geographic distance that a vessel must be towed when towing a vessel poses a serious threat to the environment.” [Public Law 106–398]

All of this must be done before September 30, 2006. At the current funding level, this deadline will not be met.

Even in these times of economic difficulty, it is important for Congress and the Federal government to know the danger these ships pose to the Commonwealth of Virginia and its citizens.

Until recently, the Federal government had regulated the ghost fleet into a corner, making it nearly impossible—for environmental concerns—to remove the ships from the river. That has now changed and it is imperative that the Federal government provide the funding for the Maritime Administration to find a safer haven for these rotting giants.

I have contacted the President and have joined Congresswoman Davis and Senator Warner in calling for adequate funding—increased funding—for the disposal of these ships.

The history of Virginia, the livelihood of thousands of the Commonwealth’s citizens and innumerable animals and plant species are so deeply tied to a healthy James River. And each one of them deserves better.

The fleet was established in 1925 as a parking lot—Today, a large portion of the parking lot has become a junkyard. During this hearing, we will discuss options for increasing competition in the disposal of ships, because hardworking taxpayers benefit when competition is allowed. We will study the proposals that are put forward and seek out the most appropriate and expeditious plan for the protection of the James River and all who depend on it. The time is now to bring attention to the dire need for action on this important and time sensitive issue.

Thank you all for joining us today.

I am delighted that we have with us today Congresswoman Jo Ann Davis. She has been a terrific champion of the need to take action to prevent a disaster on the James River. I am pleased to work on this matter with someone as articulate and knowledgeable as Congresswoman Davis. She will be our first witness. After she has given her statement, I have asked her to join me at the dais in questioning the other witnesses.

Senator ALLEN. Congresswoman Davis, after you complete your testimony, I hope you will join me and we’ll make this a bicameral hearing, and you can propose questions as well.

**STATEMENT OF HON. JO ANN DAVIS, CONGRESSWOMAN,
U.S. HOUSE OF REPRESENTATIVES**

Congresswoman DAVIS. Thank you, Senator.

Mr. Chairman, I’d like to commend you for coordinating the field hearing today on what you know I consider a most important topic. Your Committee clearly recognizes the importance of dealing with the issues related to the James River National Defense Reserve Fleet, commonly known here as the “Ghost Fleet.”

We Virginians have far too long gazed across our beautiful waterway—the very waters that carried the English settlers to Jamestown—to view that hulking mess of ships. I know you know it’s a mess. You’ve been there, as have I. I believe in this case our Nation has not served the Commonwealth well by allowing Virginia to be the dumping ground of these deteriorating, obsolete ships.

While I recognize and appreciate the need for a reserve fleet, especially in today’s dangerous world, this environmental ticking

time bomb needlessly threatens our shores and the way of life for tens of thousands of Virginians. I believe the Federal Government must perform its duty by providing the resources to rid the James and the Tidewater region of this catastrophe waiting to happen.

In a recent report, MARAD, as they assessed the possibility of an environmental mishap from the James River Reserve Fleet, concludes that damage could stretch, as you said, for 50 miles along the river and take weeks to clean up. MARAD continued: "assessing the ecological damage could take years."

As you know, Senator, the Ghost Fleet includes the most decrepit ships in the National Reserve, stored in what one Virginia official described as, quote, "probably the worst place from an environmental standpoint that you could think of."

Together the fleet holds about 7.7 million gallons of oils and fuels, according to the latest government estimate. That's slightly less than what the EXXON VALDEZ spilled off the coast of Alaska in 1989, and that was in the MARAD report. According to MARAD, Virginia cannot wait any longer.

In Fiscal Year 2003, President Bush asked for only \$11 million to scrap ships. I worked hard on the Virginia delegation and my Senate colleagues, and thankfully my colleagues and the House Merchant Marine Panel recognized the severity of the situation and authorized \$20 million for the Fiscal Year 2003 ship disposal account to deal with this looming problem.

Ultimately, after much debate and arm twisting, the President's request was appropriated. My colleagues in the Senate were able to provide an additional \$20 million from DOD to fund scrapping at \$31 million last year. Unfortunately, we—we weren't able to get the \$31 million before this past February, but we are making progress.

For Fiscal Year 2004, I'm happy to report that again the House Armed Services Committee has authorized my request of \$20 million for ship scrapping. Just last week I spoke to Chairman Istook to again make my case to his committee that funding from transportation appropriators was critical to continuing this battle.

September 30, 2006, the legislative deadline to rid the Reserve Fleet of obsolete vessels, is quickly approaching. MARAD is making good progress, and I look forward to Captain Schubert's testimony and his update as to what the Maritime Administration has planned for this summer.

Last week—last we spoke, a 13-ship deal was in the works and expected to be signed any day. Additionally, I am told the Maritime Administration has plans for an additional six ships to soon follow. It is my hope that Captain Schubert can confirm these recent developments.

Finally, I would be remiss if I did not comment on recent press articles regarding ship scrapping abroad. I concede that it is imperative that every practical measure be taken to ensure an environmentally sound scrapping program is done. However, having said that, I firmly believe that the best policy for scrapping takes into consideration the timely scrapping to meet the 2006 legislative mandate to rid MARAD of its obsolete inventory, cost effective proposals that provide the U.S. Government with the best value, with a strong emphasis on efforts to scrap ships domestically, but not

at the expense of quicker, more cost effective efforts abroad, because, as we all know, the more affordable our scrapping program is, the more ships we can scrap.

I thank you, Mr. Chairman, for allowing me to testify today. I can't stress enough that I hope that we don't do anything to slow down the possibility of 13 or possibly 6 more, a total of 19 ships leaving the James River this year.

I thank you, Mr. Chairman, and I look forward to joining you and asking questions.

[The prepared statement of Hon. Davis follows:]

PREPARED STATEMENT OF HON. JO ANN DAVIS, CONGRESSWOMAN,
U.S. HOUSE OF REPRESENTATIVES

Mr. Chairman, I would like to commend you for coordinating this field hearing today on a most important topic. Your committee clearly recognizes the importance of dealing with the issues related to the James River National Defense Reserve Fleet, known locally as the "Ghost Fleet."

We Virginians have for far too long gazed across our beautiful waterway, the very waters that carried the English settlers to Jamestown, to view that hulking mess of ships. I believe in this case, our Nation has not served the Commonwealth well by allowing Virginia to be the dumping ground of these deteriorating, obsolete ships. While I recognize and appreciate the need for a reserve fleet, especially in today's dangerous world, this environmental "ticking time bomb" needlessly threatens our shores and the way of life for tens of thousands of Virginians. I believe the Federal Government must perform its duty by providing the resources to rid the James and the Tidewater Region of this catastrophe waiting to happen.

In a recent report, MARAD, as they assessed the possibility of an environmental mishap from the James River Reserve Fleet, "*concludes that damage could stretch for 50 miles along the river and take weeks to clean up.*" MARAD continued, "*assessing the ecological damage could take years.*"

As you know Senator, the Ghost Fleet includes the most decrepit ships in the national reserve, stored in what one Virginia official described as "probably the worst place, from an environmental standpoint, that you could think of." Together, the fleet holds about 7.7 million gallons of oils and fuels, according to the latest government estimates. That's slightly less than what the EXXON VALDEZ spilled off the coast of Alaska in 1989. (*MARAD Report*) . . . Virginia cannot wait any longer.

In Fiscal Year 2003, President Bush asked for only \$11 million to scrap ships. I worked hard, and thankfully my colleagues and the House Merchant Marine Panel recognized the severity of this situation and authorized \$20 million for the FY '03 ship disposal account to deal with this looming problem. Ultimately, after much debate and arm twisting, the President's request was appropriated. And my colleagues in the Senate were able to provide an additional \$20 million from DOD to fund scrapping at \$31 million last year. We are making progress.

For Fiscal Year 2004, I am happy to report that again the House Armed Services Committee has authorized my request of \$20 million for ship scrapping. And just last week I spoke to Chairman Istook to again make my case to his committee that funding from Transportation Appropriators was critical to continuing this battle.

September 30, 2006, the legislative deadline to rid the Reserve fleet of obsolete vessels, is quickly approaching. MARAD is making good progress and I look forward to Captain Schubert's testimony and his update as to what the Maritime Administration has planned for this summer. Last we spoke a 13 ships deal was in the works and expected to be signed any day. Additionally, I am told that the Maritime Administration has plans for an additional 6 ships to soon follow. It is my hope that Captain Schubert can confirm these recent developments.

Finally, I would be remiss if I did not comment on recent press articles regarding ship scrapping abroad. I concede that it is imperative that every practical measure is taken to ensure an environmentally sound scrapping program. Having said that though, I firmly believe that the best policy for scrapping takes into consideration the timely scrapping to meet the 2006 legislative mandate to rid MARAD of it's obsolete inventory, cost effective proposals that provide the U.S. Government with the best value, with a strong emphasis on efforts to scrap ships domestically . . . BUT not at the expense of quicker more cost effective efforts abroad. Because as we all know, the more affordable our scrapping program is the more ships we can scrap.

Thank you Mr. Chairman for allowing me to testify today.

Senator ALLEN. Thank you. Thank you, Congresswoman Davis. I'm going to adduce testimony. These will be leading questions here so we get this all into the record, because we need to get the Senate, obviously, as well-versed as the House is on this.

You mentioned the Jamestown Fort. I have here—this was prepared by apparently John Earl of *The Virginian-Pilot*. It asks how many hours away from a spill different sites were. Within 2 days, 48 hours, you get down to the mouth of the James, but the Jamestown Fort is only—according to this chart, the Colonial—original Jamestown about 12 hours upriver, and of course there are tides and if you had a wind blowing off the ocean, would you agree it's about 12 hours projected as far as the spill getting to the original Jamestown Fort?

Congresswoman DAVIS. I have to take your word for it, Senator. I haven't seen that report, but I do know that it's awfully close, and 2007 is around the corner. The last thing I want—besides hurting the environment here locally—is to do anything to damage what's going on right now at Jamestown.

Senator ALLEN. As far as the requests for proposal and the disposal, you and I both felt if we could get it done at the best price to—reasonably best price in this country, we would like those jobs. The bottom-line concern we have is: What is going to be the most prompt method of getting these deteriorating, dangerous ships out of this river?

Congresswoman DAVIS. I'd rather give the jobs here domestically, but my main concern is moving those ships and getting them out of here, whatever it takes.

Senator ALLEN. Thank you. If you would, please join me here. I also want to enter in the record the statement of Senator John Warner on the future of the James River Ghost Fleet. This will be made part of the record. Senator Warner is a wonderful teammate, a great ally, and one who shares our concerns. I'll give this to Rob.

I'd like to call Captain Schubert. Captain Schubert, if you'd please come forward.

The Honorable William G. Schubert is Administrator of the United States Maritime Administration.

We thank you for being with us here today. Your testimony is going to be carefully listened to. We look forward to hearing from you on the progress that is being made and progress that will be made in the future on this important matter.

STATEMENT OF HON. WILLIAM G. SCHUBERT, MARITIME ADMINISTRATOR, U.S. DEPARTMENT OF TRANSPORTATION

Captain SCHUBERT. Morning, Mr. Chairman, Congresswoman. I would like to request first that my formal statement be accepted into the record.

Senator ALLEN. So ordered.

Captain SCHUBERT. I would like to read some brief opening remarks. Thank you for the opportunity to testify on the obsolete ships in the James River Fleet and the Maritime Administration's Ship Disposal Program.

I would like to thank Senator Allen for holding this hearing that will help continue to raise awareness of issues and highlight the

progress that the Bush Administration is making with the disposal of the obsolete vessels of the James River Reserve Fleet.

You are providing an important forum from which we can all benefit. I would also like to thank Congresswoman Jo Ann Davis of Virginia's 1st Congressional District. She has been a tireless advocate on this issue and instrumental in ensuring the administration received the Fiscal Year 2003 funding requested for disposal of obsolete National Reserve Fleet ships.

She has visited the James River Fleet site numerous times and has been a critical team player in raising the awareness among fellow Members of Congress.

Lastly, I would like to thank the senior member of the Virginia delegation, Senator John Warner, who is not here today. Senator Warner has also served as a key team player in assuring the swift removal of obsolete vessels from the James River Reserve Fleet. His support of the program has been decisive.

The Bush Administration has faced the challenges of the James River Fleet head on. This issue has been an intense focus during my tenure as the Maritime Administrator, and I am prepared to discuss what I believe is good news for the James River and the people of Virginia.

Today we are announcing the award of one contract for the removal of three high-priority vessels from the James River Fleet to a domestic facility in Brownsville, Texas.

Currently we are on the verge of closing another contract that would remove 15 ships, at once, from the James River Reserve Fleet. Together this will be the largest removal of obsolete ships in a single year from any of MARAD's fleets, including the James River Fleet, since 1993.

However, before I discuss the current outlook, it is important that I highlight the recent history of MARAD's ship disposal program. The Maritime Administration serves as the U.S. Government disposal agent for merchant-type vessels of 1500 gross tons or more. Most of the 130 ships—actually it's 131 ships—scheduled for disposal are located at MARAD's three national defense reserve lead anchorages. That's the James River Fleet, the Beaumont, Texas Reserve, and the Suisun Bay Reserve Fleet in California.

The National Defense Reserve Fleet, or NDRF, is maintained by the Secretary of Transportation and was established for the maintenance of readiness assets, including the ready reserve force and other vessels owned or acquired by the U.S. Government that are determined to be of value for national defense purposes. In fact, six ships from the local area here recently returned to the James River Fleet from the Operation Iraqi Freedom after successfully delivering critical cargo.

The National Maritime Heritage Act of 1994 authorized MARAD to dispose of obsolete NDRF vessels and directs the use of any proceeds derived from disposal. Prior to 1994 MARAD sold obsolete vessels for dismantling to the highest bidder and netted a profit. However, foreign sales were stopped due to Federal prohibitions on the exports of PCBs found on board these vessels and an increasing national and international concern regarding environmental and worker safety.

With overseas sales curtailed in 1994 and upheld in 1998 as a specific Federal Government moratorium on overseas ship dismantling, which expired in 1999, MARAD turned exclusively to the domestic market to sell ships for dismantling. However, only a few domestic facilities expressed interest in purchasing vessels for dismantling.

Since 1994 MARAD has sold 22 vessels, only 12 of which have actually been dismantled. Of the remaining vessels, the purchasers did not accept the vessels, and as a result the sales contracts were terminated. Marginal profits due to changing market conditions for scrap metal and the high cost of removal and disposal of hazardous material contributed to the decreased viability of the domestic sales program.

Coupled with the inability to sell ships in the domestic market and a prohibition on exports, the ship disposal program was suspended, yet ships continued to arrive at the fleets. At this time MARAD was also prohibited by statute from paying for dismantling services. Thus, as a large backlog of obsolete ships were created, the number of obsolete vessels increased by over 60 ships since 1997 through the year 2000.

The National Defense Authorization Act of Fiscal Year 2001 contained statutory amendments which gave MARAD unprecedented ability to pay for dismantling services, if necessary. This statutory change, along with \$10 million transferred from the DOD appropriation to MARAD for ship disposal allowed us to begin implementing Federal payment for ship disposal services. MARAD was instructed by Congress to scrap obsolete vessels at qualified facilities using the most expeditious scrapping methodology and location practicable.

Scrapping facilities were to be selected on a best-value basis, consistent with the Federal Acquisition Regulations, and without any predisposition toward foreign or domestic facilities. MARAD was also given a September 30, 2006 deadline to dispose of all obsolete vessels.

MARAD began a program using a time-phased and level-funded approach, consisting mainly of domestic vessel dismantlement and recycling. Using the \$10 million provided for in the Fiscal Year 2001 DOD appropriation, MARAD was able to dispose of six high-risk vessels in domestic facilities.

However, it became apparent that the limited cost effective capacity of the domestic dismantling industry would make the disposal of obsolete ships a larger challenge than anticipated.

In Fiscal Year 2002, the Administration requested \$11 million for ship disposal. This was the first request for a direct appropriation, but unfortunately funding was not appropriated. At the crossroads regarding the ship disposal dilemma, the agency was left with two approaches. The first approach was to do nothing and wait for future appropriations, basically using it as an excuse to do nothing, or to permit—for MARAD, this appeared irresponsible. The second approach was to start creating opportunities and seek out all possible no-cost options.

In September 2001, MARAD initiated a Program Research and Development Announcement, also known as a PRDA. The PRDA is a comprehensive procurement mechanism allowed under the Fed-

eral Acquisition Regulations. This competitive announcement solicited ship dismantling/recycling proposals from the ship dismantling industry, both foreign and domestic.

The PRDA provided the industry with the opportunity to propose feasible and cost effective solutions to MARAD's ship disposal challenge that are based on their capabilities, methods, innovations that made sense to their business. During Fiscal Year 2002, MARAD received numerous proposals involving foreign vessel recycling facilities, so we began discussions with the EPA regarding possible export options. Through the PRDA process we began to see opportunities to recycle ships domestically or export ships in an environmentally responsible and cost effective manner.

MARAD's discussions with the EPA have led to a cooperative relationship that is results oriented in seeking solutions to the challenges of the NDRF. We also began identifying other disposal opportunities such as artificial vessel reefing and deep sinking of vessels in conjunction with the Navy's SINKEX program.

In Fiscal Year 2003, MARAD asked and received for the first time a direct appropriation that met the administration's request for ship disposal—for the ship disposal program. This direct appropriation, coupled with the additional funding received from the Fiscal Year 2003 DOD appropriation, has allowed MARAD to maximize the number of vessels disposed. Taking advantage of all possible alternatives and options has been critical to the effort of removing ships from the James River Reserve Fleet, which is why in Fiscal Year 2003 I requested and received authority to pay for remediation services to clean vessels prior to artificial reefing.

For the remainder of Fiscal Year 2003, MARAD expects to continue making awards based on the PRDA proposals already received and will release additional IFBs. Discussions have recently been opened with a domestic company relating to their PRDA proposal for the dismantling of additional high-risk James River Reserve Fleet vessels.

Both international and domestic PRDA proposals that represent the best value to the government will continue to be considered. With the initiation of the PRDA process we have seen more competition and a significant decrease in disposal proposal costs since we first began paying for services in Fiscal Year 2001.

Our program currently focuses on removing all vessels that have high or moderate risks as soon as possible. Having all disposable alternatives available to MARAD and the necessary funding in place to ensure the obsolete vessels can be disposed at a rate greater than the obsolete vessels coming into the fleet will help us achieve these mutual goals, mitigating the risk by removing the risk is what the Department of Transportation and the Maritime Administration intends to achieve.

Thank you for the opportunity to discuss the disposal of obsolete government vessels today, and I would be pleased to answer any questions you may have at this time.

[The prepared statement of Hon. Shubert follows:]

PREPARED STATEMENT OF HON. WILLIAM G. SCHUBERT, MARITIME ADMINISTRATOR,
U.S. DEPARTMENT OF TRANSPORTATION

Good morning, and thank you for the opportunity to testify about the obsolete ships in the James River Reserve Fleet and the Maritime Administration's Ship Disposal Program.

The Maritime Administration (MARAD) serves as the U.S. Government's disposal agent for merchant type vessels of 1,500 gross tons or more. Most of the ships scheduled for disposal are located at MARAD's three anchorages: the James River near Ft. Eustis, VA (JRRF); Beaumont, Texas (BRF); and Suisun Bay near Benicia, California (SBRF). In total, there are approximately 130 obsolete ships in all three fleet sites that make up a portion of the National Defense Reserve Fleet (NDRF).

The NDRF was established for the maintenance of readiness assets, including the Ready Reserve Force (RRF) and other vessels owned or acquired by the United States Government that are determined to be of value for national defense purposes. The NDRF is maintained by the Secretary of Transportation; NDRF ships, especially the RRF component, serve as a reserve of vessels which can be activated to help meet U.S. shipping requirements during a national emergency.

The National Maritime Heritage Act of 1994 authorizes MARAD to dispose of obsolete NDRF vessels, and directs the use of any proceeds derived from disposal. Prior to 1994, MARAD was able to sell obsolete vessels for dismantling to the highest bidder. From 1987 to 1994, MARAD sold for export and disposed of 130 ships at an average price of \$108/ton, which netted approximately \$80 million. However, as a result of Federal prohibitions on the export of PCBs (polychlorinated biphenyls) found onboard many obsolete vessels, as well as increasing national and international concerns regarding environmental and worker safety issues, foreign sales were stopped in 1994.

With overseas sales curtailed in 1994, and upheld in 1998 as a specific Federal Government moratorium on overseas ship dismantling which expired in 1999, MARAD turned exclusively to the domestic market to sell ships for dismantling. However, only a few domestic facilities expressed an interest in purchasing vessels for dismantling. Since 1994, MARAD has sold 22 vessels, only 12 of which have been dismantled. Of the remaining vessels, the purchasers did not accept the vessels and as a result, the sales contracts were terminated. Marginal profits due to changing market conditions for scrap metals and the high costs for removal and disposal of hazardous material contributed to the decreased viability of the domestic sales program.

When the domestic sales option became less viable in the mid-1990s, MARAD began negotiations with the Environmental Protection Agency (EPA) to allow the export of ships after the removal of liquid and "readily removable" PCBs prior to export. Two agreements were signed: November 30, 1995 and November 10, 1997. The first had unworkable notice language and the second was never put into effect because MARAD agreed to refrain from further pursuing this agreement due to heightened international attention on ship dismantling facilities in the third world.

On September 23, 1998, Vice President Gore, issued a memorandum to then-Secretary of Defense Cohen and then-Secretary of Transportation Slater placing a further interim moratorium on efforts to export vessels for dismantling until October 1, 1999 to ensure that the Interagency Panel on Ship Scrapping recommendations were fully considered.

During this time period, the ship disposal program was suspended. Although no ships were dismantled, vessels continued to arrive at the fleet sites. At this time, MARAD was also prohibited by statute from paying for dismantling services. Thus, a large backlog of obsolete ships was created with the number of obsolete vessels in our fleets increasing by over 60 ships between 1997 and 2000. This critical situation, exacerbated by the deterioration of hulls over time, prompted the Department of Transportation's Office of Inspector General to name the disposal of MARAD's obsolete ships as a Top 10 Management Challenge in 2000 and 2001 for DOT.

The National Defense Authorization Act for FY 2001 contained statutory amendments which gave MARAD unprecedented ability to pay for dismantling services, if necessary. This change, along with \$10 million transferred from a DOD appropriation to MARAD for ship disposal, allowed us to begin implementing Federal payment for a ship disposal program. MARAD was instructed by Congress to scrap obsolete vessels at qualified facilities, using the most expeditious scrapping methodology and location practicable. Scrapping facilities were to be selected on a best value basis consistent with the Federal Acquisition Regulation (FAR), without any predisposition toward foreign or domestic facilities. MARAD was also given a September 30, 2006 deadline to dispose of all obsolete vessels, and required to submit to Congress a report detailing its ship disposal program.

MARAD began a program using a time phased and level-funded approach consisting mainly of domestic vessel dismantlement and recycling. Using the \$10 million provided in the FY 2001 DOD Appropriation, MARAD was able to dispose of six high-risk vessels in domestic facilities. However, it became apparent that MARAD would not be able to meet the 2006 deadline to dispose of all obsolete vessels without direct appropriations and the use of additional vessel disposal alternatives. The high costs and limited cost effective capacity of the domestic dismantling industry would make the disposal of obsolete ships a larger challenge than anticipated.

In FY 2002, the Administration requested \$11 million for ship disposal, but funding was not appropriated. At a crossroads regarding the ship disposal dilemma, the Agency was left with two approaches. The first approach was to do nothing and wait for future appropriations. To MARAD, this appeared irresponsible. The second approach was to start creating opportunities and seek out all possible no-cost options. In September 2001, MARAD initiated a Program Research and Development Announcement (PRDA). The PRDA is a competitive procurement mechanism allowable under the FAR. This competitive announcement solicited ship dismantling/recycling proposals from the ship dismantling industry both foreign and domestic. The PRDA provided the industry with opportunity to propose feasible and cost-effective solutions to MARAD's ship disposal challenge that were based on their capabilities, methods and innovations and that made sense for their business.

During FY 2002, MARAD received numerous proposals involving foreign vessel recycling facilities, so we began discussions with the EPA regarding possible export options. Through the PRDA process, we began to see opportunities to recycle ships domestically or export ships in a responsible cost-effective manner. MARAD's discussions with EPA have led to a cooperative relationship that is results-oriented in seeking solutions to the challenges of the NDRF. We also began identifying other disposal opportunities, such as artificial vessel reefing and the deep sinking of vessels in conjunction with Navy's SINKEX Program.

In FY 2003, MARAD received, for the first time, a direct appropriation that met the Administration's request for the Ship Disposal Program. This direct appropriation, coupled with additional funding received from a FY 2002 DOD appropriation, has allowed MARAD to maximize the number of vessels disposed. Taking advantage of all possible alternatives and options is critical to the effort of removing ships from the James River Reserve Fleet.

Today, MARAD is announcing the award of one contract for the removal of three high-priority vessels from the James River Reserve Fleet. Currently, we are on the verge of closing on another contract that would remove fifteen ships at once, from the James River Reserve Fleet. Combined, this will be the largest removal of obsolete ships in a single year from any of MARAD's fleets, including the James River Reserve Fleet, since 1993.

The three-ship award is the result of a domestic Invitation for Bid (IFB) that was submitted by ESCO Marine of Brownsville, Texas. ESCO was awarded a contract to dismantle three high priority ships from the James River Reserve Fleet for \$2.2 million. This is the second award to a Brownsville, Texas ship disposal facility in 2003. Earlier this year, Marine Metals was awarded a contract to dispose of two high priority vessels from the James River Reserve Fleet for approximately \$600,000.

The pending contract that has not yet closed will be the result of a negotiated PRDA. This company will remove a total of fifteen ships from the James River Reserve Fleet site. Thirteen vessels are scheduled to be dismantled at the AbleUK facility in Teesside, England and two will be converted for operation outside U.S. trade.

MARAD employed a variety of procurement methodologies to achieve the best value to the taxpayer and Government in order to remove as many high priority ships as possible from the James River Reserve Fleet. The IFB and PRDA have resulted in best value awards. The ESCO Marine facility, and the PRP proposal that utilizes the Able UK facility, were selected under a best value basis consistent with Federal Acquisition Regulations (FAR).

For the remainder of FY 2003, MARAD expects to continue making awards based on PRDA proposals already received and additional IFBs. Discussions have recently been opened with a domestic company related to their PRDA proposal for the dismantling of additional high risk James River Reserve Fleet vessels. Both domestic and international PRDA proposals that represent best value to the government will continue to be considered. With the initiation of the PRDA process, we have seen more competition and a significant decrease in disposal proposal costs since we first began paying for services in FY 2001.

As you may know, the President's budget includes \$11 million to support MARAD's continued efforts to eliminate high risk ships and significantly mitigate the environmental threat of oil discharge at the fleets. Adequate funding and aggressive pursuit of all cost effective disposal alternatives is especially important given the projections that approximately 47 additional vessels will be added to MARAD's fleets as non-retention, obsolete vessels over the next five years.

Our program currently focuses on removing all vessels that have a high or moderate risk as soon as possible. Having all disposal alternatives available to MARAD and the necessary funding in place to ensure that obsolete vessels can be disposed of at a rate greater than obsolete vessels coming into MARAD's fleet will help us achieve these mutual goals. Mitigating the risk by removing the risk is what the Department of Transportation and the Maritime Administration intends to achieve.

Thank you for the opportunity to discuss the disposal of obsolete Government vessels today. I would be pleased to answer any questions you may have at this time.

Senator ALLEN. Thank you, Captain. Thank you for your leadership, your assessment, and also your good news that you have brought here. We ought to have hearings more often. That's good news. Thank you.

I will ask some questions, and I'll allow Representative Davis to ask questions as well. I understand your testimony. I was trying to read how you wrote it here versus there. I understand obviously the lack of funding previously made it very difficult for the Maritime Administration, and if you couple, in your view, a lack of domestic capabilities, you add that to a lack of funding—some of this precedes your administration but, nevertheless, right when you were coming in this was a problem.

Now, what is—what in your view are the current capabilities of the domestic market or capabilities for scrapping domestically now as opposed to previously, and if you could determine it—as a practical matter you've said: Here are the ones that are the most dangerous, the ones that most needed disposal.

One of the great things for you is now the limits that it all has to be domestic is off. You can get it overseas if you can get it out there quickly, or you can put it in here. The competition has reduced the cost, which is good for the taxpayer, but what is—do you have an estimate of how much of this could be done domestically as far as the most dangerous deteriorating ships?

Captain SCHUBERT. Mr. Chairman, first of all, the disposal of the high-risk—or what we refer to as high-risk—vessels has been one of my top priorities as the Maritime administrator. Currently we have about 21 ships in the James River Fleet that are considered high-risk vessels.

I wish I could have gone into a little more detail in my opening statement, but I tried to keep it down. The good news is with the current efforts that are underway right now which involve both domestic and foreign scrapping, that by—let's say the current ones that we have actually awarded or are on the verge of awarding—we will have diminished the high-risk vessels down to three ships.

Senator ALLEN. So, of those 18—there's 3 that are going to Texas and 15 that may be going overseas. I assume—

Captain SCHUBERT. Yes, we—

Senator ALLEN. Out of those—those 18 that you are talking about are the 3 plus the 15, right?

Captain SCHUBERT. The math gets a little confusing here, but we have—I can run down the current status if you like, but we have

basically two ships that we have already awarded this year that have already left the fleet.

Senator ALLEN. These are out of the 21 high risk?

Captain SCHUBERT. Out of the 21, correct. We have 15 ships which are part of the much publicized pending deal, which I can't go into any more detail, except out of those ships 11 of those ships are actually considered high-risk ships.

Then we have a three-ship award, which I did announce in my opening statements, which I signed just the other day, then we're also evaluating another three-ship award under the PRDA and are considering—that would be a domestic—that would also be a domestic scrapping.

So, if you add up all those ships, the 2, the 11, that's 13—that's 19 ships, but 21 of the ships—one of the ships that we're going—one of the high-risk ships included in that is a ship down in Mobile, Alabama, which is even worse than the ships that we have here.

So, that leaves three ships left that we have not contracted for yet. So, I think that is a big step forward. I think you would agree.

Senator ALLEN. I definitely agree.

Captain SCHUBERT. So, my highest priority is to find a way to get rid of those last remaining three ships.

Now, the good news is because of the—some of the creativity we used, the PRDA process, some of the—combined with some foreign options to get rid of a lot of ships fast, is that we should have—just the appropriations already given to us—somewhere between \$6 million to \$10 million left over.

Senator ALLEN. That is my next question: Do you have enough funds to do that? Great.

Captain SCHUBERT. So, I'm guardedly optimistic that we will have all 21 ships that are considered high-risk ships with the current fundings that we have been appropriated. I say guardedly optimistic because you never know. You know, somebody who is contracted to do services may not come up with the bonds they need to do it properly.

There's still some other sort of technical issues we need to address, but I wanted to give you a sense that I have taken this as the highest priority, one of the highest priorities, as the Maritime administrator.

When I stepped in the office in July—excuse me—in December 2001, I had this—no money and a lot of ships to get rid of. As I said in my opening statement, we used our time wisely. We didn't use the lack of funds as an excuse to not try to address the problem, and we used our time wisely. I met personally with the EPA several times at the highest level to try to get some cooperation, not only on the issue of whether or not we can export ships again, but also on the artificial reefing, which we think is another very—very cost effective way to take care of a lot of ships, an environmentally acceptable way.

But what we have to determine with the—to get the EPA's cooperation, which we have so far, we have a working group working on this. We have to have a remediation standard that's acceptable to where the five states that are currently interested in ships from our fleet to sink for artificial reefs, that they would be—the remedi-

ation standards would be acceptable to all five states. So, we are currently working on that.

To get back I think to what your question was—

Senator ALLEN. Before I—I'm going to get back to that. First of all, well done. If this all gets done as you planned—and you seem like you are well on the way to getting it done—you will have done with this funding and your proper planning more to alleviate the most disastrous and dangerous ships in one year than has been done in probably a decade.

So, you ought to be very proud of that.

Captain SCHUBERT. Thank you, sir. I think that is also—I would like to take credit, but I won't. I think I have a good staff.

Senator ALLEN. Fine. But your team is doing it. Everyone is working together. Congresswoman Davis and I want to make sure that you have proper funding.

Now, back to the question: Do you feel there are—again, these are 21 ships. There will be more that will need to be scrapped. I'll get your criteria of how you determine the highest risk, but what is your estimation of the domestic capacity to handle this job?

Captain SCHUBERT. This has been part of our problem over the years is that there hasn't been a lot of interest from the full service yards. These are the shipyards that actually build ships, the ones that have expressed interest that in my opinion just cost—was not cost effective at some of the proposals that we looked at.

So, that being said, we have some yards in Texas, some in the Commonwealth of Virginia that are interested. That's really where the heart of the issue is, is capacity. In Texas alone, where most of the ships if not all the ships have gone over the last several years, we're talking about a capacity of about 12 ships a year is the capacity of actually dismantling ships.

We don't like taking more ships than a shipyard can dismantle into an area, because—especially an area in the Gulf of Mexico, because it's a hurricane prone area. We just don't think the liability is wise. But let's just say 12 ships a year for the Texas yards.

We are currently engaged in discussions with some local dismantling companies here in Virginia. We're hoping that we can maybe conclude some transactions. Obviously it would be much better to not have to tow them. Even down to Texas is a pretty long tow from here.

If we can work that out under the PRDA process, the Program Research and Development Announcement that we've made, we think there could be some domestically here. Also, I've been having discussions with the shipyard repair industry, which is of vital importance to our—to our Navy to have places to repair ships.

As you probably can be aware, the repair business is not a steady business in many cases. You need to have some business in between to kind of keep the workforce employed. We'd like to see some shipyard repair businesses on the East Coast especially maybe look at setting up a state-of-the-art dismantling process where they can keep the shipyard employees working in between repair jobs that they may have. So, we are working with them.

The answer to your question in a nutshell is I don't believe to get rid of ships at the pace that we are going to have to dispose of these vessels—one of the reasons we need to look foreign is the

capacity issue; that is, to do it at a cost effective way. I just—I don't think we want to be spending \$3 million or \$4 million a ship to dispose of the ship. The taxpayers I think deserve better than that.

Senator ALLEN. Thank you. I guess one more question, then I'll turn it over to Congresswoman Davis for some questions.

What is your criteria, if you can summarize it, for when you determine a ship is a high-risk ship versus one that is still risk but not high risk? What is the criteria on that determination?

Captain SCHUBERT. First of all, we are continuously monitoring all the ships. We have 69 ships, obsolete vessels, in the James River Fleet for example. They are continuously monitored. We do audio gauging on the hull—the hull thickness within certain—within certain criteria if it's considered at risk for let's say a puncture on the side of the hull because of the hull thickness. That would be one of the considerations, also how much oil is onboard, primarily how much oil is onboard.

It probably could be summarized as the condition of the hull primarily that puts it into a high-risk category.

Senator ALLEN. Are those ones that are high-risk hulls, are they—you're not going to ship or transport something, whether it's across the Atlantic or down to Texas, unless it is seaworthy I assume?

Captain SCHUBERT. That's correct. Mr. Chairman, I'm also a ship's captain. I sailed 12 years, so I'm very familiar with the seaworthiness issue. Prior to any vessel—whether it goes to Texas or even down the river, let's say to a local facility or across the Atlantic, we have the independent surveyor make a—what's called a towing survey for its fitness for tow.

If the vessel is not fit for tow, he won't issue the certificate for towage. Also, the Coast Guard has to approach those towing plans or actually view them before the ships can leave the U.S. waters.

So, we try to exercise due diligence, and if the vessel really does not—cannot make—especially a transatlantic tow, then we won't risk that. We probably estimate that about 90, 95 percent of our ships can be towed in open water tows. There's about 5 to 10 percent of ships that really cannot be towed for any length, just to give you some general sense. Thank you.

Senator ALLEN. Thank you. Congresswoman Davis.

Congresswoman DAVIS. You answered most of my questions by responding to the Senator, but I want to get to the ones that are supposed to leave here real soon. I notice you're very careful to not say that contract is affirmed yet, so I assume you are still waiting on the one thing you have been waiting on.

The time line concerns me. We are getting into tropical storms, hurricane-type seasons. Are we going to make it with those? It's my understanding if we don't get those ships out of here soon they won't make it across the Atlantic.

Captain SCHUBERT. That's correct. We have a towing season that starts right about now to November that we are trying to use as a window to get those ships underway if this deal is concluded. I want to give you some peace about this. This isn't the only game in town. We have backup plans. If the transaction was to for some reason not be concluded, it's very ambitious, trying—the idea was

to get rid of 15 ships as quickly as possible. That was our main objective here, plus the price was—I can't say. It was very good, very attractive.

But we have backup plans to address this issue if the transaction is not concluded.

Congresswoman DAVIS. So, if this one falls through, we are still looking at getting rid of as many as you said earlier?

Captain SCHUBERT. I don't know that we can get rid of 13 ships as quickly, but we do have backup plans to expeditiously get rid of these ships as quickly as possible. This is the only foreign-approved alternative. We have actually been working on some other potentials involving exporting.

Congresswoman DAVIS. Let me ask you this: If my math is correct—and I'm not sure—you said we have 69 that we need to get rid of out here in the James River; is that correct?

Captain SCHUBERT. Correct.

Congresswoman DAVIS. And 21—let's see. Let me go back. You're looking at getting rid of 19 this year?

Captain SCHUBERT. Correct.

Congresswoman DAVIS. That leaves 50.

Captain SCHUBERT. They are not all high-risk ships.

Congresswoman DAVIS. Which ones have to be gone by November, September, whatever it is, of 2006?

Captain SCHUBERT. All of them.

Congresswoman DAVIS. Either way, you still have 50 ships to dispose of in 3 years.

Captain SCHUBERT. That's correct. Actually, we have a total of 131 ships right now.

Congresswoman DAVIS. How many of those have to be gone by 2006?

Captain SCHUBERT. Well, if you go by the law that was passed, they are all supposed to be disposed of by September 30, 2006.

Congresswoman DAVIS. All 131?

Captain SCHUBERT. All 131 ships. What you need to know is that's an impressive number and a real challenge, but I—what I'm—

Congresswoman DAVIS. Challenge? It sounds impossible.

Captain SCHUBERT. Well, I can highlight some other promising areas that we can get rid of all the ships very quickly if we just make a little more progress in some of the other areas we have been exploring, but my priority is to get rid of the high-risk ships, the ones we mentioned the EXXON VALDEZ and all these horrible things.

I have to tell you, in January 2002, my first visit at the EPA to discuss this option, you would have thought I lived in Virginia. I was passionate about it. I said: You know what, we can't blame the people that came before us, because if something happens and it happens on my watch, it happens on my watch.

So, we got everybody into high gear to do—to really work together with the EPA and other government agencies to try to address the issue, but my priority is to get rid of those 21. Plus the other fleet had a few high-priority ships, too, but to get rid—by this year to get rid of all those 21 high-priority ships, the ones that pose

the biggest risk to the James River, the people that live in this area from an environmental point of view.

Congresswoman DAVIS. That is my high priority, too. Having said all I just said, I want to commend you and all the folks at MARAD for the fantastic job you have done with working with me and my staff and the whole delegation in trying—from what I saw when I got to Congress was that we have given you a mandate, but we hamstrung you, wouldn't give you any money to do it with. It's like telling somebody to go buy groceries to feed the hungry but not giving them any money. How do you do it?

I'm really pleased with all the work you are doing and you have given me some great news today.

Captain SCHUBERT. Thank you, Congresswoman. What I tried to do as Administrator and leadership of MARAD is to show good stewardship. With the money appropriated to us we can get rid of a lot of ships in a quick period of time, also being sensitive to the environmental issues and doing it in a responsible way. In fact, I'd like to see the United States lead the world in setting environmental standards for dismantling ships.

So, all the things that we have been working on the last year and a half have hopefully furthered that objective.

Congresswoman DAVIS. Senator, I want to thank you and Senator Warner, because you all have been fantastic over on the Senate side. If it hadn't been for the Senate, we would have had a very difficult time getting that \$31 million. I really appreciate all that they have done, so I have to say thanks to them, too.

Senator ALLEN. That's fine. It's bicameral and everyone working together.

Let me ask you this, because I'm going to ask the next panel what they have to say, so you're going to get critiqued. What you're doing with this \$31 million is great. Obviously there are some contingencies out there, backups and so forth. Very good.

The law says 2006. Can you share with us what your plan is to meet this September 30, 2006 deadline for the disposal of these obsolete ships? That is a daunting task. You indicated you had some way of doing it. I assume it was an environmentally sound way. Could you share with us what your plans are as best you can determine in 2006.

Don't make promises that you realize cannot be kept. We want straightforward, honest assessments from you, because I think we can trust you. And, to the extent you can—and I understand how it is when you have agency heads speaking for an executive. If at all possible, it would be helpful for us to know what you would estimate the cost would be to make sure those funds are there for you. Please proceed with answering those questions, Captain.

Captain SCHUBERT. OK. Thank you, Mr. Chairman. Settling the fact we let's say have disposed of the high-risk vessels, then we have a hundred or so other ships we need to dispose. Some of those are considered in poor condition but don't present any immediate threat. What you need to understand is a lot of the costs associated with dismantling the—these vessels that are in very bad condition is the disposal of the hazardous material, the oil. There's not a whole lot of steel left in the ships that you can really recycle that's really good steel.

The more we get into the newer ships, let's say the ones that aren't in as bad condition, then we're looking at vessels might have a net positive value for all we know. So, to give an estimate of the total cost would be something that I really honestly couldn't answer at this time. I can say that I don't believe the newer ships will be as expensive to dismantle as the older ships, the ones we're worried about right now.

Secondly, we have other, I think, very creative approaches to this problem. As I said earlier, we're working on our artificial reefing standards with the EPA. Let's say it costs only \$300,000 to \$500,000 a vessel to clean up the removable—to do the remediation on the hazardous material on the ship before we sink it. That's a lot cheaper than paying a million dollars or more to scrap a ship.

We have a lot of states interested in this. I mentioned the PRDA announcements, one of the ones. We notified all the states, told them that we can now pay for services. That is the thing about it. We didn't do a lot of artificial reefing in the past because the state would have to pay for the remediation. Now we can use our money to pay for the remediation and donate the ship to the state for diving platforms or whatever they want to use it for.

Senator ALLEN. How many states?

Captain SCHUBERT. Five states.

Senator ALLEN. Could you list them, please.

Captain SCHUBERT. For the record, Louisiana, Texas, Florida—I might have to ask my staff here who the other two were. I would be happy to provide that. Can I shout it out?

Senator ALLEN. Yes.

Captain SCHUBERT. Who are the other two states?

A SPEAKER. New Jersey and Virginia.

Captain SCHUBERT. New Jersey and Virginia. Another interesting program is the SINKEX program, a Navy program where they take it out and do deep sinking. Obviously the ships have to be cleaned up properly before you do that. We are not sure how much that will cost on a per-ship basis.

We're—you know, as you know, some states are having coastal erosion problems. This may seem a little far fetched, but when I was walking around the D-Day museum in New Orleans I noticed that back in D-Day they actually scuttled ships and used them for barriers for ports, and they used it so they can discharge cargo in that place that didn't have a port before.

So, we have started working with the Corps of Engineers and—U.S. Army Corps of Engineers and some others to look at a pilot project to use these ships as barriers, barrier islands to help coastal erosion. You might have visions of this hawk sitting out there with a boom sticking up in the air. You clean the ship off and you often actually use the ship as a containment vessel for some of the dredge material.

So, I wanted to give you a sense that we are looking at virtually every single idea you can think of. I think between those—those are the main ones that I think have some real merit. Using that—using those methods, paying for some dismantling here in the United States, possibly reopening up a few more markets overseas, I think we would—we can go a lot further than anybody ever thought we would in terms of getting rid of these ships.

Senator ALLEN. This is—may be unfair, but it is the law. I'm going to ask you this question: Do you think it's reasonably probable—I'm putting in enough qualifiers in there because I—I really believe your sincerity and your determination to get this done. What is the probability—reasonable probability of being able to meet this law that was passed before either—right before Jo Ann and I got elected?

Nevertheless, laws get passed. No one funds it, expects people to do—it was to be done in 6 years. At this point the funding came in Fiscal Year 2003. Granted, it was three times as much as had been requested but, regardless, you have—you have a pretty long way to go and a short length of time to get there, in a roundabout way.

What is your sense of the ability to actually meet that deadline?

Captain SCHUBERT. It will be very challenging, to say the least. We are having—if we just froze the number of ships that we have now and we didn't take any more ships in, it would be 33, 35 ships a year that we—starting in September that we would need to get rid of all the ships within that timeframe.

Is it impossible? No. Is it likely? I really just—I think it depends on how much funding is provided and whether or not some of these other alternatives pan out.

One issue that I need to advise the Committee here is we're also expecting to take over the next 5 years about 50 additional ships into the fleet. So, at the same time we are getting rid of ships—we are disposing of ships, we are going to be bringing ships into the fleet.

Senator ALLEN. Well—

Captain SCHUBERT. Ships in good condition, by the way.

Senator ALLEN. I was looking at the great work—Rob Freeman of our staff had done a memorandum from our staff, and I do want to commend him for the great job. That is exactly what the problem was. You had—it's been a problem, really, through the 1990s. Of course it's exacerbated in the late 1990s, where very few ships were being disposed of because of the law and restrictions and no funding, as well as restrictions.

Just in 1999—this is for the general public to understand this situation. In 1999 alone, the Department of Defense vessels acquired were 40, adding 40 just in 1999, 4 in 2000, 18 in 2001, 7 in 2002. So, it's an ongoing responsibility.

My general view is your plan makes sense. There are a lot of contingencies, some uncertainties in it, but I very much appreciate your testimony and your leadership. It is very important. We are glad you feel like a Virginian and argue like a Virginian. We'll keep in contact.

Again, thank you for your time, your leadership, and mostly thank you for your care.

Captain SCHUBERT. Thank you, Mr. Chairman.

Senator ALLEN. I'd like to call our third panel, the Honorable Kirk Cox, Delegate, House of Delegates in Virginia; the Honorable Joe S. Frank, Mayor At-Large of Newport News; the Honorable David K. Paylor, Deputy Secretary of Natural Resources, Commonwealth of Virginia; and Ms. Patricia Jackson, Executive Director of the James River Association.

Thank you all. We'll have folks testify. Mr. Cox, Mayor, Deputy Secretary. Patty, you're always a cleanup hitter; anyway, in that order. I want to welcome you all here. I know each of you all in a variety of different ways.

Kirk Cox is a leader in the General Assembly, certainly a leader on environmental issues for many, many years. Thank you so much for being with us. I know you are the Chairman of the Agriculture of Chesapeake and Natural Resources Committee. That obviously is a Committee that cares about the issue.

We welcome you, Delegate Cox. Please share with us your views.

**STATEMENT OF DELEGATE M. KIRKLAND COX, CHAIRMAN,
VIRGINIA HOUSE OF DELEGATES' COMMITTEE ON
AGRICULTURE, CHESAPEAKE AND NATURAL RESOURCES**

Mr. COX. Thank you, Senator Allen. Obviously a lot of what I'm going to say has already been said, so I'll try to abbreviate a little bit. I know you have a lot on your agenda.

Senator ALLEN. Incidentally, let me interrupt. Any of you all—I know we have written statements from you all. You need not read that whole statement. All your statements will be put into the record. Excuse me.

Mr. COX. Let me try and see if I can summarize what I had. First of all, I know everyone said this, but I think it is very important that we do thank you and Congresswoman Davis for your efforts here.

I think, having come from the budget committee on the State side, trying to get a million from anybody is an accomplishment. Obviously 31—is a Herculean effort. We want to thank you for that. You have heard about the environmental risk. Obviously, as the Committee Chair of that, it's my major concern.

Governor, I think—Senator, you know this. You know this I think as much as anyone. Obviously our oyster population we really struggled with. My Committee has taken several tours. Obviously, the Lower James is absolutely key. Anything that would impact the oyster population where we're at right now would be devastating.

We recently had hearings in my Committee concerning the blue crab, very, very concerned with the harvest of the crab. It has been down very substantially. We had DMRC come in and talk about the blue crab, trying to figure out some of that, but obviously—I think on your reports the Commission says obviously a spill could be very detrimental to the blue crab, especially in the summertime. So, that would be something that would be a problem.

Just an observation if I could. One of the things that I always liked about you as a Governor is you used to tell me “common sense solutions.” One of the things I guess that doesn't make total sense to us on the State side is—I've heard Secretary Murphy comment on this, et cetera. It seems like—I won't exaggerate the point—it seems like if we need funds to restore or rehabilitate habitat after the spill we can get it. It doesn't seem to make much sense that it is so hard to get the funds to prevent what could be an obvious disaster that would cost tremendous amounts of money.

Captain Schubert I think gave a tremendous testimony. My quick observation there would be: I hope your Committee will look

at some of the things we did on the State side with the Governor. We did a pollution prevention fund for small businesses, which is proactive. I think he's got four or five solutions, that you all need to look at tax incentives or some other things that you can look at to help him out.

Obviously if there doesn't seem to be a big market currently for the shipyards I think you-all need to look at how you can make that more attractive than you are currently doing. The other thing—I know this is obvious—is it seems to me just listening to the testimony is the ships that are decommissioned and in better shape, you need to immediately set up a policy to look at scrapping those as soon as you can, because I just think that is proactive.

Everyone right now—I think Congresswoman Davis has said this—is tremendously concerned. The ships are in bad shape. What we tend to do in government sometimes is we're so worried about those, we forget about the 50 new ships been recommissioned. I think any kind of incentive system set up to get the market more viable, et cetera—let me just finish with this: I do think the Maritime Administration has done a tremendous job.

Let me just tell you my sense, though. This is obviously a job—just sort of a sense. I think it would be helpful—I guess I'll say this for Dave Paylor, sort of my observation—if communication between the State officials and the Federal officials was a little bit better—I think what happens a lot of times on the Federal side is a lot of things come out of DC, and there are some intriguing things going on that I found out just today.

Frankly, a lot of what I found out about was going on was in newspaper accounts. It was very, very hard to find out some of the other details. Let me give you some examples. The artificial reef issue I find fascinating. I think the state would have a lot of good input on that, DMRC, et cetera. They have some good ideas how that would work in Virginia.

Obviously in Virginia the water is more shallow, a different situation than in Florida. I think it is very important at this point for the Maritime Administration to be in direct contact with the DEQ, not only telling them specifics about what they are going to do and some of those ideas, but listening to their input would be helpful. There are a lot of opportunities in Virginia that you could miss out on.

I don't think it's deliberate by any means. It's a tremendously big agency, trying to do a lot, and have obviously done a lot. I think there is a little bit of a communication lapse that Virginia needs to be included on.

That's sort of I guess the summary of my comments. Obviously your opening comments, Senator, I think were very important. Obviously being from Colonial Heights in the Hopewell area, the Kepone disaster we had—we just almost never recovered from that.

So, just potentially—I think you are not exaggerating the point. Potentially it could be as disastrous. I appreciate your efforts. I certainly as chair of the fancy committee with the new name that makes me sound more important—I'm certainly willing to try to help you.

[The prepared statement of Hon. Cox follows:]

PREPARED STATEMENT OF DELEGATE M. KIRKLAND COX, CHAIRMAN, VIRGINIA HOUSE OF DELEGATES' COMMITTEE ON AGRICULTURE, CHESAPEAKE AND NATURAL RESOURCES

Chairman Allen and members of the Subcommittee, thank you for the opportunity to discuss the issues related to the disposal of obsolete vessels in the National Defense Reserve Fleet. As Chairman of the House of Delegates' Committee with responsibility for oversight of Virginia natural and historic resources, my remarks will focus on the environmental aspects of having these vessels on the waters of the Commonwealth. First, Mr. Chairman, let me extend my appreciation for your personal efforts and the rest of the Virginia delegation in securing the initial commitment of \$31 million for remediation efforts. But, I think we all would acknowledge that properly completing any clean-up effort by 2006 will take a significantly greater commitment of Federal funds.

The James River Ghost Fleet is seen by many in the Commonwealth as the greatest threat to the environment of the Lower James River. These ships contain in excess of 7.8 million gallons of oil and significant amounts of PCBs, mercury, asbestos, and lead paint. According to our Department of Environmental Quality, since 1998 at least eight oil spills have been linked to these ships. We worry that a spill of thousands of gallons could result in damage to fishery habitats, wetlands, aquatic life, waterfowl, our seafood industry, and tourism. I would also note that our seed oyster beds are concentrated in the James. As Senator Warner has stated, and I find myself with a similar reaction, that "everytime I hear that a hurricane is approaching the coast, I think of the fleet."

One indication of the potential threat represented by the fleet was described in the Maritime Administration's worst-case scenario report. The report commissioned by the agency, at the request of our Department of Environmental Quality, concluded that if just two of the more dilapidated ships broke apart due to a storm, 50 miles of the river and shoreline would be contaminated. The cost of clean-up could exceed \$35 million. Even as recently as May of this year, oil leaked from one of the ships, which washed up on a 400-foot stretch of shore near Fort Eustis. Luckily only a small amount of oil was involved.

Mr. Chairman, I know you recognize the importance of protecting this vast tributary of the Chesapeake Bay is not without some historical context. We appreciated your interest and efforts as Governor to find common sense solutions to our environmental challenges. Almost 30 years ago you'll remember the upper regions of the James just south of Richmond experienced what some have characterized as its greatest environmental insult as a result of the Kepone contamination. We are still trying to recover from that disaster. So, many Virginians are again concerned about the health of their river, seeing the current situation as a "ticking time bomb," which must be handled with some sense of urgency.

It is regrettable that this situation has gotten to the point where Virginia's Department of Environmental Quality has had to issue a series of Notice of Violations, the latest on June 18, 2003, for the May 13 oil release from the Mormac Wave. I understand that Maritime Administration has refused to sign any consent order to resolve the environmental issues claiming they cannot waive sovereign immunity. I hope this can be resolved without having to go to court.

Virginia's position has been that we want the risk removed from the river. That means if the funds are limited and full funding is not available, then some of the dollars should go to removing the oil from the remaining ships. I understand that MARAD (Maritime Administration) prefers not to remove the oil first because it increases the overall costs. The state has given MARAD the time to develop a plan for using available funds before taking further legal action. I have been informed by the Warner Administration that as long as MARAD's plan addresses the risk and shows an ability to completely mitigate the problem, we will be satisfied. Addressing risks involves things like removing ships, with those most likely to leak going first, and some demonstration that there will be a sustained effort to scrap others.

But, I am encouraged that our Secretary of Natural Resources, Tayloe Murphy, has communicated his desire to work with MARAD in addressing this environmental threat represented by the fleet. While I think the ultimate responsibility for the problem rests with the Federal government, I am convinced that Virginia, working with the Federal government, can develop an effective strategy for resolving this problem.

In summary, Mr. Chairman, I thank you for your leadership in holding this hearing. I believe it will help bring this issue into focus as the deadline for action approaches to get the funds needed to complete this clean-up effort.

Thank you, Mr. Chairman.

Senator ALLEN. Thank you, Delegate Cox, for all your leadership over the years on this. I think there certainly is a willingness on the part of Captain Schubert and his crew to do—I use crew in a larger sense—to communicate. One of the reasons to have a field hearing is to actually get—people see faces and personalities behind names on organizational charts. So, to the extent that’s helped, that was one of the purposes accomplished at this hearing. Again, thank you for your great leadership.

Mayor Frank, we want to hear from you in that your city—and not that it would be only Newport News that would be affected. Clearly James City County, Surry County, Isle of Wight, Hampton, in fact on down to Suffolk and Virginia Beach and Norfolk could all be adversely affected. But clearly you have a long shoreline, and we wanted to get the perspective of a leader in local government. You’re one who is well respected, and we wanted to get your views on the James River Fleet, and we welcome you and thank you for your time, Mayor.

**STATEMENT OF HON. JOE S. FRANK, MAYOR-AT-LARGE,
NEWPORT NEWS, VIRGINIA**

Mr. FRANK. Thank you, Senator. Thank you so much, Congresswoman Davis. You know, this isn’t the first meeting the Congresswoman and I have had in this room about this subject. We have been here before and talked about these things before. You and I have engaged in these conversations before, Senator Warner and I.

It is certainly appropriate, and I am certainly grateful that you all have come to give folks here an opportunity to express themselves on what I think is a critical public safety issue, public health issue in our region.

I was very encouraged by the testimony of Captain Schubert on behalf of the Maritime Administration with regard to their plans. It seems to me that the number of points that need to be made—and I’ll try to do those briefly.

First of all, beyond the plans to demolish these ships and remove them from the fleet, I think there are a number of comments that are appropriate. First is that here we think all of these ships are high risk. I understand the definition that Captain Schubert tried to apply to what he defined as the high-risk ships.

Certainly you have to try to find a way to prioritize with limited resources those ships that you are going to address first, but beyond the risk of a hull giving way and oil and other virtually hazardous materials getting in the water is the risk of hurricanes and those ships becoming unmoored and creating havoc along the river ridge that’s between the fleet and the Hampton Roads shipyard.

Frankly, we think there is a terrorist risk with those ships there that could be easily compromised. We worry about a ship becoming loosened and the havoc it could play on shipping in the Hampton Roads Harbor, on the bridge and the tunnels, the shipyard itself, the waterfront of our citizens.

Leaks have already cost over \$2 million over the last several years, based on my information. So, again, while I understand you have to define the problem, my view is—and I think the views of the citizens of this region are that all of those ships pose a risk to health and public safety.

I think a comment that someone else made is particularly useful. It's not just these ships. These ships will be replaced by other ships. We need to have a legislative plan and a program in effect, a funding mechanism in effect, to be sure that as time goes on you don't make the same mistakes of history and allowing these things to be there and deteriorate to the level where they pose the risk that they do. So, I would urge you to give that some careful thought.

One of the things that I did not hear discussed by Captain Schubert was funding for adequate personnel for maintenance and security on these vessels until they are taken out of the river. One of the problems, at least in the prior discussions and conversations that have taken place in this room—and the Congresswoman and I were here with others talking about these issues—from local people who are assigned to service and provide security on the fleet was inadequate personnel, inadequate funding to provide maintenance and security so that you minimize the risk while plans are being evolved to remove the ships and demolish them at other locations.

I think those are critical issues. I just point out that this is symptomatic of what I think is a problem that is real and needs to be put in some perspective. As a long serving member—some would say too long serving member—of local government, I tell you unequivocally that if local government or local business tried to get Federal permits to operate a James River Reserve Fleet, it would be impossible.

The Federal Government doesn't hold itself to the same standards and to the same requirements when it comes to environmental and safety regulations that it applies to other people. While I understand the purpose of the reserve fleet historically was a valid one and important one to national defense, at some point we have to recognize the reality of impacts. The impacts here—potential of impacts and potential harm are really very serious, I think.

The perception in our community is that these things pose a clear and present danger to the health, welfare, and well-being of our communities, to the river, to the oyster beds, to the fishing, to the homes along the banks, to the businesses along the banks, that these ships get loose or deteriorate to the point where we have the kind of polluting environmental impacts that we believe is a present danger, the consequences and the cleanup costs and the impacts are going to be overwhelming, I think incalculable.

So, I don't think anybody would pretend that if an environmental impact statement were required to deal with these things that anyone would have a finding of no significant impact. These things are just beyond dangerous. So, if the reports I have are right that over 70 percent of the ships are considered obsolete and should be scrapped, if there are 59 ships that need to be scrapped and we have funding for 21 of them and plans for 15 or 19 of them, you know, I'm not sure we have really fully and completely addressed the problem. Although, as you do, I certainly applaud the effort of the Maritime Administration to move forward.

They didn't—the problem wasn't created overnight, and we all recognize it's not going to be cured overnight, but it certainly is critically important that a appropriately funded plan be imple-

mented in a very, very time expedient way, because the clock is ticking. I really don't think that we have the luxury of more years to work all this out.

Several million gallons of oils and lubricants remain aboard these vessels, and a quantity approaching that which was spilled by the—as you mentioned, the EXXON VALDEZ. That is a frightening number. A 2002 report prepared by the Maritime Administration suggested that an oil or gas spill from these ships is no longer a possibility but a probability.

Those are the kinds of things that we hear on the Peninsula, and the citizens of Newport News are terribly concerned about it. So, we believe that all these ships pose a high risk of one kind or another, and the situation is not getting better. Beyond money to move them and dismantle them, I think that we need to address the issue of being sure that they are properly secured and maintained to prevent whatever disaster we can while the rest of that process is moving forward.

So, without belaboring the point, which I know you are more familiar with than we are, I just have to tell you how grateful I am for the attention you are giving this, the support you are giving us here to remedy and address this situation that has become so critical for all of us. I thank you.

[The prepared statement of Hon. Frank follows:]

PREPARED STATEMENT OF HON. JOE S. FRANK, MAYOR-AT-LARGE,
NEWPORT NEWS, VIRGINIA

As a long-serving member of local government, I can tell you unequivocally that if the local government or a business tried to get Federal permits to operate something like the James River Reserve Fleet it would be impossible.

The Federal Government does not hold itself to the same standards that it holds others when it comes to environmental and safety regulations.

I recognize that the purpose of the Reserve Fleet was a worthy one, however, time has passed that purpose by.

If some other organization wanted to have such an operation there would be many regulations.

- There would be a requirement for an environmental assessment.
- Surely there would be a requirement for an environmental impact statement.
- Could anyone seriously imagine that a “finding of no significant impact” would result from a review of that operation?

The reasons why we are alarmed about the continuing presence of these obsolete vessels have been stated many times.

According to reports, over 70 percent of the ships in the Reserve Fleet are considered obsolete and should be scrapped.

Several million gallons of oils and lubricants remain aboard these vessels in a quantity approaching that which was spilled in Alaska by the *Exxon Valdez*.

In a 2002 report prepared by the government's own Maritime Administration, it was suggested that an oil or gas spill from these ships is no longer a possibility, but a probability.

There have already been several documented fuel oil leaks from the Reserve Fleet in the last five years involving approximately \$2 million of clean-up costs.

The potential for serious environmental damage and the potential for a break-away ship to damage property or the James River Bridge are obvious concerns.

In today's world, we have to add the fear that these ships could in some way be used as potential terrorist platforms.

On behalf of the citizens and City Council of Newport News, I urge you to move forward with all dispatch to eliminate this threat to our community's environment and public safety.

Senator ALLEN. Thank you, Mayor. Thank you for your very coherent, logical advice. I agree with you. The Federal Government is doing something that I guarantee you no one else in this country can ever get away with, whether a government or private entity, would never be permitted.

I will say Captain Schubert and all of us are trying to remedy this as quickly as possible. Clearly funding for the maintenance of it until the existing fleet—it is dangerous work, dangerous, hazardous work. Clearly laws are passed—it's—the law was passed in late 2000 to get these all handled and disposed of by 2006.

Clearly, as you say, this did not happen overnight. It's not going to get done overnight. We have a few nights to go. It's still going to be difficult, but you can count on us in your Virginia delegation to work with you and the General Assembly and State government and others.

Mr. FRANK. We know that and are confident of your support and your help, and we are grateful for it, and we thank you.

Senator ALLEN. OK. Thank you. Now we'll hear testimony from the Commonwealth as represented by David Paylor, Deputy Secretary of Natural Resources.

Secretary Paylor, welcome.

STATEMENT OF HON. DAVID K. PAYLOR, DEPUTY SECRETARY OF NATURAL RESOURCES, COMMONWEALTH OF VIRGINIA

Mr. PAYLOR. Thank you, Senator Allen, Congresswoman Davis. It's good to be here. I'll try to summarize my summary as well. I think everybody has pretty well rehearsed all of the hazards that are posed by the Ghost Fleet, and you know last summer Governor Warner underscored the problems that we have, and just to maybe reinforce Mayor Frank's comments, we called for the Maritime Administration to enter into a consent order with us to remove the oil from the ships and so forth.

I'm not smart enough to understand the legalities of it, but we are still waiting to do that consent order, and it's been more challenging to hold the Federal Government to a standard that we're able to hold others to.

Notwithstanding that, I want to thank Senator Warner and Congresswoman Davis and Congressman Wolf and you and all of the delegation for the support, because the \$31 million that we got is really more than we could have hoped for when we became aware of how great a danger it was over the last year. As you already noted, more money is going to be needed, but with good planning we believe that we are well on the way to removing the risk from the river.

The Commonwealth's main goal is to remove the threat of oil spills and environmental damage from the James River. We want this disposal done in an environmentally responsible manner which protects the safety of workers, and this responsibility falls to MARAD. We've heard some good news from them in that regard already.

Our expectation is these criteria will be met and the disposal of ships will proceed, as you said, Senator, in a cost effective manner which maximizes the availability of the money.

We've—there are a lot of different numbers out there about how many high-priority ships we have and how many are left. We know, as the mayor has said, there are close to 70 that need to go, and we need to see them go in a high-priority order.

MARAD has been keeping the Commonwealth informed of this progress on a limited basis, however we have repeatedly asked for and not yet received comprehensive plans from MARAD for ship disposal based on funds available and anticipated revenue. We know we have \$31 million available to us right now. The question mark is: What else do we have? We need to be making our plans in accordance with reasonable expectations. It's important to us to know this plan so we can ensure the risk is dealt with in a cost effective manner.

For example, MARAD has consistently resisted the removing of oil from vessels because it adds to the overall disposal cost. We recognize this, but we are looking for some certainty that the resources will be available to dispose of the ships expeditiously and in priority order. Without some assurance that those high-priority vessels at least can be gone in the next 12 to 24 months and that funds will be available to continue the disposal of the remaining ships, we will continue to insist that some of the resources be spent on removing the oil from the ships that are in the fleet that remains in the river.

The Commonwealth's highest priority is to make sure the oil in the ships is removed from the rivers so that they no longer pose a threat to other people and the environment. We want this—we will insist this be done in an environmentally responsible way, and we look to MARAD to use its money wisely to achieve a maximum result.

As you discussed earlier, we would like to see this done domestically, but the taxpayers' money needs to be used wisely and the ships need to be removed from the river. To the extent that it's cost effective, we do find the reefing alternative to be attractive because it can result in an ongoing economic return from tourism and perhaps lower the per-ship disposal cost.

We count on the Environmental Protection Agency to establish guidelines to protect the environment and allow the shipping to proceed effectively, because we need to recognize that we already have a significant environmental risk with our current condition. We need to address that as well. We look to the Coast Guard to ensure the ships are transported safely to their destination.

Those are our comments, and I thank you for holding this hearing and for the opportunity to testify.

[The prepared statement of Hon. Paylor follows:]

PREPARED STATEMENT OF HON. DAVID K. PAYLOR, DEPUTY SECRETARY OF NATURAL RESOURCES, COMMONWEALTH OF VIRGINIA

Mr. Chairman and members of the Committee, on behalf of Governor Warner I want to thank you for this opportunity to present testimony before you. The growing danger presented by the aging vessels of the National Defense Reserve Fleet anchored in the James River has become clear to all of us. This section of the James River is an ecologically diverse and sensitive estuary, which provides critical spawning, nursery and wildlife habitat. Our seafood industry relies on a healthy James River. As the hulls of these ships continue to corrode the likelihood of large oil spills increases. These spills would wreak environmental havoc and require expensive cleanup operations.

Governor Warner underscored this threat last summer by calling upon the Maritime Administration to enter in to a Consent Order with the Commonwealth to remove the oil from the ships and immediately begin scrapping these ships to remove them from the James River. He also called upon the Environmental Protection Agency to establish guidelines that allow environmentally responsible scrapping operations to begin and to help find sources of funding. In truth, the lack of funding and of cost effective disposal options was the principal factors that had stalled the scrapping effort.

I want to recognize and thank Senator Warner, Congressman Wolf and Congresswoman Davis for their tireless efforts to provide funding to MARAD to restart the ship disposal process. The \$31 million provided last year as a result of their efforts is an excellent beginning. As you have already noted, more funding will be needed. But with good planning we can be well on the way to removing the risk from the river.

The Commonwealth's principal goal is to remove the threat of oil spills and environmental damage from the James River. And the disposal effort must be done in an environmentally responsible manner, which protects the safety of workers. This responsibility falls to MARAD. Our expectation is that these criteria will be met and disposal of ships will proceed in a cost effective manner, which maximizes the use of available money.

There are more than 70 non-retention vessels in the James River National Defense Reserve Fleet. At least 25 of these are designated as high-priority vessels, indicating that the risk of oil release is high. These ships need to be disposed of soon or the oil must be removed from their cargo.

MARAD has been keeping the Commonwealth informed of its progress on a limited basis. However, we have repeatedly asked for, and have yet to receive, a comprehensive plan from MARAD for ship disposal based on funds available and anticipated additional revenues. This is important to us to assure that the risk is dealt with in a cost-effective manner. For example, MARAD has consistently resisted removing oil from the vessels because it adds to the overall cost of disposal. While we recognize this we are looking for some certainty that resources will be available to dispose of ships expeditiously and in priority order. Without some assurance that the high priority vessels will be removed in the next 12-24 months, and that funds will be available for continued disposal of remaining ships, we will insist that money be spent immediately to remove the oil from ships so that the primary source of environmental risk is gone.

The Commonwealth's highest priority is to make sure the oil and the ships are removed from the James River so that they no longer pose a threat to our people and environment. As I have said before, we will insist that this be done in an environmentally responsible way. And we look to MARAD to spend their money wisely to achieve a maximum result. To the extent it is cost-effective, we find the reefing alternative to be attractive because it can result in an ongoing economic return from tourism and, perhaps, lower the per ship disposal cost. We count on the Environmental Protection Agency to establish guidelines that protect the environment and allow scrapping to proceed effectively. We need to recognize the ships already pose a significant environmental risk and must be removed. And we look to the United States Coast Guard to assure the ships are transported safely to their destination.

I thank you again for your attention to this critical matter. We ask for your assistance to provide continuing appropriations to MARAD to complete the task of ship disposal. Thank you for your time and attention.

Senator ALLEN. Thank you, Secretary Paylor. You and Delegate Cox and the Mayor all have a similar view. I know it's good that Captain Schubert is still here hearing these views. We don't need to turn this into any sort of back and forth, but I think they are all well-taken concerns. Not speaking for the captain, not turning this into a debate but rather a discussion, it strikes me that the—his stewardship is symmetrical and is constant with what—many of your comments insofar as maintenance and so on.

I will say this: Having been Governor and serving the State legislature—and I know John Davis also served in State legislature—comparing the way things work in the Federal Government to anything you do in the State, just trying to estimate—I was trying to get the captain to give his estimates and so forth. There are a lot

of contingencies, and a lot of them are in here. So, it makes it more difficult to get it. Congress passes a law, then it doesn't fund it, not that that might not happen in State government as well. In the Federal Government it seems to be the routine way of doing things.

I'm one who—as I said, this is just another example. I hope I never get accustomed to thinking the way they do in Washington. It doesn't make much sense to say: Here, do this, and then not fund it or put constraints on the ability of Administrators to do the job you have told them to do. It's absurd.

At any rate, you do have this effort on our part. It is bipartisan, it's bicameral. I also think the executive branch, the Bush Administration, is very much wanting to get this addressed. We may have to add some more money into it, but nevertheless there is a commonality of purpose and an awareness of this risk.

Mr. PAYLOR. We agree, and we have certainly seen that over the last year. If you compare where we are now to where we were a year ago, we have made great strides, and we have heard really good, encouraging news from Captain Schubert as well. So, we agree, and I think we have a dialogue here that we are going to make progress with.

Senator ALLEN. Great. I'd like to hear from the Executive Director of the James River Association, Ms. Patty Jackson.

**STATEMENT OF PATRICIA JACKSON, EXECUTIVE DIRECTOR,
JAMES RIVER ASSOCIATION**

Ms. JACKSON. Thank you, Mr. Chairman.

Senator ALLEN. Look at that. They don't move the microphones for—we don't even have one.

Ms. JACKSON. Thank you, Mr. Chairman.

Senator ALLEN. Star witness. Go ahead, Ms. Jackson.

Ms. JACKSON. Senator, Congresswoman Davis. It's a pleasure to be here today. I'm Patty Jackson, the Executive Director of the James River Association. I want to thank you and echo all the comments that have been made. Thank you for all the efforts on behalf of the River and the resources and trying to acquire the funding necessary to remove this significant threat from the James River.

Our organization has been a voice for the River and for riparian landowners and users of the river since 1976. Our goals match I think the goals of your hearing today, which are conservation, responsible stewardship of the James River and its resources. So, we are delighted to have this focus on this important issue.

As you know, the James River has been described as America's most historic river and Virginia's largest tributary to the Chesapeake Bay, which has been heralded as the Nation's most productive estuary. What happens in the James is certainly not only important in the James but also in the Chesapeake Bay.

I'm going to try to abbreviate my remarks as well. As Delegate Cox mentioned, we've already had one significant environmental catastrophe in the James, the Kepone. We still have a fishing advisory on part of the Lower James remaining from that catastrophe. So, it's very fresh in all of our minds what can happen in the event of a significant problem.

The reserve fleet here on the James River presents a unique situation. We've all recognized the concept of a reserve fleet has made

sense to folks over the years, but unfortunately over time we have become much more aware of a particular environmental hazard that this presents with not only the oil that's on these ships, but also PCB, asbestos, and other hazardous materials.

Of particular concern to our association is the potential for a significant oil spill on the river, and as you've mentioned, Senator Allen, the devastating impacts that would result as a result of such an oil spill. There have been several leaks that have occurred, and this reserve fleet has been described as a ticking time bomb.

Not to raise concerns even more, but in 1999 as many as 30 of the ships did break loose from their moorings, and some went into the main shipping channel and some went onto nearby beaches. That I think makes us even more aware, as Mayor Frank said, of the potential for much greater impact, particularly on the James, which is so important to the Virginia economy, as well as the environment, not only with the shipping that occurs on this navigable river, but also as a result of the sea oyster beds for the Chesapeake Bay, the crab, and the commercial fishing industry, and tourism, which is very significant. And as you mentioned, Senator, with 2007 fast approaching, we certainly want to do everything we can to protect the historic resources of the James, as well as the natural resources.

The MARAD report in 2002 on the potential for—the impacts of such a spill indicated that the cost of cleaning up just over about 263,000 gallons, which could be—of oil, which could be generated from just two of these vessels breaking apart, could cost as much as \$123 million, based on cleanup costs for other oil spills of similar size, and with the heavy Bunker C oil which is on many of these vessels. That's pretty daunting.

Even when we're talking about the potential for as much as \$1 million or even a little more for each of these vessels to be scratched or decommissioned, the potential for cleaning up an oil spill is probably exponentially higher, and potentially as much as 8 million or more gallons of oil that are present on these vessels, the potential environmental problems could be significant.

One of the things—this goes back to Delegate Cox's remark about spending money to prevent an oil spill rather than cleaning up an oil spill. There is a lot more emphasis now on pollution prevention rather than pollution control. One of the things we would hope that you would take a look at is the Oil Spill Liability Trust Fund, which is a fund that is available for cleaning up oil spills, but if you connect that to a section of the Clean Water Act on oil and hazardous substance liability, it does look to us—I'm not an attorney, but it does look to us like there is an opportunity that if there is a substantial threat of a discharge of oil or hazardous substances from a vessel that there is the opportunity to access this fund, that the President shall direct all Federal, State, and private actions to remove or mitigate to protect from the threat of such a discharge.

It may not have been in the past. We understand that the EPA may not have been receptive to that suggestion previously, but it does look like the authority is there perhaps, and that might be an alternative for preventing pollution from this fleet. If not, if for some reason that is not accessible, then we certainly urge you to look at all of the potential funding sources from the Federal budget

that could be used to clean this—to remove this threat from the James River as quickly as possible.

We're acutely aware of the magnitude of the James River Reserve Fleet and what threat that presents to the James River estuary and its abundant resources. We really would hope the reserve fleet would not become an aquatic brown field or a floating Superfund site, and so in order to prevent that we would hope that every effort would be made to prevent a catastrophe from the site, but when we looked at it, thinking about what if this were—as Mayor Frank was saying, what if this were someone other than the Federal Government, it does seem the threat could be as high as a Superfund site or some radical sites in the country.

We applaud your efforts. Thank you for the opportunity to be here and draw attention to this, and if there's anything we can do to help you with this endeavor, we'll be happy to do that, too. Thank you.

Senator ALLEN. Thank you, Ms. Jackson. Thank you for your ideas. We'll check some of those out. I've not considered a floating junkyard. That's what it would be, something like that, obviously on water.

Have you had a chance, Ms. Jackson—and any of you all can comment. Some of you already have. Have you reviewed the Maritime Administration's plan for disposal of these obsolete vessels? If you haven't reviewed it, you heard Captain Schubert on what they are developing and what their plans were and trying to meet this statutory goal of disposing or handling all of this as best they can by 2006. What is your view? Do you think that the—does it sound reasonable to you?

Ms. JACKSON. It does. I think that prior to today we certainly had misgivings about the ability of MARAD to move forward as quickly in order to meet that 2006 deadline, particularly because we're 2 years or more into that schedule without having a significant number of the vessels removed. I think Captain Schubert's remarks this morning are encouraging, but it does look like we are still going to need another \$50 million just on the James River Reserve Fleet if it's about a million dollars per ship to remove the additional obsolete vessels. And how that can be done in the next 3 years—I think we would certainly be interested in knowing what the specific plans would be for that.

It sounds like if they have the funding and the market is creative for more opportunities for scrapping that those two things can go hand in hand and they could meet the deadline, or I would think come fairly close to it. So, that is encouraging.

Senator ALLEN. Thank you. Do you have any—

Congresswoman DAVIS. I just want to say something on what we heard from Mr. Paylor, and I think you alluded to it too, Ms. Jackson, on taking the oil off the ships. That's something I talked to Secretary Murphy about last year. The concern as I understand it from MARAD—if I can get a nod from them if I'm correct on this—just removing the oil does not take away the environmental danger, because it will still be oil residue left in the tanks. So, you could still get a pinhole leak, still have the same problems with the oil spill, and I think it is estimated roughly about \$40 million just to remove the oil from the ships.

Had we taken the \$31 million to remove the oil, we wouldn't have accomplished anything, other than maybe wouldn't have as much oil spill, but still have the environmental danger, as well the PCB, asbestos, and other problems.

So, I think MARAD's doing the best that they can do with the dollars that we and the Federal Government have given them, and I think it's a shame the Federal Government gets by with what they do. Who polices us?

Senator ALLEN. We do, the board of directors.

Congresswoman DAVIS. The board of directors. The only thing I can tell you is you have our word—I wake up every morning worried I'm going to see something in the headlines. That's one of the reasons I work on this as hard as I do. I don't want it to be on my watch, either.

Delegate Cox, I enjoyed working with you on the Chesapeake committee when—it didn't have that fancy title when I was there. My office will certainly keep in better touch with you. I apologize for that.

Senator ALLEN. Mayor Frank?

Mr. FRANK. I appreciate the question. I think it's a good plan. I have had an opportunity to look at it. Plans are plans. This is a time bomb. The risk is—as the Congresswoman says, we all have a fear of waking up one morning or going home one evening and turning on the news and finding there is a disaster, which is why I departed from my prepared remarks in talking about money for maintenance and security, because while the plan goes forward to dismantle these ships, I think there needs to be—you can't pump the oil out, if that is an issue, certainly making sure those things are maintained in a way and secured in a way that minimizes the risk until the plan can be implemented I think is critically important.

None of us want to see a disaster out there, nobody working on this, nobody cognizant of the issues. Everybody has a different approach, perhaps, to what works best and the most cost effective way. If disaster strikes, the cost is going to be the least of the issues. Right now I think that the critical piece is, again, making sure that we are maintaining these things and protecting them in a way that gives the most possible security while the plan is implemented.

Congresswoman DAVIS. If I might, I think, if I'm not mistaken, when I was out touring the ships the last time MARAD was working on resecuring or reanchoring or mooring the ships with better—so the security is—I'm getting a nod of yes. I think they are working on that as far as securing them.

Mr. FRANK. I was using security in a broader sense than that. I'm really talking about the environmental piece of the vessels, not just they might float off or come loose, although that is a critical issue. That oil is a huge risk. Everybody knows it. It's not news, it's just how you deal with it. You know, I know the State's position is: Pump it out. I know MARAD's position is: That doesn't work.

I'm saying that you can't ignore maintaining those ships because next year they are going to get towed out of here and dismantled. We may not have until next year.

Senator ALLEN. Agreed. Let me conclude this panel with this fact: They do spend millions of dollars on maintenance and administration of this. Everything that everyone of this panel has said is exactly correct. I was looking at the overview. This is an example: 1999, they spent \$5.2 million in Fiscal Year 1999 to maintain the vessels. Maintenance performed by the Maritime Administration on these vessels is just enough to keep them afloat. In some cases it's done on an emergency basis. According the inspector general of the Department of Transportation, the Maritime Administration spent \$1.3 million just to keep one vessel afloat over a two-year period.

Now, using common sense, if you get this money to get these things disposed of and scrapped, you're going to save a whole lot of money, while also not obviously having to worry about the expense of maintenance issues. So, both need to be a concern. Maintenance, but the key focus and goal is getting across the goal line, and that is getting the ships out of this river, whether it's done domestically, overseas. Get them out of this river, and get them properly disposed in an environmentally sound way.

That's what has not been being done until really this year. There's been a hiatus of neglect, and spending millions of dollars on a lot of maintenance keeping something afloat that—

Mr. FRANK. I couldn't agree with you more, Senator.

Senator ALLEN. That is the approach we need to take. I thank you, this panel. Before you leave, I noticed Captain Rusty Mullane. Do you all have the capability to do anything here?

Mr. MULLANE. Yes, Senator.

Senator ALLEN. You have 60 seconds.

Mr. MULLANE. We are a ship scrapping and reefing concern based in Chesapeake. I want to take the time out to say that the reefing is an excellent idea for a lot of the ships. There are some ships in the fleet that aren't any good for reefs, but there is a lot of financial gain to be had by reefing. There was a study in Broward County, Florida in the year 2000 that showed in Broward County their reefs brought in \$2 billion—that's billion with a "b"—into their economy in the year 2000.

We stand prepared to help with this fleet and dispose of it in any way. Thank you.

Senator ALLEN. Thank you very much. That idea of economic gain certainly had both of Secretary Paylor's eyebrows raised. With that, I want to—yes, sir. Did you have some pressing comments you wanted to make back there?

Mr. PAUL. Yes, sir.

Senator ALLEN. You have 60 seconds.

Mr. PAUL. My name is Peter Paul. I'm an Engineering Analyst with the Department of Defense at Fort Lee. Two-and-a-half years ago I founded a group called the Memorial Reef Foundation with the express purpose of coordinating a memorial and seeing to it that these ships are remediated as quickly as possible.

About a year-and-a-half ago we conducted a meeting at the Atlantic State Marine Fisheries Commission under the auspices of the State of Virginia, the VMRC office here in Newport News to make that happen. We gathered together the combined brain power of most of the people in this room, including agency representa-

tives, the Corps of Engineers. MARAD was there, plus the state and others. I hope not to omit too many here at the moment.

We came to the unanimous conclusion that in principal reefing was the way to go. We have heard that sort of addressed here, but not quite. When you talk about money—and I've been notoriously frugal at expending government money since I'm in charge of some of it. The idea that it could be less expensive to tow a ship for two or three thousand miles, and to tow 50 to a site off the coast of Virginia and lose the economic gain, as has been mentioned earlier, plus remediate the ships to a lower standards than the EPA now already recognizes in the REEFEX and SINKEX program doesn't make sense to me.

The standards for deep water sinking defined in temperate Atlantic waters of 100 feet or more, which already exists. You have the reef site called the Triangle Reef area is there. The standards of the EPA mandates today under those Navy programs are lower than the standard required to convert that material to human use in any form, the two different numbers. The numbers are substantial.

MARAD know this, and so does everyone else involved in this as intensively as I have. You heard the number \$300,000—I believe Captain Schubert mentioned earlier—to 500- for doing a sinking exercise versus a scrapping exercise. That's not an insignificant number times 130 ships.

Costs, location, distance, all of that dovetails with the expediency. If we can do one and we don't have to clean it up as much as we would have to clean it up for human use, you would think we could move more ships more quickly by keeping them local or Atlantic, and doing it as a reef and all the benefits that garners for the marine environment, which is my interest in this.

It seems to me we have the opportunity in front of us to make everybody a winner, including the United States Navy, which is a rare opportunity when industry, the environmentalists, and the Navy can all dovetail and say: Yes, this is win/win.

Senator ALLEN. We love the Navy.

Mr. PAUL. The Navy saw an opportunity at my suggestion that we use these ships as live-fire target objects. That is one of the options if you—they don't get this opportunity, as we witnessed in Puerto Rico, very often.

The public, as witnessed by the article that was written up on this proposal in the Pilot was 100 percent for this. There is no backlash within the community as far as the environment goes. They are for it, because of the lack of reef structure offshore Virginia that this would in some sense improve.

Senator ALLEN. Thank you, sir. You have only 1 second left.

Mr. PAUL. Sorry.

Senator ALLEN. Do you have something in writing?

Mr. PAUL. Tons of it, sir.

Senator ALLEN. No, do you have—

Mr. PAUL. I have my prepared remarks, which I totally ignored.

Senator ALLEN. Of course. If anybody has any other evidence you want to put into the record—while this is not a town meeting as such, I see folks here who I know care about it. I want to get your input, but if you have anything in writing. I already have the let-

ters from Bay Bridge Enterprises. Give that to us. I know Delegate Diamonstein has also written to me.

Mr. PAUL. I would have dressed less casually had I known this was a formal hearing.

Senator ALLEN. Who cares? Who cares? It's hot and sweaty. Again, I want to conclude this, but thanking everyone for attending, thanking all the witnesses, administrator, Captain Schubert, thank you. We're all going to work together with you at the local, State, executive, legislative levels to get the job done. Again, thank you all so much. Hearing adjourned.

[Whereupon, at 12:47 p.m. the hearing was adjourned.]

