

WEDNESDAY, MARCH 13, 2013.

**RELATED AGENCIES HEARING**

**WITNESSES**

**MAX CLELAND, AMERICAN BATTLE MONUMENTS COMMISSION**

**KATHRYN A. CONDON, EXECUTIVE DIRECTOR, ARMY NATIONAL CEMETERIES**

**BRUCE KASOLD, CHIEF JUDGE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS**

**STEVE McMANUS, CHIEF OPERATING OFFICER, ARMED FORCES RETIREMENT HOME**

Mr. CULBERSON [presiding]. [Off mike.]

**RANKING MEMBER OPENING STATEMENT**

Mr. BISHOP. Thank you very much. Today we are glad to be here.

And we have appearing before us a true American hero, and a friend of long standing, my good friend, Secretary Max Cleland. We go way, way, way back to our Georgia political days, and glad to have him here and to welcome him to the committee again.

In addition, of course, today marks the last appearance of Ms. Kathryn Condon. She has decided after 25 years to retire.

I have to tell you, we just need to say thank you for your service. And I trust and I assure you that your successor will have some big shoes to fill.

Judge Kasold and Mr. McManus, it is good to have you here, as well.

As you are aware, March 1st marked the beginning of the sequester, which CBO predicts will reduce the GDP by 0.6 percentage points and estimates that up to 1.4 million jobs are at stake if the sequestration is fully implemented. In addition, to CBO, the George Mason University study predicts that it could be as many as 2.14 million jobs lost.

Sequestration was included in the Budget Control Act to force Republicans and Democrats to work together to resolve the fiscal problems, and we have, of course, already heard from the service chiefs regarding how sequestration will affect the national defense. Today we get to hear from you as to how it will affect the agencies charged with preserving the legacy, whether in gravesites at Arlington or on monuments across the world.

I have said numerous times, Mr. Chairman, that there is no question that we have to cut the deficit, but it needs to be done in a balanced, thoughtful way that protects investments, protects the middle class, and it doesn't jeopardize our national priorities. Look forward to the witnesses' thoughts today and I thank you, Mr. Chairman, for allowing me to have those few words.

And I yield back.

## CHAIRMAN OPENING STATEMENT

Mr. CULBERSON. Thank you, Mr. Bishop. It is a privilege to serve with you.

And also want to be sure to also thank you, Ms. Condon, for your service and wish you all the very best in your retirement. I know you are looking forward to getting to spend a little more time with your family. It is always a blessing.

We deeply appreciate your being here. Thank you so very much. I want to be sure to, if I could, to introduce each one of you for the record.

The Honorable Max Cleland was appointed as secretary of American Battle Monuments in June 2009.

Sir, I am delighted to have you here, and thank you for your service to the country in uniform and as a member of the executive branch. Deeply appreciate your service.

Ms. Kathryn Condon has been executive director of the Army National Military Cemeteries since June of 2010.

And again, our very best wishes to you, and thank you so very much.

Judge Bruce Kasold has been chief judge of the United States Court of Appeals for Veterans Claims since August of 2010.

We thank you, sir, for your service and for being here today.

And Mr. Steve McManus has recently assumed the role of chief operating officer for the Armed Forces Retirement Home on September 25th of 2011.

We deeply appreciate your presence today and your testimony. Without objection, your written statements will be entered into the record.

We have a bit of a complication in that, of course, right when we start they have called a vote, and I think there are going to be a couple of votes, I believe—three. So forgive us, but we will probably go until we get right to the tail end of this vote and then we should probably head down and go vote and then—so we will briefly—if we could, we wanted to get started.

I ask you to each briefly summarize your statements. We will run down and go take care of these votes and as soon as Sanford and I finish that and start on that third vote we will come back up and reconvene. But we will recess briefly.

Thank you very much, and at this time we welcome each one of your statements. And without objection, your written statements will, of course, be entered into the record. Thank you very much.

Mr. CLELAND. Yes, sir. Thank you very much.

Mr. CULBERSON. Thank you.

[Off mike.]

## SECRETARY CLELAND OPENING STATEMENT

Mr. CLELAND [continuing]. Vietnam battle maps at the Honolulu Memorial. The Punchbowl Cemetery is run by the Veterans Administration.

The American Battle Monuments Commission runs a memorial in honor of the missing in the Nimitz Theater of Operations in the Pacific from Honolulu to the Mariana Islands. We have there the names of 18,000 missing in World War II and the World War II

battle maps, showing the battles in the Pacific. We have the names of 5,000 missing from the Korean War and the battle maps.

We have the names of 2,500 missing, but 800 of which have been identified through new DNA studies. But we also now have, since Veterans Day of last year, the battle maps. So that memorial is complete.

In terms of the Pacific also, later this year, hopefully in time for the celebration of the 60th anniversary of the Korean truce, and although North Korea has said maybe that truth doesn't—truce doesn't apply to them very much—they have said that before—nevertheless, the 60th anniversary of the truce was a key moment in the Korean War. We hope to be able to dedicate in the United Nations Cemetery in Pusan, Korea, the only cemetery that they run in the world, an American memorial.

There were 11 nations that fought the Korean War. Ten of them have memorials; we don't have one, in terms of the United States. So that was called to our attention by an individual a few years ago and by the U.S. embassy there. We hope to dedicate that memorial this year.

In terms of the Pacific some more, Manila is our big Normandy of the Pacific—17,000 graves there, and thousands of names of the missing, from the MacArthur effort in Guadalcanal, New Guinea, and up to the Philippines. So he had his area of operations; Nimitz had his area of operations. So in Manila we have the Normandy of the Pacific.

We have completed the master plan for Manila and for the four sites in the Pacific that we maintain memorials—Saipan; Guadalcanal; Papua, New Guinea; and one other, Cabanatuan. So we are upgrading our sites in the Pacific and really looking at how to make that Manila Cemetery really permanent.

In the Manila area we have squatters that sometimes come into our area. It is, after all, Asia. So we are putting a permanent wall around our property there—formerly Fort McKinley, formerly an Army post.

Now, in terms of telling the story worldwide, we are going into the social media world, as I mentioned, with the Pointe du Hoc app. We are redesigning our Web site and we are able to tell the story now more and more effectively worldwide.

Now, the real challenge for us coming up is Clark. The Congress gave the American Battle Monuments Commission Clark Cemetery. Clark Cemetery was an old Army cemetery and then later an Air Force cemetery at what became known as Clark Air Base. I flew through Clark en route to Vietnam.

But with the Philippine government in effect kicking the United States out of the Philippines, that cemetery was abandoned. Then you have an eruption of a volcano nearby which dumped a massive amount of ash on those gravesites—about 8,000 of them.

They are not necessarily war-dead. They are civilians; they are children; there are all kind of people buried there over the last 100 years or so. Now, there is one war-dead there from Iraq because the father chose to bury the son there, but we are hard-pressed to really get at what is there because there are no records. We have no records. We are going in there cold.

We have been given the mission by the Congress to take over Clark Air—Clark—what used to be Clark Air Base Cemetery. We have been given that mission. We have been authorized by the Congress \$5 million but none—no money has been appropriated.

So we will be doing a study to find out how much it will cost to basically just cut the grass, pick up the trash, deal with making it somewhat presentable. Veterans still will be responsible for any burials that they do there.

So we will be running that cemetery out of Manila. We won't be putting a superintendent there. It won't look like an American Battle Monuments Commission cemetery anywhere else in the world because it stands on its own and it is unique, and so we can't expect it to be another Normandy of the Pacific. But we will clean it up and make it as presentable as humanly possible.

That is basically our issues, Mr. Chairman. Most of them are good issues and we can do our business with the budget issues facing the Congress.

[The information follows:]

**The Honorable Max Cleland  
Secretary  
American Battle Monuments Commission**

Biography

A former United States Senator and youngest-ever Administrator of the U.S. Veterans Administration, Max Cleland has been a distinguished public servant for nearly 50 years.

Born and raised in Lithonia, Georgia, Cleland received the Atlanta Journal Cup as the most outstanding graduate in the class of 1960 at Lithonia High School. He later attended the Washington Semester Program at American University where he was inspired to enter public service. In 1964, he earned his B.A. degree from Stetson University and received a Second Lieutenant's Commission in the U.S. Army through its ROTC program. Cleland holds a Masters Degree in American history from Emory University. Both Stetson and Emory have awarded him honorary doctorate degrees.

In 1967, Cleland volunteered for service in the Vietnam War and was promoted to Army Captain. Seriously wounded in combat in 1968, he was awarded both the Bronze Star for meritorious service and the Silver Star for gallantry in action.

In 1970, Cleland was elected to the Georgia Senate where he was the youngest member of that body and the only Vietnam veteran. He was re-elected to the State Senate in 1972. There he authored and helped to enact into law legislation which for the first time made public facilities in Georgia accessible to the elderly and handicapped.

In 1974, Cleland lost his race for Lieutenant Governor of Georgia. The following year he was appointed to the staff of the U.S. Senate Veterans Affairs Committee, where he investigated hospitals in the Veterans Administration health care system and their treatment of wounded U.S. troops returning from Vietnam.

Appointed in 1977 by President Jimmy Carter to head the Veterans Administration, Cleland managed the largest health care system in the country. As the nation's youngest VA Administrator ever and the first Vietnam veteran to head the department, Cleland created the Vet Center counseling program. Today over 300 Vet Centers across America help veterans and their families deal with post-traumatic stress disorders and associated problems.

The Institute for Public Service, in 1977, awarded Cleland the Thomas Jefferson Award, which is given to an American under the age of 35 who makes the greatest contribution to public service. The following year Cleland received the Neal Pike Prize

from Boston University for his outstanding contributions to the rehabilitation of disabled veterans.

In 1982, Cleland won election as Georgia's youngest Secretary of State and served in that office for 12 years. In 1996, he was elected to succeed Sam Nunn in the United States Senate. Cleland held the seat on the Senate Armed Services Committee which was previously occupied by Nunn and Senator Richard Russell.

As a member of the Armed Services Committee, Cleland was a forceful advocate for veterans and for a strong national defense. He successfully fought to improve some of the Department of Defense's most pressing personnel needs, including recruiting and retention, pay and compensation, reform of the military retirement system and health care. Because of Max Cleland's efforts, servicemen and women who choose not to use their GI bill educational benefits can now pass those benefits on to their children. In 2000, Cleland was selected by the Reserve Officers Association to receive the group's Minute Man of the Year Award, which is presented annually to "the citizen who has contributed most to National Security during these times."

After his defeat for re-election in 2002, Cleland was appointed to the 9-11 Commission to study the circumstances surrounding the September 11, 2001 terrorist attacks and to recommend safeguards against future attacks. While a member of the Commission, Cleland served as an adjunct professor in Political Science on the Washington Semester Program at American University. In late 2003, he was appointed to be a member of the Board of Directors for the Export-Import Bank of the United States, where he served for three and a half years.

On June 3, 2009, President Obama appointed Cleland as Secretary of the American Battle Monuments Commission, managing 24 cemeteries overseas where fallen American troops from World War I and World War II are memorialized.

Cleland is the author of three books: *Strong at the Broken Places*; *Going for the Max: 12 Principles for Living Life to the Fullest*; and *Heart of a Patriot*.

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**WRITTEN STATEMENT  
OF  
MAX CLELAND  
SECRETARY  
AMERICAN BATTLE MONUMENTS COMMISSION  
BEFORE  
THE SUBCOMMITTEE  
ON  
MILITARY CONSTRUCTION AND VETERANS AFFAIRS  
COMMITTEE ON APPROPRIATIONS  
U.S. HOUSE OF REPRESENTATIVES  
March 13, 2013**

## Introduction

Mr. Chairman and Members of the Subcommittee...

Thank you for this opportunity to discuss the mission, operations and programs of the American Battle Monuments Commission (ABMC).

As has been my practice, I begin with a statement that serves as the foundational vision for all that we do:

*Time will not dim the glory of their deeds*

These words of our first chairman, General of the Armies John J. Pershing, speak eloquently to the Commission's purpose since its creation in 1923—to honor our Nation's fallen overseas, at sites entrusted to our care by the American people.

With the exception of three memorials on U.S. soil, all of our commemorative sites are located overseas. We do not maintain cemeteries in the United States—that mission falls primarily to the VA's National Cemetery Administration. There is an important distinction between the missions of our two agencies—the NCA provides burial benefits to veterans; ABMC honors the service, achievements and sacrifice of United States armed forces.

ABMC's core mission is commemoration – honoring service and sacrifice by maintaining magnificent shrines to our Nation's war dead and preserving their stories, so that the glory of their deeds is not diminished by the passage of time.

ABMC administers 24 cemeteries and 25 memorials worldwide. Normandy is our best known and most visited cemetery, benefitting from its association with D-Day and its inspirational location on a bluff overlooking Omaha Beach.

Eight of our cemeteries are World War I era sites. Meuse-Argonne is our largest cemetery in Europe, with more than 14,000 burials resulting from the Meuse-Argonne campaign, which led to the Armistice ending the war. It is the largest battle fought in our Nation's history.

Fourteen cemeteries are associated with World War II. The largest, Manila American Cemetery, holds the remains of more than 17,000 war dead, with another 36,000 names inscribed on Tablets of the Missing. At present, Manila is our only cemetery in the Pacific.

Our other two cemeteries—Corozal American Cemetery in Panama and Mexico City National Cemetery—have origins in the building, operation and defense of the Panama Canal, and in the Mexican War. All of our cemeteries except Corozal are closed to future burials except for the remains of U.S. war dead discovered in World War I and World War II battle areas.



Of the 25 federal monuments that we maintain worldwide, three are in the U.S. – the Honolulu Memorial, the West Coast Memorial in San Francisco, and the East Coast Memorial in New York City. The other 22 are located in 14 foreign countries, the U.S. Commonwealth of the Northern Mariana Islands, and the British dependency of Gibraltar.

We execute our mission by maintaining these commemorative sites to an unparalleled standard of excellence, and by providing historical context for why our monuments and cemeteries were established, why those memorialized within them died, and the values for which they died.

### **Telling Their Story**

Maintaining our monuments and cemeteries is our core mission and top priority. But we also have a responsibility to tell the stories of those we honor.

#### **HONOLULU MEMORIAL**

On November 11, 2012, during the Veterans Day Ceremony at the National Memorial Cemetery of the Pacific – the Punchbowl – ABMC dedicated Vietnam Battle Maps that now complete the story told at our Honolulu Memorial. While the cemetery is maintained by the Department of Veterans Affairs, the Honolulu Memorial is one of the 25 memorials that ABMC maintains worldwide.

When the memorial was built in the 1960s, it included Battle Maps and Courts of the Missing commemorating World War II in the Pacific and the Korean War. In the 1980's, while serving as the Administrator of the Veterans Administration, I asked ABMC to add Vietnam War Courts of the Missing to the memorial. ABMC honored this request, but battle maps commemorating the war were not part of that project.

That oversight is now corrected, and those Americans who served during the Vietnam War are appropriately honored at our most visited memorial. We believe this is the only memorial tribute to our Vietnam veterans paid for with Federal funds.

The message of the memorial is expressed in the haunting words of the poet Archibald MacLeish, words now inscribed on the outside stone face of the Vietnam Pavilion:

*We Leave You Our Deaths  
Give Them Their Meaning*

The Vietnam Battle Maps are just part of the extensive restoration and renovation work completed and planned at the Honolulu Memorial. With 2010 and 2011 funding we added lifts to make all of the Courts of the Missing accessible, and additional renovation and repair was funded in 2012 and is planned for 2013.

## VISITOR CENTER PROJECTS

In Europe, we have three visitor center projects under construction: at Cambridge American Cemetery in England, at Sicily-Rome American Cemetery in Italy, and at the Pointe du Hoc Ranger Monument in France. All will be completed this year, enhancing the visitor experience at these sites.

We recognize our responsibility to program our interpretive efforts to fiscal and visitation realities. None of these three sites have the visitation of Normandy American Cemetery, which receives one million visitors annually. But Pointe du Hoc receives nearly 500,000 visitors a year, benefiting from its proximity to Normandy; likewise, the proximity of Cambridge and Sicily-Rome to major tourism cities provides visitation growth potential that their new visitor centers can capture.

## WEBSITE AND MOBILE APPS

Most of our cemeteries, however, receive far fewer visitors. To better tell their stories to a broader audience we have been turning to technology.

Our first mobile app—a tour of the Pointe du Hoc battlefield—was released in December; a web version should be launched later this month. Our long-term objective is to produce apps and virtual tours for all of our sites, so we can bring these national historic assets to life on our website and in our classrooms.

Our website is undergoing a complete redesign, with more robust educational resources planned. We expect to go live with the new website by Memorial Day.

Concurrently, we are working to form partnerships with the education community. Our objective is to develop curricula that matches content based on military campaigns to core standards used in our school systems – all in keeping with our foundational vision that “Time Will Not Dim the Glory of Their Deeds.” With the approaching Centennial of World War I, our initial focus will be on World War I curricula.

**Pacific Memorials**

Turning to the Pacific, there are several projects underway that deserve mention.

## UN CEMETERY MEMORIAL IN KOREA

The only United Nations cemetery in the world is located in Pusan, Korea. Eleven countries have members of their armed forces interred at the cemetery, including the United States. Most of those nations have memorials in the cemetery honoring their armed forces—the U.S. does not. We are fixing that.

Last fall, the design of the monument was approved. We will begin construction this spring and plan to dedicate the monument in July on the 60<sup>th</sup> Anniversary of the signing of the Korean War armistice. It will be a long overdue tribute to those Americans who fought and died during "the forgotten war," built on land they helped defend.

#### THE PHILIPPINES

We have a long term plan to bring Manila American Cemetery and the Pacific Memorials up to ABMC standards. Master plans for the cemetery and four memorials are complete and under review. With fiscal year 2013 funding, we are addressing encroachment issues at the cemetery and renovating the Cabanatuan Memorial.

To protect the cemetery and address security concerns, the Commission is replacing the current chain link fence, which defines the border, with a robust perimeter wall. Unless marked by a substantial "permanent" wall, local culture ascribes a "temporary" definition to the boundary that will continue to subject our commemorative site to degradation by such intrusions as local highway projects, development, and squatters.

The memorial at the site of the Cabanatuan Prison Camp honors those who died during internment in the Second World War. The Commission accepted responsibility for its operation and maintenance in 1989. The renovation includes replacing and upgrading cladding materials, addressing deficiencies in the memorial text, and making site improvements.

#### WEST COAST MEMORIAL

The West Coast Memorial on the grounds of the Presidio overlooking the entrance to San Francisco Bay was erected in memory of those who died in the American coastal waters of the Pacific Ocean during World War II. A project to address *Americans with Disabilities Act* upgrades and landscaping improvements is underway and should be completed by Memorial Day.

#### Clark Cemetery

Public Law 112-260, the *Dignified Burial and Other Veterans' Benefits Improvement Act of 2012*, authorizes ABMC to restore, operate and maintain Clark Veterans Cemetery in the Philippines. As required by law, the U.S. Government is negotiating an agreement with the Philippine Government to allow ABMC to begin maintaining the cemetery.

If and when such an agreement is reached, we intend to use existing funds to—

- begin minimum maintenance with crew from our Manila cemetery, about an hour from Clark, and
- contract for a full assessment of the site to determine restoration and annual maintenance requirements.

The Congress authorized \$5 million for restoration and amounts necessary to operate and maintain the cemetery. This may be insufficient for a cemetery that is partially covered in volcanic ash and may have other unknown infrastructure issues. However, we have no prior involvement at this cemetery, so we are not able to estimate the true costs until we complete a comprehensive site assessment.

We again applaud the dedicated efforts of U.S. veterans in the Philippines who have been maintaining Clark cemetery for many years. The mission has now been assigned to ABMC. We will work toward executing that mission when an agreement allowing us to do so has been reached with the Philippine Government.

### **Sequestration**

Under sequestration guidance, ABMC's budget authority of \$77.1 million is subject to a 5 percent reduction - \$3.9 million - which would leave us with a budget authority of \$73.2 million.

The President's budget for fiscal year 2013 requested \$3.5 million less than fiscal year 2012 - from \$77.1 million to \$73.6 million. The Commission has been operating at the lower, requested level, which is consistent with planned operations. Assuming the current Continuing Resolution funding levels remain in effect through September, the actual operational impact of sequestration is \$400,000.

Our mission is to ensure that our commemorative cemeteries and memorials remain fitting shrines to those who have served our Nation. In meeting the requirements of sequestration, the Commission is not planning to furlough staff - staff that maintains our cemeteries to the highest standards that reflect this Nation's core values - staff that keeps our grass green and our headstones white.

The majority of reductions will come from areas with the least impact on cemetery operations.

### **Conclusion**

The essence of the Commission's mission success does not change from year to year: keep the headstones white; keep the grass green; and tell the story of those we honor.

With the support of the Administration and the Congress, we will continue to ensure that the Commission's overseas shrines to American service and sacrifice remain unparalleled in their beauty, reflecting our Nation's willingness to sacrifice to protect our freedoms and the freedoms of others, and our Nation's commitment to honoring those who made that sacrifice on our behalf.

Mr. Chairman, Members of the Subcommittee, as always I invite you to visit these inspirational sites during your overseas travels. You will never forget the experience. Thank you for allowing me to present this summary of our mission, operations and programs.

Mr. CULBERSON. Thank you. Thank you very much, Mr. Secretary.

I know we will have some questions, but in order to—we will go ahead and proceed, Ms. Condon, with your statement, please? Thank you very much.

#### MS. CONDON OPENING STATEMENT

Ms. CONDON. Chairman Culberson and Ranking Member Bishop, I want to personally thank you and, in particular, the members of the committee and your staff for the continued support that you have given Arlington National Cemetery in the last 2 years and the support to me personally. Rest assured, long gone are the typewriters, the three-by-five index cards, and the paper maps that were reported in the past. Today, less than 2 years, we are the first national cemetery to geo-spatially manage our cemetery operations.

Arlington has achieved, as directed by Congress, the baseline accountability of its burial records, and we have created a single, verifiable, and authoritative database. In this, literally we can document everyone who is buried at the cemetery.

And this database is now linked to our digital mapping system, so now we assign, manage, and track all of our gravesites digitally. We are no longer using paper.

With leadership, proper equipment, established standards, training, and holding people accountable for standards, have made all the difference at Arlington, and we are extremely proud of what we have accomplished in the last 3 years. We have changed our acquisition and procurement processes and procedures to be not only good stewards of the dollars that this Congress gives us, but to remain compliant with all regulations, which was an issue in the past.

We have implemented energy, sustainability, and environmental initiatives that enhance our natural green space at Arlington. And by leveraging technology we have launched ANC Explorer, and that is the free, Web-based application that allows families and the public to locate gravesites, events, and other points of interest throughout the cemetery. It generates a photo of the front and back of everyone buried at Arlington and it actually gives you directions on how to get to that gravesite.

And with the great support of this committee, in less than 2 years we not only broke ground but we have built the ninth columbarium court, and increasing our niche space in the cemetery by 20,249 niches. And the good news is we are going to dedicate the columbarium on the 9th of May, so I want you all to hold that date because you will be getting invitations to attend that.

Yet, like most federal organizations, I am very concerned for Arlington's immediate and long-term operational future due to the fiscal uncertainty that we face as the result of both the continuing resolutions and the sequestration designated by the Budget Control Act of 2011. In the event of a full-year continuing resolution, our funding will be reduced to \$45.8 million.

Our President's fiscal year 2013 budget request, as you know, was \$173.8 million, and operating under a C.R. would drop our budget by \$103 million. And what that would mean is we would not be able to start the expansion projects for the future burials of

our veterans, and it also will not be able to fund the \$25 million that we requested for backlog of maintenance and repair.

Due to sequestration, our—Arlington National Cemetery's funding will be reduced by an additional 5 percent of our continuing resolution level. We can absorb that sequestration amount this fiscal year, but if that sequestration amount goes against our budget for the continuing years following that it will impact burial operations at Arlington National Cemetery.

But the decision was finally made to the good news that all of the staff that we have paid out of the cemeterial account Army will not be furloughed, so what that means is that will not delay burials at Arlington, as was previously reported. We just got that news that we would not have to furlough our staff.

I could not be more proud of the Arlington staff. All are committed to sustain the sacred trust that we have recently reclaimed. And despite the challenges of sequestration and the continuing resolution, we can assure the Nation of this, that burial services at Arlington will continue to be conducted with honor and dignity, and we remain focused from here on forward to improve our service to our veterans and their families.

Thank you and I look forward to your questions.

[The information follows:]



## Biography

Department of the Army



### Kathryn A. Condon

Executive Director  
Army National Cemeteries Program  
Office of the Secretary of the Army  
Arlington National Cemetery  
Arlington, VA



Ms. Kathryn A. Condon was selected for the Senior Executive Service in September 1997. She became the Executive Director of the Army National Cemeteries Program on June 10, 2010. As the Executive Director, she exercises authority, direction and control over all aspects of the Army National Cemeteries Program. In this capacity, she is responsible for both long-term planning and day-to-day administration and operations of Arlington National Cemetery and the U.S. Soldiers' and Airmen's Home National Cemetery.

Prior to this assignment, Ms. Condon served as the Special Assistant to the Under Secretary of the Army. As the principal planning advisor to the Under Secretary of the Army, Ms. Condon was responsible for researching, analyzing, and developing recommendations on national security and Army strategic issues and trends. From September 2006 to September 2009, Ms. Condon served as the civilian Deputy to the Commanding General, U.S. Army Materiel Command. As the senior civilian for the Army Materiel Command, she oversaw one of the largest commands in the Army, with more than 50,000 employees in 149 locations worldwide, including more than 40 states and 38 countries.

From June 2003 until September 2006, Ms. Condon served as the first civilian Assistant Deputy Chief of Staff for Operations, G-3/5/7 on the Army Staff. Prior to that assignment, she was the Interagency Coordinator for Military Support to Civil Authorities, Office of the Secretary of the Army, Washington, D.C. from November 2000 through May 2003. Her initial Senior Executive assignment, from September 1997 through October 2000 was the Special Assistant for Resources and Military Support in the Office of the Assistant Secretary of the Army (Installations and Environment), Washington, D.C.

#### CAREER CHRONOLOGY:

- Mar 1994 – Aug 1997: Assistant for Program Analysis and Acting Deputy for Program Analysis and Installation Assistance, Office of the Assistant Secretary of the Army (Installations, Logistics, and Environment), Washington, DC

- Jul 1993 – Feb 1994: Program Analyst, Office of the Assistant Chief of Staff for Installation Management, Washington, DC
- Feb 1989 – Jun 1993: Program Analyst and Management Analyst, Office of the Chief of Staff of the Army – Management Directorate, Washington, DC
- Nov 1988 – Jan 1989: Management Analyst, Secretary of Defense Base Realignment and Closure Commission, Washington, DC
- Aug 1988 – Oct 1988: Program Analyst, Engineering and Housing Support Center, Fort Belvoir, VA
- Apr 1986 – Jul 1988: Management Analyst and Chief Information Support Officer, United States Military Academy, West Point, NY
- Mar 1983 – Mar 1986: Revenue Officer, Internal Revenue Office, Poughkeepsie, NY

**COLLEGE:**

- MBA, Syracuse University, Syracuse, NY
- BA, University of Rochester, Rochester, NY

**SIGNIFICANT TRAINING:**

- Army Management Staff College

**AWARDS AND HONORS:**

- Presidential Rank Award – Meritorious Executive, 2009
- General Brehon B. Somervell Medal of Excellence, 2009
- Presidential Rank Award – Distinguished Executive, 2005
- Decoration for Exceptional Civilian Service
- Meritorious Civilian Service Award
- Commander's Award for Civilian Service
- Army Achievement Medal for Civilian Service
- Outstanding Student Award from the Army Management Staff College

**PROFESSIONAL MEMBERSHIPS AND ASSOCIATIONS:**

- Association of United States Army
- American Society of Military Comptrollers



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RECORD VERSION

DEPARTMENT OF THE ARMY  
COMPLETE STATEMENT  
OF  
MS. KATHRYN A. CONDON  
EXECUTIVE DIRECTOR, ARMY NATIONAL MILITARY CEMETERIES  
BEFORE  
THE SUBCOMMITTEE ON MILITARY CONSTRUCTION, VETERANS' AFFAIRS AND  
RELATED AGENCIES  
COMMITTEE ON APPROPRIATIONS  
UNITED STATES HOUSE OF REPRESENTATIVES  
FIRST SESSION, 113TH CONGRESS

RELATED AGENCIES HEARING: ARLINGTON NATIONAL CEMETERY

MARCH 13, 2013

NOT FOR PUBLICATION  
UNTIL RELEASED BY THE  
COMMITTEE ON APPROPRIATIONS

**INTRODUCTION**

Chairman Culberson, Ranking Member Bishop and distinguished Members of the Subcommittee, thank you for the opportunity to provide an update on Arlington National Cemetery. We have worked diligently to extend and institutionalize our tremendous progress made since my last testimony before this subcommittee two years ago. We continue to implement Army processes and set industry standards for best practices, helping ensure Arlington can serve our Veterans, Families and the public in the manner they deserve. I am, however, very concerned for Arlington's immediate and long-term operational future due to the fiscal uncertainty we face.

**THE STATE OF ARLINGTON NATIONAL CEMETERY**

Mr. Chairman, through the efforts of a dedicated and talented workforce and the support of a steadfast Army, Arlington's transformation could not be more striking. Leadership, proper equipment, established standards, training, and holding people accountable for standards have made all the difference—a difference for which the workforce and I are extremely proud. We are using industry-leading, externally-validated standards and auditable business practices to maintain fiscal accountability. By the end of April 2013, we expect to complete the final phase of our authoritative data set of all gravesites at Arlington accountability process, reviewing the dispositive records, grave marker and geospatial location of each individual interred or inurned at every location. Our workforce is now trained and finally using equipment appropriate for the rolling hills and high water table of Virginia. On March 12, 2012, Arlington National

Cemetery became the first national cemetery to geospatially (digitally) manage cemetery operations. Leveraging this technology, on October 22, 2012 we also launched *ANC Explorer*. The first version of this free, web-based application allows Families and the public to locate gravesites, events or other points of interest throughout the Cemetery; generate front-and-back photos of a headstone or monument; and receive directions to these locations. With the help of the Center of Military History, we are remaining good stewards of our Nation's history: cataloguing and helping restore and preserve 44 boxes and 846 folders of maps, pictures and papers documenting almost 150 years of Arlington's history. We are also implementing initiatives to sustain our natural resources, using hybrid vehicles, building sidewalks of recycled materials, incorporating earth- and wildlife-friendly landscaping across the cemetery's 624 acres, requiring digital staffing and briefs to reduce our paper consumption, and purchasing environmentally-sensitive supplies. Most importantly, we remain committed to maintaining the chain-of-custody for all remains in our care, ensuring that a non-negotiable standard of accountability is beyond reproach for everyone resting in solemn repose at Arlington.

Major inspections over the past two years have recognized this progress. For instance, the Government Accountability Office (GAO) concluded in December 2011 that the Army had taken positive steps to address critical areas and implement improvements at Arlington. Since the GAO report was published, we have completed all ten management and contracting actions recommended, including publishing our strategic Campaign Plan, Enterprise Architecture, Organizational Inspection Program, and updated table of distribution and allowances based on the U.S. Army Manpower

Analysis Agency and U.S. Army Force Management Support Agency's manpower assessment. In line with the GAO recommendations, we have also formalized an expanded Contracting Support Element and updated our contract support agreements with all acquisition and contracting organizations supporting our operations. The September 2012 Department of the Army Inspector General's (DAIG) report, submitted in compliance with Public Law 111-339, also found that Arlington had completed or should continue its current efforts for all 45 of the subtasks the DAIG evaluated. And as the Secretary of the Army noted in his September letter to Congress, the changes "have transformed (Arlington National Cemetery) and the (Soldiers' and Airmen's Home National Cemetery) into premier institutions of excellence capable of setting the standards for federal cemeteries across the Nation."

#### **OPERATING IN A CHALLENGING FISCAL ENVIRONMENT**

As with most Federal organizations, Arlington is facing significant fiscal uncertainties from the combined impacts of the current Continuing Resolution (CR) and the Sequestration designated in the Budget Control Act of 2011. In the event of a full year CR for FY 2013, our funding will be reduced to \$45.8 million. The President's FY 2013 Budget requested \$173.8 million and 201 employees for projects in Arlington National Cemetery. A full year CR would be a \$128 million and 31 employee reduction from the Cemetery's request. Due to sequestration, Arlington National Cemetery funding is being reduced by 5% of our FY 2013 continuing resolution level. However, the good news here is that the Secretary of the Army has decided that ANC staff will not be

furloughed, so there will be no delays in burials at Arlington in contrast to previous news reports.

Within the President's FY 2013 budget, Arlington requested \$45.8 million for its base budget, plus \$103 million for expansion projects and \$25 million for critical infrastructure restoration and modernization. Our first of three expansion projects—Columbarium Court #9, extending Arlington's above-ground interments through 2024—will be dedicated on May ninth, completed in less than two years after its ground breaking. We have reached the 65% design point with the Millennium Project, and with funding we will be ready to award the contract to begin construction in September 2013. We are also prepared to begin now the planning and design for the Navy Annex, whose buildings are scheduled to be completely removed by August 2013. Once complete, the Millennium project will extend Arlington's first interment capacity through 2035; the Navy Annex, first interments through the 2050s. However, without enacted funding consistent with the President's FY 2013 budget request, Arlington cannot move forward with either expansion project.

In addition, the \$25 million requested for infrastructure restoration and modernization is needed to complete major efforts we cannot fund using our base budget. For instance, shortly after I arrived I asked the Army Environmental Command to complete two inspections of Arlington. By the end of this month, using prioritized resources we are on schedule to complete 38 of 39 Environmental Performance Assessment System (EPAS) violations they found. The final EPAS violation, though, requires over \$10.5 million to repair and upgrade the storm drainage system in nine

burial sections across the cemetery that contribute to water pollution along the Chesapeake Bay Watershed. Many of our roads are also in disrepair and crumbling after years of patching, and require replacement to allow safe operations for our ceremonial units and horses pulling the caissons, and to present the appearance required of a national shrine.

Throughout my tenure, Arlington has remained resolute to use scrupulously every dollar our Nation provided. My resource managers' meticulous efforts reconciling prior year accounts resulted in Arlington recovering over \$32.6 million, benefitting Arlington across all aspects of our mission. For instance, the Columbarium Court #9 and our Enterprise Architecture were fully funded by prior year recoveries. For burial operations, these recoveries allowed us to purchase more turf-friendly equipment, minimizing the impact of older, heavier equipment on ANC grounds and helping our workforce meet the exacting burial industry standards. These funds are enabling us to repair the John F. Kennedy Eternal Flame, ensuring this iconic memorial remains functional, safe and more energy-efficient for future generations. Recoveries have also funded critical facilities and infrastructure repair throughout the cemetery, such as rebuilding portions of Memorial Drive; replacing the Heat, Ventilation and Air Conditioning (HVAC) systems in the Welcome Center and ANC Administration Building, both which have failed over the past two summers; and repairing 2,500 linear feet of the most deteriorated 2-inch, 6-inch and 16-inch water lines throughout the cemetery. However, as we replace these water lines, water velocity through new pipes redistributes pressure across 40,000 feet of our remaining 50-year-old water lines. This

is resulting in recurring, expensive and operationally threatening floods and stoppage of water to the Tomb of the Unknowns Sentinels and others working at the cemetery.

Arlington will continue to work diligently to complete our most needed projects and repairs. However, the requested \$25 million in this fiscal year's President Budget is critical to continue with these prioritized, larger-scale efforts that our base budget simply cannot absorb. In line with my commitment to program for and request only what is needed, we are also nearing completion of our new Master Plan, last updated in 1998, which will include a Ten-Year Capitalization Plan, and we will provide that plan upon its completion.

### **Conclusion**

I could not be more proud of the men and women of Arlington who have worked tirelessly to restore the honor and dignity across every aspect of this national shrine. We continue to remain focused on improving our service to our Veterans and Families, even with the current fiscal challenges. Our unbreakable commitment to our Nation and its Veterans will remain as we complete this mission we are truly honored to have.

Mr. CULBERSON. Ms. Condon, thank you very much.  
 Judge, Mr. McManus, if we could, we need to go vote.  
 You probably already voted?

I think we are probably going to need to recess and go down. We will come back up. As soon as this third vote starts we will vote and come back up, so we will stand in recess briefly until we get back. Thank you.

[Recess.]

Mr. CULBERSON. Committee will come to order.

#### JUDGE KASOLD OPENING STATEMENT

Judge KASOLD. Thank you very much, Mr. Chairman, Ranking Member Bishop, and Mr. Farr.

In response to sequestration, we have examined our appropriations and our spending rate so far. Because of the number of positions that have not been filled—for example, we just received an appointment of a judge at the end of the last calendar year—we have enough funding so that we will not have to lay anybody off. We will have to underfund the judges' retirement fund by about \$400,000, and if that is the only year that we do that, we can adjust that and work through it. So as to sequestration this year, we do not have to have a furlough.

In handling over 4,350 appeals in fiscal year 2012, almost 200 requests for reconsideration or panel review, over 140 petitions for extraordinary relief, and almost 2,300 applications for reimbursement of attorneys fees under the Equal Access to Justice Act, as well as thousands of motions, the court remained one of the busiest federal appellate courts in the Nation. And for much of fiscal year 2012, the court performed its duties at two-thirds strength, operating with only six of our authorized nine judges. I am happy to report that with the confirmation of two new judges in the last quarter of fiscal year 2012 and the appointment of the third in the first quarter of fiscal year 2013, we are now up to full strength and positioned to be as efficient as possible.

To be sure, litigation is a time-consuming process. Once an appeal is filed, a record has to be compiled, representative parties enter into mandatory consultation, and for cases that are not resolved at that level, an appellant has 60 days to prepare a brief followed by 60 days for the secretary to file a brief and another 30 days for the appellant to reply. Thereafter, the case would be assigned to a judge, and generally they are being decided within 90 days after assignment to the judge. Panel cases, of course, take many months longer, as the issues are more complex and, therefore, time generally is allowed for oral argument and preparation.

We managed our caseload in fiscal year 2012 by recalling all of our senior judges, continuing an aggressive pre-briefing consultation program, and improving the way we process cases. Specifically, our senior judges judicially reviewed hundreds of appeals, freeing up the active judges to concentrate on deciding the more complex matters. And our central legal staff, through our mandatory pre-briefing conferencing program, consulted with the litigating parties when represented and resolved about half of those appeals by securing joint motions to remand the cases for further gathering of evidence and a new decision below.



Finally, we streamlined our internal processes for certain types of cases, reducing the number of legal memoranda prepared by the central legal staff and preparing cases for additional review, and ultimately cutting about 60 days of processing time in those appeals.

Turning to our budget, to properly fulfill our mission, the court's fiscal year 2014 budget is just under \$33 million, with an additional \$2.5 million requested on behalf of the Veterans Consortium Pro Bono Program, for a total budget request of about \$35.5 million—just under that. Since fiscal year 1997 the Legal Services Corporation Pro Bono Program's budget request has been provided to Congress as an appendix to the court's budget request, although the court functions merely as a pass-through for that amount. Accordingly, I have no comment on that portion of our budget request.

As to the court's operating expenses, our fiscal year 2014 request reflects an increase of just under \$3 million over our fiscal year 2013 request. With some slight offsets in other areas, this increase results primarily from an increase of about \$3 million in the statutorily required contribution to the Court of Appeals for Veterans Claims Retirement Fund, which is statutorily required to be fully funded.

The increased request for the retirement contribution for fiscal year 2014 is based on several drivers, which include: the addition of the three judges who were appointed to the court within the last year; changes in the actuarial estimates for length of life, which is the first change, I understand, in 12 years, so you have an additional expected lifespan; continued extremely low treasury yields; and an increase in judicial salaries and retirement pay, pursuant to the Federal Circuit case *Beer v. United States*.

For fiscal year 2014 the court requests just under \$18.5 million for personnel compensation and benefits, an increase of \$130,000. The number of full-time employees remains at 127, unchanged over the last 2 years.

For fiscal year 2014 the court requests just over \$7.5 million for all other operational expenses, a decrease of \$77,000 from fiscal year 2013, which was a decrease of almost \$200,000 from fiscal year 2012. The court takes seriously its obligation to perform efficiently and continues to strive to reduce those expenses where there is some flexibility.

Over the past several years I have testified before our authorizing committees and this subcommittee regarding a proposal to establish a commission to evaluate the process of appellate review. Rather than continue to read, I will just reiterate that we continue to recommend a commission be appointed to take a look at the two rights to judicial review on questions of law that exist in this system—which is our court and then, again, at the Federal Circuit Court. I think a commission could be helpful in that area.

And the last thing I will mention, again summarizing, is the Veterans Courthouse. As you know, we came very close a couple years ago, when the Nation realized its fiscal situation, and at the same time we had a significant increase in the cost of that courthouse. Recognizing the fiscal problems the Nation is facing, we still stand

behind those veterans who say, if you are going to build a courthouse, the Veterans Courthouse should be one of them.

Thank you very much.

[The information follows:]

## UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

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Chief Judge  
Bruce E. Kasold  
Clerk of the Court  
Gregory D. Block

### Chief Judge Bruce E. Kasold

Chief Judge Kasold was appointed as a Judge of the United States Court of Appeals for Veterans Claims by the President of the United States on December 13, 2003. Judge Kasold took the oath of office on December 31, 2003. He became Chief Judge on August 7, 2010.



Before his appointment to the bench, Judge Kasold served as Chief Counsel for the Secretary of the Senate and Senate Sergeant at Arms. In that non-partisan position, he advised Senate leaders on general legal matters and issues at the forefront of the of the nation's political landscape, including the electoral college, impeachment of the President, and historical management of an evenly divided Senate.

Judge Kasold also served as Chief Counsel for the Senate Committee on Rules and Administration, where his work included marshaling the Senate's largest series of campaign finance hearings in a decade and conducting an investigation of allegations of state election fraud.

Prior to working in the Senate, Judge Kasold was a commercial and government contracts litigation attorney with the law firm Holland & Knight. Judge Kasold is also a retired United States Army Lieutenant Colonel, with service in the Air Defense Artillery and Judge Advocate General's Corps.

Judge Kasold earned a Bachelor of Science degree from the United States Military Academy, and a Juris Doctor, cum laude, from the University of Florida. He also holds an LL.M. from Georgetown University and an LL.M. equivalent from the Judge Advocate General's Graduate School. He is admitted to practice before the United States Supreme Court, the Florida Supreme Court, and the District of Columbia Court of Appeals. He is a member of the Florida Bar, the District of Columbia Bar, the Federal Bar Association, and the Order of the Coif. Judge Kasold is married to the former Patricia Ann Gatz, and they have a son, Adam.

#### UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

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STATEMENT OF  
THE HONORABLE BRUCE E. KASOLD, CHIEF JUDGE  
U.S. COURT OF APPEALS FOR VETERANS CLAIMS

FOR SUBMISSION TO THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON APPROPRIATIONS  
SUBCOMMITTEE ON MILITARY CONSTRUCTION, VETERANS AFFAIRS,  
AND RELATED AGENCIES

MARCH 13, 2013

MR. CHAIRMAN AND DISTINGUISHED MEMBERS OF THE SUBCOMMITTEE:

I am pleased to appear before you and present testimony on the fiscal year (FY) 2014 budget request and performance plans of the United States Court of Appeals for Veterans Claims. My remarks today will (1) summarize our budget request, (2) provide an overview and update on the Court, its caseload, and its operations, and (3) touch on two important initiatives I have mentioned in the past – a broad examination of the structure of federal appellate review of veterans benefits decisions, and the Veterans Courthouse project.

**I. Budget Request**

The Court's FY 2014 budget request totals \$35,407,527. This request is comprised of two parts – the Court's necessary operating expenses of \$32,907,527, and a request by the Veterans Consortium Pro Bono Program (Pro Bono Program) for \$2,500,000. Since FY 1997, the Legal Services Corporation/Pro Bono Program's budget request has been provided to Congress as an appendix to the Court's budget request, although the Court functions merely as a pass-through for that amount. Accordingly, I offer no comment on that portion of our budget request.

As to the Court's operating expenses, our FY 2014 request reflects an increase of \$2,926,827 over our FY 2013 request. With some slight offsets in other areas, this increase results primarily from an increase of \$3.1M in the statutorily required contribution to the Court of Appeals for Veterans Claims Retirement Fund (Retirement Fund or Fund). *See* 38 U.S.C. § 7298. Per section 7298, as Chief Judge of the Court I am charged with securing an "annual estimate of the expenditures and appropriations necessary for the maintenance and operation of the fund," and the Court contracts with an actuary to provide guidance on how best to comply with obligations related to maintaining the Fund. The statute also states: "Subject to the availability of appropriations, there shall be deposited in the Treasury to the credit of the retirement fund, not later than the close of each fiscal year, such amounts as may be required to reduce to zero the unfunded liability (if any) of the fund. Such deposits shall be taken from sums available for that fiscal year for the payment of the expenses of the Court." 38 U.S.C. § 7298(e)(2)(B).

The increased request for the retirement contribution for FY 2014 is based on several drivers, which include the addition of three judges who were appointed to the Court within the last year; changes in the actuarial estimates for length of life; continued, extremely low Treasury yields; and an increase in judicial salaries and retirement pay pursuant to *Beer v. United States*, 696 F.3d 1174 (Fed. Cir. 2012), *petition for cert. filed* (Jan 3, 2013, No. 12-801).

For FY 2014 the Court requests \$18.448M for Personnel Compensation and Benefits, an increase of \$130K from FY 2013. The number of full time employees remains at 127, unchanged over the last two years. The Court's appropriations request covers anticipated expenses for judges and employees including salary, health benefits, insurance, and employee matching contributions to

the Thrift Savings Plan, as well as routine promotions. The request also includes funding necessary to pay the increase in judges' salaries pursuant to *Beer, supra*.

For FY 2014 the Court requests \$7.560M for all other operation expenses ("Other Objects"), a decrease of \$77K from FY 2013, which was a decrease of almost \$200K from the FY 2012 request. These funds are used to satisfy the Court's daily operations needs, and to cover such expenses as rent, contract services, communication and utility expenses, equipment, furniture, supplies, subscriptions, travel and transportation, and printing expenses. The Court takes seriously its obligation to perform efficiently, and continues to strive to reduce those expenses where there is some flexibility, such as supplies, printing, and travel costs.

## **II. The Court, its Caseload, and its Operations**

For the new Committee members, let me provide a brief overview on the unique place our Court occupies in the system that provides benefits to the Nation's veterans and their families. The story really begins well before the Court was created.

For many years the veterans' benefits process, administered by the Department of Veterans Affairs (VA), operated without any right by a veteran to independent judicial review of a decision by VA on a claim. Interested parties debated the possibility of providing judicial review. A variety of proposals were offered as to how that review ought to be provided. Ultimately, in 1988, a unique entity within the federal court system was created when Congress established the U.S. Court of Veterans Appeals, now the U.S. Court of Appeals for Veterans Claims, as an independent appellate court that would handle only veterans benefits cases, applying general principles for appellate review of agency final decisions. Since that creation, a coherent body of specialized veterans law

jurisprudence has developed, and there are now 25 volumes of law in the West Reporter Series: West's Veterans Appeals Reporter.

Briefly, this is how an appeal to the Court works. As a matter of right, veterans and their qualifying family members who have received an adverse benefits decision from the Board of Veterans' Appeals (Board) may file an appeal to the Court within 120 days after the date of the Board decision. A modest filing fee of \$50.00 is required, and that fee is routinely waived upon a showing of financial hardship. When an appeal is received and filed, the Secretary of VA is notified and requested to provide the Court with a copy of the Board decision being appealed. Thereafter, the Secretary and the appellant (or the appellant's counsel) determine which documents within the veteran's claims file constitute the Record before the Agency. After the record has been assembled the parties generally are ordered to participate in a staff conference with an attorney from the Court's Central Legal Staff (CLS). The CLS attorney works with the parties to refine the contested issues, and the Secretary and the veteran may resolve the matter prior to involvement by a judge by agreeing jointly to vacate the Board decision and remand the case to the Board so that it can address the issues raised on appeal. If the case cannot be resolved, the parties must present written briefs, and may request oral argument before the Court. During this period of administrative processing common to all appellate courts, pro se appellants frequently obtain counsel. In FY 2012, 44% of the appeals were filed by appellants without representation, but the number of cases where the appellant remained unrepresented at the time of decision dropped to 27%.

Once the appellate briefs are filed, the case is either assigned to a CLS attorney who prepares a memorandum of law on the case before assignment to a judge, or the appeal is transmitted directly to a judge. The assigned judge, with the assistance of law clerks, then reviews the case to consider

whether it presents a novel issue requiring a panel decision or whether it involves the application of settled law. If it involves the application of settled law to the facts, a single judge is permitted to decide the case and issue a memorandum decision. This single-judge decision authority is essential to the Court's ability to handle its formidable caseload. If, prior to making a decision, the judge determines that the case involves a novel issue of law, the judge will direct the Clerk to assign the case to a three-judge panel. That panel will then proceed to a decision, with or without oral argument by the parties.

It is the practice of the Court to circulate among all of the judges any proposed single-judge decisions and panel opinions prior to issuance. In the case of single-judge decisions, if two judges believe the case requires decision by a panel, it must be referred to a panel. This process assures that single judges do not make decisions that should be the subject of precedential panel decisions. During the circulation of a draft opinion by a three-judge panel, there may be a call for consideration of the matter by the full court when it is believed that the proposed opinion addresses issues of exceptional importance or creates a conflict in the Court's jurisprudence that must be resolved. Further, either party may request reconsideration and/or panel review of a single-judge decision once it is issued, and whenever a request for a panel decision is made, a panel of three judges will review the appeal. Thus, the Court's rules permit single-judge decisions in an effort to expedite case dispositions, but safeguards exist to ensure that single-judge decisions are supported by existing precedents.

Following a final decision of our Court, an additional appeal to the U.S. Court of Appeals for the Federal Circuit may be filed. The Federal Circuit has jurisdiction to review our decisions that interpret the law and regulations, but not those decisions that apply the law and regulations to the



facts of a particular case. Finally, following review in the Federal Circuit, either party may seek review by the U.S. Supreme Court by filing a Petition for a Writ of Certiorari. The Supreme Court has considered a handful of our cases over the years.

Since its creation in 1988, the Court has become one of the busiest federal appellate courts based on the numbers of appeals filed and decided per judge. Historically, approximately 200 appeals to the Court were filed monthly from FY 1999 through FY 2004. Since FY 2005, however, the Court has averaged 343 cases filed per month. In addition to appeals, the Court receives petitions pursuant to its authority to issue extraordinary writs in aid of its jurisdiction under the All Writs Act, (28 U.S.C. § 1651(a)), and applications for representation fees and expenses authorized under the Equal Access to Justice Act (EAJA) (28 U.S.C. § 2412(d)). In FY 2012, in addition to acting on thousands of procedural motions, the Court, as a whole, disposed of 6,992 matters, including over 4,350 appeals, almost 2,300 applications for attorney fees and expenses, over 140 petitions, and almost 200 requests for reconsideration or panel review.

Since becoming Chief Judge I have concentrated on two main areas where I perceived un-programmed delay. One was the time it took to decide cases once they were assigned for judicial review, and the second was the time it took our CLS to prepare case summary and research memoranda in advance of forwarding cases for judicial review. With regard to judicial review, we have kept focused on the quality of the decisions, but have pointedly attacked the number of cases in chambers pending decision. I am pleased to state that we have significantly reduced the time from case assignment to decision by a judge. We likewise have streamlined some of the processes for preparing cases for judicial review, and we have gone from a high of over 800 cases briefed but

pending assignment, to now under 100. We continue to work toward a goal of forwarding cases for judicial decision no more than 30 days after the matter is fully briefed by the parties.

Our Senior Judges continue to be assets to the Court, and their service was particularly essential as we operated with judicial vacancies and awaited appointments of our new judges. With nine active judges now in place, and one retired judge serving in recalled status over the coming year, it does not appear that I will need to recall additional Senior Judges the rest of this year.

### **III. Examination of the Structure of Federal Appellate Review of Veterans Benefits Decisions, and the Veterans Courthouse Project**

Over the past several years, I have testified before our authorizing committees and this subcommittee regarding a proposal to establish a commission to evaluate the process of appellate review of veterans benefits decisions and to make recommendations on how to improve that system. I continue to make that recommendation, because such an independent commission may identify beneficial changes to the current appellate structure that could result in reduced time that veterans wait to have their claims finally decided.

As I mentioned earlier when outlining our review process, the Court is positioned within a unique system of judicial review, where a party dissatisfied with a decision from our Court may appeal, as of right, to yet another appellate court before seeking review at the U.S. Supreme Court. That structure may have been prudent when the Court was in its infancy, but now, with 25 years of veterans law appellate jurisprudence, it seems time to consider the added value of the second layer of federal appellate review. Although each layer of review affords veterans another "bite at the apple" so to speak, which may be desirable to one who has been unsuccessful, that added level of review comes at a cost, and adds delay to the entire process before finality is reached. In the words

of Supreme Court Justice Robert H. Jackson: "Reversal by a higher court is not proof that justice is thereby better done. There is no doubt that if there were a super-Supreme Court, a substantial proportion of our reversals of state courts would also be reversed. We are not final because we are infallible, but we are infallible only because we are final." The Court supports and encourages a commission to critically review the costs and benefits of the current two-tiered system of appellate review by right.

I also want to follow up on the Veterans Courthouse Project. The United States Court of Appeals for Veterans Claims remains, to my knowledge, the only federal appellate court housed in a leased commercial office building. We were very close to receiving appropriations for the courthouse in our FY 2010 appropriation, but circumstances combined to warrant delay. Specifically, the General Services Administration's estimated cost virtually doubled from the time of our FY 2010 budget testimony before this committee and passage of the FY 2010 appropriations bill, and at the same time the Nation's fiscal crisis was becoming better understood. We remain sensitive to budget constraints and understand that priorities must be set by Congress. However, we stand with Congress in its intent to build a "dedicated courthouse [ ] symbolically significant of the high esteem the Nation holds for its veterans [that would] express the gratitude and respect of the Nation for the sacrifices of those serving and those who have served in the Armed Forces, and their families" (H.R. 3936) or "to provide the image, security, and stature befitting a court that provides justice to the veterans of the United States" (S. 1315). Also, we support the many Veterans Service Organizations and veterans at large who believe if any federal courthouses are to be funded for construction, their courthouse should be one of them.

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**IV. Conclusion**

On behalf of the judges and staff of the Court, I express my appreciation for your past and continued support, and for the opportunity to provide this testimony today.

Mr. CULBERSON. Thank you very much, Judge.  
Mr. McManus.

MR. MCMANUS OPENING STATEMENT

Mr. MCMANUS. Mr. Chairman, Ranking Member Bishop, Congressman Farr, thank you for inviting me here today to testify.

In 2009 testimony we highlighted how the AFRH was revitalizing a mammoth 19th century institution into a modern 21st century community. We noted this transformation was a direct result of the new perspective on aging. Today progressive senior care includes services to help people maintain independence in their home of choice and continue to be active members of the community.

Over the past 2 years AFRH has been modernizing to promote an aging-in-place philosophy and to uphold the century-old promise to care for our heroes. Since 2002 we have been transforming the AFRH, striving to reduce inefficiencies, enhancing operations, and meeting the needs of our current residents.

After damage from Hurricane Katrina in 2005, our Gulfport facility rebuilt to be energy efficient and more compatible to meet the needs of the next generation of eligible military veterans. Built with federal emergency fund, Gulfport has now opened for 2 years.

In Washington the Scott Project, funded by withdraws from the trust fund, is nearing completion. And similar to the Gulfport facility, the new Scott Building is built for energy efficiency and our aging population.

Additionally, both facilities have adopted the small-house concept, which allows our staff to provide individualized, person-centered care to our residents.

Multiple facilities on the Washington campus suffered significant damage as a result of the August 2011 earthquake that was followed by a category one hurricane 4 days later. The structural damage to the 150-year-old historic landmark, the Sherman Building, necessitated moving our business operations to rooms designated as resident dormitories.

Thanks to Congress and the president, we have restored the historical Sherman Building and other facilities with the \$14.6 million payment from the general fund to the trust fund. To date, all administrative functions have resumed operations in the Sherman Building.

AFRH is in the last part of the transition years, 2010 to 2013. As we establish and expand operations in Gulfport and effectively transition to a reduced footprint in Washington, many of the infrastructure and new facility changes occurring at AFRH will have a positive, direct impact on the solvency of the trust fund.

Although negative growth occurred between 2011 and 2012 as we spent for the Scott Project, we stayed on course with our growth predictions. By the end of the transition period we expect positive growth. Also, as part of our master planning, DOD, Arlington National Cemetery, and AFRH are studying possible trust fund revenues from ANC's use of surplus buildings and the land at the Washington campus.

In fiscal year 2011, AFRH expanded funds—expended funds as a strategic investment in the future generation of residents via the Scott Project. This reduced the trust fund balance to \$115 million,

from a high of \$186 million, by the end of 2012, as reflected in the graph below.

Our economic analysis, as reported in our long-range financial plan, tested possible scenarios. Analysis states that the trust fund will remain solvent and its balance will increase to its former levels again, but it will not be easy; it will take work.

A little bit about sequestration before I close: Our hit under sequestration is \$3.3 million. We have done it, like many other agencies who haven't furloughed or had to furlough. We have hit contracts that are low-lying, like an example would be grounds maintenance, where instead of doing a lot of edging that is really workload intensive, you don't edge. So you modify your contract to take out some of the higher-labor parts of the contract to reduce the cost.

We have also frozen hiring. Much like my colleagues here, a lot of our hiring that hasn't taken place, we have put that on freeze except for health care, so we have minimal impact on our health care as part of the sequestration.

Our unknown is utilities, probably, most in our area, because depending on how that comes in, the \$3.3 million may be a greater impact towards us. But right now we believe that we will not have to furlough as part of the sequestration and would hope that it wouldn't be carried forward into next year because we would also have major concerns.

Mr. Chairman, this concludes my testimony. I will be pleased to respond to questions from the subcommittee.

[The information follows:]

**STEVEN G. MCMANUS**  
**Chief Operating Officer**  
**Armed Forces Retirement Home**

Mr. Steven G. McManus, a member of the Senior Executive Service, is assigned to the Armed Forces Retirement Home, serving as the Chief Operating Officer, effective September 26, 2011.

Mr. McManus is responsible for policy, advocacy, and oversight ensuring quality programs and services are delivered throughout the Agency's Continuing Care Retirement Community. He is responsible to the Secretary of Defense for the overall direction, operation and management of the Armed Forces Retirement Home (AFRH). He supervises the operation and administration of the Armed Forces Retirement Home-Washington and Armed Forces Retirement Home-Gulfport, issues, and ensures compliance with, appropriate rules for the operation of the facilities of the Retirement Home.

Prior to his appointment, McManus was designated Acting Chief Operating Officer of AFRH, January 2011, to ensure a smooth leadership transition while retaining authorities in his Senior Executive Service position as Deputy COO and CFO, specifically because of policy, advocacy, financial, and oversight roles at AFRH since 2002, as well as 10 years' experience and subject matter expert-level understanding and appreciation of the interests and behaviors of aging military veterans and diverse stakeholders and their environments in a Continuing Care Retirement Community to include Long-term care, Assisted Living, Memory Support, and Independent Living. He has served at all levels of AFRH management.

Mr. McManus graduated from Heelan High School in Sioux City, IA. Shortly thereafter, he enlisted in the Army, where he served 25 years on active duty at both the enlisted and officer rank. During his military career, Mr. McManus held several different positions in the Infantry, Special Operations, and Comptroller fields. His assignments included Sandhofen, West Germany and several assignments in the continental United States where he held several positions at base and major command levels.

Mr. McManus has a Bachelor of Science degree from the United States Military Academy, West Point, NY and received his Master of Business Administration with special emphasis in Finance and Accounting from Regis University.

His military awards include the Legion of Merit with bronze oak leaf cluster, Meritorious Service Medal with two bronze oak leaf clusters, Army Commendation Medal with bronze oak leaf cluster, Joint Service Achievement Medal, Army Achievement Medal, Joint Meritorious Unit Award with bronze oak leaf cluster, Meritorious Unit Commendation with bronze leaf cluster, Army Superior Unit Award, Army Good Conduct Medal, National Defense Service Medal with bronze star, Overseas Service Ribbon, Parachutist Badge and Ranger Tab.

2170

**ARMED FORCES RETIREMENT HOME**

**COMPLETE STATEMENT**

**OF**

**Mr. Steven G. McManus  
Chief Operating Officer**

**BEFORE**

**THE SUBCOMMITTEE ON MILITARY CONSTRUCTION, VETERANS  
AFFAIRS AND RELATED AGENCIES**

**COMMITTEE ON APPROPRIATIONS**

**UNITED STATES HOUSE OF REPRESENTATIVES**

**ON**

**ARMED FORCES RETIREMENT HOME**



**INTRODUCTION**

Mr. Chairman, Members of the Committee, as the Chief Operating Officer of the Armed Forces Retirement Home, I thank you for inviting me here today to discuss the Armed Forces Retirement Home (AFRH). I also want to update you on our evolving progress to meet the needs of the next generation of eligible military veterans.

The 1991 Defense Authorization Act, Public Law 101-510, created an Armed Forces Retirement Home (AFRH) Trust Fund to finance the AFRH-Gulfport (AFRH-G) and the AFRH-Washington (AFRH-W) Homes. The Homes are financed by appropriations drawn from the Trust Fund. Today, as well as for nearly two centuries, the Armed Forces Retirement Home has been a haven for eligible military service members in retirement. Our Nation's leaders in the early years of our country pledged to support our aging military for risking their lives to preserve democracy. We continue to uphold this promise today.

In 2009 testimony, we highlighted how the AFRH was revitalizing a mammoth 19th century institution into a modern 21st century community. We noted this transformation was a direct result of our new perspective on aging. Today, progressive senior care includes services to help people maintain independence in their home of choice and continue to be active members of the

community. Over the past two years AFRH has been modernizing to promote an “aging in place” philosophy and to uphold the centuries old “Promise” to care for our heroes.

## **DISCUSSION**

Since 2002, we have been transforming the AFRH, striving to reduce inefficiencies, enhancing operations, and meeting the needs of our current Residents. The AFRH management identified trends in retirement living that are now shaping our philosophy of Person-centered Care (PCC). In a PCC environment, the staff works hard to fulfill each Resident’s personal needs in a careful, supportive manner while developing a unique plan of care. This approach helps us deliver meaningful services that are tailored to each individual.

The AFRH has made great strides in PCC via renovations and new construction. After damage from Hurricane Katrina in 2005 our Gulfport facility was rebuilt to be energy efficient and more compatible to meet the needs of the next generation of eligible military veterans. Built with Federal emergency funds, Gulfport has been open now for 2 years. In Washington the Scott Project, funded by withdrawals from the Trust Fund, is nearing completion and similar to the Gulfport facility, the new Scott building is built for energy

efficiency and our aging population. Additionally, both facilities have adopted the ‘small house’ concept which allows our staff to provide individualized Person-centered Care to our Residents.

Multiple facilities on the Washington Campus suffered significant damage as a result of the August 2011 earthquake that was followed by a Category 1 hurricane four days later. The structural damage to the 150-year-old historic landmark, the Sherman Building, necessitated moving our business operations to rooms designated as Resident dormitories. Thanks to Congress and the President we have been restoring the historical Sherman Building and other facilities with the \$14.6 million payment from the General Fund to the Trust Fund. To date, all administrative functions have resumed operation in the Sherman Building and the dormitories have been vacated for new resident occupancy.

Even though AFRH has been faced with multiple challenges during our transitory years, our emphasis on Person-centered Care can be seen throughout our operations. Our AFRH Strategic Plan placed a strong emphasis on personalizing Resident care. We have not veered from this focus. All Resident activities and services now strive to embrace this philosophy. The AFRH Fiscal Year 2012 Performance and Accountability Report highlights how FY12 was a year of innovation and unique creativity for the Residents and staff. **MINDFUL**

**CARE** from our staff and volunteers is truly producing **MEANINGFUL LIVING** for the Residents.

#### **AFRH BUDGET**

The AFRH's operations budget and capital improvements utilize funds withdrawn from the AFRH Trust Fund and appropriated by Congress. For almost a decade, AFRH management has worked to strengthen the Trust Fund through cost reduction efforts. Our duty is to preserve the assets in the Trust Fund while taking withdrawals with great prudence.

FY 2012 was economically challenging for many businesses and Federal Agencies. AFRH's continuity of operations requires strong fiscal management. Of late, operating costs have exceeded sixty million dollars every year—and continue to increase yearly due to inflation. We aim to contain costs through our Key Strategic Performance Goal; which revolves around maintaining exceptional stewardship. We are expecting the facility upgrades in Washington to yield far-reaching economies, efficiencies, and gains similar to what we have already witnessed by the new facility at Gulfport.

AFRH is in the last part of the transition years (2010 - 2013) as we establish and expand operations in Gulfport and effectively transition to a reduced footprint in Washington. Many of the infrastructure and new facility

changes occurring at AFRH will have a positive, direct impact on the solvency of the Trust Fund. Although negative growth occurred in 2011 and 2012 as we expensed the Scott Project, we stayed on course with our growth predictions. By the end of the transition period, we expect positive growth. Also as part of our master planning, DOD, Arlington National Cemetery (ANC) and AFRH are studying possible Trust Fund revenues from ANC's use of surplus buildings and land at the Washington Campus.

The Scott Project will generate savings in all major cost drivers to include:

- Consolidate dining services so that only one dining facility is operational
- Reduction in subsistence costs
- Reduce nurse staffing
- Lower utility costs
- Lessen facility maintenance requirements
- Decrease in custodial requirement
- Streamline Campus operations so that on-campus transportation is no longer required

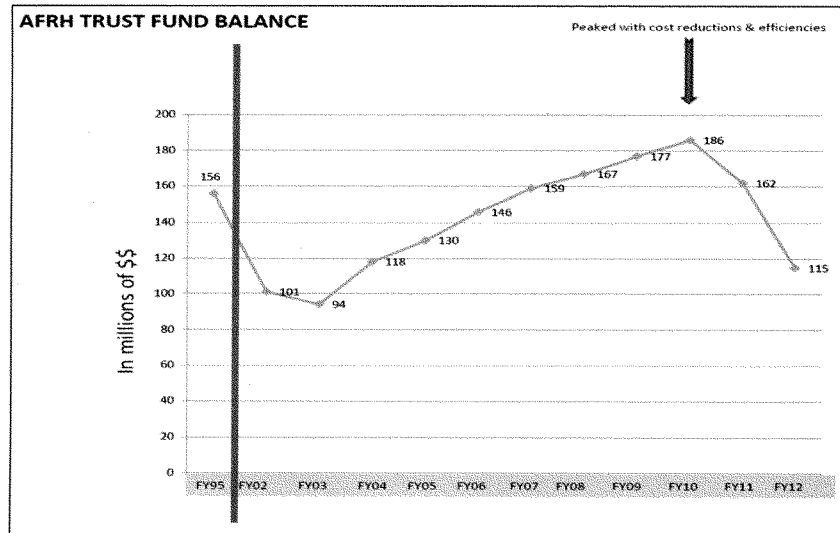
The Scott Project also accomplishes the following:

- Closes the LaGarde Facility
- Relocates all Assisted Living, Memory Support, and Long-Term Care from the LaGarde facility
- Reduces square footage by approximately 48% or 421,050 square feet
- Postures AFRH Operations for positive Trust Fund Growth
- Creates similar capacity and service capabilities between AFRH-G and AFRH-W

#### **TRUST FUND BALANCE**

In 2003, operating costs greatly increased over previous years - eventually outpacing our revenue. The Trust Fund balance declined from \$156 million in 1995 to \$94 million in 2003. Renewing a healthy balance became a critical mandate to retain the Home's solvency. So, we concluded that our operating model had to change. We followed the Federal Government's lead by implementing an integrated strategy - linking planning with budget and performance. From 2003 - 2010, we aggressively developed a disciplined strategic plan that netted many gains. The result: the Trust Fund balance grew substantially to \$186 million by the end of FY 2010.

In FY 2011, the AFRH expended funds as a strategic investment in future generations of Residents via the Scott Project. This reduced the Trust Fund balance to \$115 million by the end of FY 2012 as reflected in the chart below. Our economic analysis, as reported in the AFRH Long-Range Financial Plan, tested possible scenarios. The analysis states that the Trust Fund will remain solvent and its balance will increase to former levels again.



The Trust Fund Balance has been steadily increasing since 2003 but has decreased due to the Scott Project.

**CONCLUSION**

Two hundred years ago America's leaders made a promise to care for its aging Veterans. Today that tradition endures with a focus on greater independence for our Residents which we confidently believe aligns with the vision of our forefathers. With this, I respectfully ask the Subcommittee's favorable consideration of our operational budget.

Mr. Chairman, this concludes my testimony. I will be pleased to respond to questions from the Subcommittee.



## SEQUESTRATION

Mr. CULBERSON. Thank you very much, Mr. McManus.

And in fact, each one of you, if you—I could, ask you to be specific about what, in your opinion, would happen if there was sequestration again next year. And thank you very much. Glad you were able to cushion the blow this year.

But in the event that it occurs as the statute says it would, just give us each something we can each talk to our colleagues about in tangible terms of what that would mean for each one of you if sequestration occurred in fiscal year 2014.

Mr. MCMANUS. Tough thing, the more residents we bring in, it drives our upper levels of care to a higher population, and that is our highest cost. So to help control that cost we would stop bringing in residents until we had the ability to manage our costs at that point. That would probably be the most significant impact.

Mr. CULBERSON. Anything else?

Mr. MCMANUS. No, sir.

Mr. CULBERSON. Essentially, you would continue, obviously, the hiring freeze. You would have to continue to look at contracts, worry about utilities.

Mr. MCMANUS. We would continue that same—

Mr. CULBERSON. But above all, you just have to stop bringing in new residents.

Mr. MCMANUS. And keep the—

Mr. CULBERSON. Okay.

Judge KASOLD. I guess I will ask the question first, to just show my ignorance—

Mr. CULBERSON. If you are not quite ready yet, if you all want to visit for a minute just to give us a ballpark idea, I think it would be helpful to—

Judge KASOLD. Is sequestration the same funding that we have under the sequestration now? For example, if we have about \$29 million this year will it be \$29 million next year?

Mr. CULBERSON. Well, I know we obviously have got a number of problems to get over. You have got to make sure, obviously, that we get a budget resolution—

Judge KASOLD. Well, let's assume that—

Mr. CULBERSON [continuing]. Having a budget number for the committee to work from. Then we hope to heavens we are going to actually get a bill, which would be nice. Ours is the most likely of any of them to get through, and of course, everyone in Congress wants to make sure veterans and military construction is funded, so we have got, of all the subcommittees, ours and DOD are the highest likelihood of getting done. And whatever that 302(a) number is and then our sub-allocation, but if, in looking ahead, I know, have had to think about this, what sort of impact would it have on the courts?

Judge KASOLD. Well, if sequestration remained at the same funding as sequestration this year, which is just under \$29 million for our court, we would have to furlough people. I don't have the exact number of days that we would have to do that. One thing that we could also look at though, is the retirement fund. Although statutorily it is to be fully funded, I would work with your committee

and committee staff with regard to that, and with your approval, we would underfund that for a little bit of time. Obviously you can't carry that on too long because eventually you won't have the funds to even carry what you have to pay out.

Mr. CULBERSON. Sure.

Judge KASOLD. But that is one area that we might have a little bit of flexibility on if we work with your committee on it, and then an area we could look at for a year or so.

Other than that, we would have to furlough people. I can't answer specifically beyond that.

Mr. CULBERSON. And you are obviously short of judges.

Judge KASOLD. Right now, the \$29 million—

Mr. CULBERSON [continuing]. Those two new judges.

Judge KASOLD. The \$29 million, the reason we can do it this year is because one of the chambers didn't even come on board until the end of last year, and each chambers is about \$1 million. You had two judges that were appointed at the end of the FY12 and their staff were not fully on board that year. I think one is still not fully on board, so there are some people there.

We have had three positions that we have not filled expecting the new judges to be appointed. These were a commissioner, for example, a secretary for the senior judges, and a CLS person to assist the senior judges. We have assisted the judges out of our own resources because we didn't want to hire permanent staff when we had these nominees waiting to be appointed. Now that they have been appointed—at the time we did the budget we had only two appointed, and I wanted to see how we would work without the three positions being filled before we decided if we were going to—

Mr. CULBERSON. Yes.

Judge KASOLD [continuing]. Come to you and drop them. So those positions don't have to be filled.

So we can work with the \$29 million this year, but to do it next year with the full chambers staff on board, we will clearly have to take a look at furloughs.

#### CONTINUING RESOLUTION AND SEQUESTRATION

Mr. CULBERSON. One other twist, if I could—and I would go back briefly to you, Mr. McManus. I forgot to also ask: If, heaven forbid, we have to go under a C.R., the Senate hasn't acted yet, can't take anything for granted around here. Heaven forbid they get tangled up and we are stuck with a C.R. for much longer, what effect would that have on you for this year, sir?

Mr. MCMANUS. Sir, just a point of clarification, it is C.R. versus sequestration?

Mr. CULBERSON. Yes, because you have got two different moving pieces. And if they get tangled up, for whatever reason, and we are left under a C.R. in another month or 2, what effect would that have on you? And answer the question about sequestration, because they are two different pieces.

Mr. MCMANUS. Actually, it would be better for us to be under—or not sequestration—

Mr. CULBERSON. C.R.

Mr. MCMANUS [continuing]. But C.R. Because we are—our funding is level from last year.

Mr. CULBERSON. Okay.

Mr. MCMANUS. Our impact—the \$3.3 million—is because the C.R. and the sequestration applied to us.

Mr. CULBERSON. Okay.

Judge, the same question—

Judge KASOLD. Basically, as I understand it, if the C.R. is approved we are still stuck with sequestration, so our C.R. is higher than our sequestration. So as long as you continue to approve some funding and it is a sequestration level the answer remains the same: We can make it this year.

Mr. CULBERSON. Okay.

Mr. MCMANUS. Sir, can I come back on mine?

Mr. CULBERSON. Yes.

Mr. MCMANUS. One thing I haven't mentioned under C.R. or sequestration which is important is the capital program that we have. Under C.R. we do not receive our capital program. Under sequestration because of C.R. we do not receive our capital program.

There are certain capital programs as part of our new footprint that are really important to us as part of the transition to our new facility. One is what we call our HomeFree or our lifeline system—nurse call system where we have shut down. I will call it our long-term care facility, and now we have moved it into two new facilities. One piece to that, we need the capital for the nurse call system. It is the capital piece that is most important to us.

Mr. CULBERSON. Okay.

Mr. MCMANUS. Under sequestration—or, under C.R.

Mr. CULBERSON. Yes. Under the C.R. And then if there is sequestration again for 2014 the cut would be 7 percent. And we hope all this can be resolved, but it is important, just in an abundance of caution, to know that that possibility is out there because you always want to be sure you are ready.

And if I could, Ms. Condon, ask you about those two scenarios: One, a continuation of the C.R.

Ms. CONDON. Okay. A continuation of the C.R. of this year—

Mr. CULBERSON. And secondly, this 7 percent next year.

Ms. CONDON. Okay. With the continuation of the C.R. that means that we just get the base budget, so the \$103 million that we put in for the expansion projects for Arlington National Cemetery will impact the future first-time burial of our cemetery because it takes 10 years to do that. So we will impact the future burials of our veterans and their loved ones.

And it will also impact the other request was for the \$25 million for our critical maintenance and repair. We are going to have more catastrophic failures if we don't fix those things that need to be fixed at the cemetery.

Sequestration, sir, if we just do our base budget, our base budget is predominantly service contracts and our pay of the staff at Arlington National Cemetery. With a reduction of 5 percent, that will impact the operations at the cemetery in the future.

Mr. CULBERSON. Mr. Secretary.

Mr. CLELAND. Mr. Chairman, I have been advised by staff that if sequestration lasted another year that when we come back in this maybe same room and talk to the committee, if the situation continued, that we would be talking about a 5 and 10 percent cut

in the American Battle Monuments Commission, somewhere around \$3.9 million, we would have to take that out of engineering and interpretation. We will still be keeping the headstones white and the grass green but that is about all we will be able to do.

We have been able to manage all this—a 5 percent reduction last year and sequestration early here—we have been able to manage that and say we will be all right, but if this situation continues another year we will be in trouble.

Mr. CULBERSON. And we all hope that doesn't happen, but it is important for the record and for each one of us in our conversations with our colleagues to have a feel for that because the work that you do is so vital, and all of us in Congress want to make sure that you are fully funded and taken care of.

Mr. Bishop.

#### TRUST FUND REVENUES

Mr. BISHOP. Thank you very much, Mr. Chairman.

Let me go first to Mr. McManus.

In your testimony you indicate that as a part of the retirement home's master plan that you are studying possible trust fund revenues from Arlington Cemetery's use of surplus buildings on your Washington campus. Can you take a few moments to explain this to the committee?

Mr. McMANUS. [Off mike.]

Mr. BISHOP. Ms. Condon, do you have any thoughts on that?

Ms. CONDON. Sir, yes I do. Just so you know, we average only around 7 to 10 burials a year at the Soldier and Airmen's home. Right now we do not see a near-term need to expand the cemetery at this time, based on the average of just 7 a year, versus the 27 to 30 that we do a day at Arlington.

Mr. BISHOP. Okay.

Mr. McManus, let me follow up. Deductions from the pay of enlisted members, warrant officers, and limited duty officers fund the trust fund. What effect will the reduction in force and end-strength have on the trust fund?

Mr. McMANUS. [Off mike.]

Mr. BISHOP. Okay.

I had some questions for Secretary Cleland but he answered them in his remarks, so I don't have to ask.

So I thank you for that.

#### MILLENNIUM PROJECT

Let me ask Ms. Condon about the Millennium Project.

Would you just take a couple of minutes to explain to the subcommittee how the Millennium Project will help Arlington in regards to providing burial services? Are there benefits to the project in addition to more burial spaces?

Ms. CONDON. Well, sir, first of all, we are ready to award the contract if we get the dollars in this fiscal year to do that because right now we will run out of in-ground first interment burial space in 2024. That is why it is so key to start the Millennium Project this fiscal year because it takes approximately 10 years for the in-ground burial part of that project. Once we put up the columbarium courts you can use those, but for the in-ground burial, which

is a good portion of the Millennium Project, we need to start that this fiscal year.

We have our designs. We are being very environmentally sound. I think there has been a lot of confusion with the Millennium Project from previous designs, and this Saturday we are literally having an open house for the public to come walk the grounds so they can see our plans for the project and that we are going to have the construction of the Millennium Project fit into the environment. So so far, if we stay on track and we do get funded this year, we should be completed in 2024.

Mr. BISHOP. Why would it take 10 years for in-ground burial?

Ms. CONDON. Sir, the bottom line is, first of all, the ground has to settle for two years, and we have to design around the topography. It is going to be a major cut-and-fill project as well, but the ground has to settle for at least 2 years before you can do an in-ground burial, and that is based on, other cemeteries like those in Veterans Affairs. So the ground has to settle first, so that is really the long pole in the tent is having the ground settle.

Mr. BISHOP. That is only 2 of the 10 years—

Ms. CONDON. But the bottom line, sir, is, If you look at the project, a lot of it has to do with the topography and what we have to do to get the grounds right, and to build the columbarium court, and to restore the stream there. So the project will take 10 years.

Mr. BISHOP. Thank you, Mr. Chairman. Thank you—

Mr. CULBERSON. Thank you very much.

And I will take members in the order in which they arrived, so I am going to recognize Mr. Farr.

Mr. FARR. Thank you very much, Mr. Chairman.

Ms. Condon, I just have a question, is—does Congress have the authority to nominate people that we would like to have buried there right away? Because I have some members that I think we could—

(Laughter.)

Anyway, I really might—

Ms. CONDON. Sir, we don't take reservations; we accommodate you at your time of need.

#### APPELLATE REVIEW PROCESS

Mr. FARR. We just have to make it happen.

I want to ask Judge Kasold—it was very interesting in your statement, on page 7 you talk about how you have recommended the establishment of a commission to evaluate the process of appellate review of veterans' benefits decisions and to make recommendations on how to improve the system. I am very curious about that, because what we have heard from Secretary Shinseki is we are really cleaning up the filing process, making sure that veterans file complete claims so that they don't get remanded back and increase the backlog. And I am sure that in the long run there is going to be some savings there, the cases that don't get appealed because they get resolved in the first instance.

It is probably a very timely moment to have this commission. What has been the reaction?

Mr. Chairman, maybe this ought to take the lead on that. Because in the long run, I think if you make recommendations on

how to improve the system, you are going to come up with some savings.

Judge KASOLD. My recommendation is that they take a look primarily at the two-tiered judicial review that is——

Mr. FARR. Yes.

Judge KASOLD. I think General Shinseki is talking about the claims processing——

Mr. FARR. No, he is not talking about—no, he is talking the claims processing, yes, when you file, but——

Judge KASOLD. Right.

Mr. FARR [continuing]. It is when those filings—when you don't get a satisfactory decision that you enter your system, right, and you make the claim?

Judge KASOLD. That is correct, sir. There are about 1.3 million claims down in V.A., as I understand it. About 40,000 to 60,000 go to the board, depending on their activity, and about 4,000 or 5,000 come to us.

And then you have a second—it is very unusual in our system, unique in the system—right to appeal to the Federal Circuit.

Mr. FARR. And that is the number that has gone up, as I understand from your testimony.

Judge KASOLD. The Federal Circuit?

Mr. FARR. Yes, the Circuit appeals have gone up from about 200—historically, approximately 200 appeals to the court were filed monthly in fiscal year 1999 through 2004, and since 2005 the court has averaged about 400—343 cases per month.

Judge KASOLD. Those are to our court, sir.

Mr. FARR. Yes.

Judge KASOLD. There is the regional office, there is the board, and then there is our court, and ours is the judicial review over the secretary's actions and the board's actions—primarily the board's actions.

Mr. FARR. But——

Judge KASOLD. And then there is a Federal Circuit review that you can also request. When you come through the system you take however long it takes within V.A. to get a regional office decision. That is one level that they have. Then you go to the board and that takes time, and there are remands between the board and back to the secretary that take place for development of evidence.

And then you step into the judicial arena, where you have the secretary and you have the veteran or the other claimant who are both making their arguments to the court, and we do the judicial review on the case to ensure that in the system down below—all the rules and regulations have been followed to ultimately reach a decision.

Then you can take another appeal of right. If you lose, for example, or either party loses in our court, you can take another appeal of right on questions of law to the Federal Circuit. And questions of law generally are going to be cases that have greater ramifications down below.

And so you have a year's time or more, up at the Federal Circuit, for that decision to be made. And it is an additional review, and as Justice Jackson has said in the Supreme Court, you know, they

are not always right except for the fact that they are final, and so you have this unique system.

Mr. FARR. Yes. And of these appeals, how many are filed by the government, thinking that it is erroneous—

Judge KASOLD. Let me just check. Most of them are veterans, sir. There are a number of the—

Mr. FARR. The point and I would hope that it might support your idea for a commission, is—if we can get it right in the first instance you are going to have fewer appeals.

Judge KASOLD. I agree. And in fact, my suggestion was for the review of the judicial system, and I believe the authorizing committees had a proposal, I think from the House side, if I am not mistaken, last year or the year before, to review the entire system.

And within V.A. I am sure General Shinseki can talk about what process and procedures he can undertake to do things better there, but within the judicial system we do have this additional unique review that is going to add time to the system. And whether or not there is a cost-benefit analysis associated with that is what I had suggested might be reviewed, because the court has been around now for almost 25 years. We have established a significant body of case law that didn't exist in the beginning. And the idea came to a number of us who have a military background.

A similar situation had occurred with the Court of Armed Forces—what is now the Court of Appeals for the Armed Forces—COMA back then. And its decisions used to be subject to not appeals, but habeas corpus review constantly in the civil courts before there was Supreme Court review over the Court of Appeals for Armed Forces. And so that type of concept seemed to make sense for this system, at least to be looked at now that the court has been around for about 25 years.

But if they were to include, as the legislation has proposed, a review down below, I will defer to the senator—excuse me, the secretary for his comments with regard to V.A.

#### NAVY ANNEX

Mr. FARR. Thank you.

Ms. Condon, I am wondering if the Navy Annex, which was scheduled to be completely demolished this August, isn't it—

Ms. CONDON. This August, sir.

Mr. FARR. Would sequestration delay that demolishing?

Ms. CONDON. Right, because part of our budget request for this year was the \$19 million to do the planning and design of the Navy Annex. The buildings are coming down. That was Washington Headquarter Services, and the Pentagon is funding that. The buildings will be down this August.

My concern is, if we don't get money to start the planning and design for the building, the ground is going to be fallow but we can't start planning for the future of the Navy Annex without those dollars.

#### STATE-OPERATED RETIREMENT HOMES

Mr. FARR. And, Mr. McManus, you are the chief operating officer for the retirement home. Who manages the budgets for the state-

operated retirement homes? Is that a Department of Veterans Affairs?

Mr. MCMANUS. I know——

Mr. FARR. Is it separate from your——

Mr. MCMANUS. It is separate——

Mr. FARR. We have a federal retirement home, which you operate, and then we have state-operated retirement homes. Is that correct?

Mr. MCMANUS. That is correct.

Mr. FARR. But they are not managed under the same jurisdiction.

Mr. MCMANUS. That is correct.

Mr. FARR. So there is an account in the Department of Veterans Affairs that deals with that?

Mr. MCMANUS. I really can't talk to the state homes, sir, because they don't fall under me. I know that V.A. has grants that go to them to help fund them, but I believe it falls under the state, but I really do not know.

Mr. FARR. Is there anybody that looks and sees whether the standards are equal?

Mr. MCMANUS. Yes. V.A. does have certain—in terms of accreditation?

Mr. FARR. Yes, and in terms of just the compliance with codes, is the federal standard stronger than or equal to the states? Is there a quality of review as to whether the states are living up to a standard that you have to live up to in your retirement homes?

Mr. MCMANUS. We are required to have an accreditation, just as the states' home have an accreditation.

Mr. FARR. Okay. It is an accreditation process.

Mr. MCMANUS. That is correct.

Mr. FARR. And that is a physical review of the facilities, everything like that?

Mr. MCMANUS. And the services——

Mr. FARR. All right.

Mr. MCMANUS [continuing]. To make sure that they are—of the service standard.

Mr. FARR. But that is outside of your jurisdiction.

Mr. MCMANUS. For the states. For the state homes, that is correct.

Mr. FARR. But it is the same commission that looks at both, or the certification is both?

Mr. MCMANUS. No. We will require you to ticket accreditation. We have it with CARF; prior to that we had it with JCAHO. I am not sure on the state homes who they are accreditation is through. I could find out and provide an answer to it, but I honestly do not know.

Mr. FARR. Thank you, Mr. Chairman.

Mr. CULBERSON. Thank you, Mr. Farr.

And my good friend from Nebraska, Mr. Fortenberry.

#### IMPORTANCE OF AMERICAN BATTLE MONUMENTS COMMISSION

Mr. FORTENBERRY. Well thank you, Mr. Chairman.  
And appreciate you all being here today.



Mr. Secretary, last year—about a year ago—I think it was in February, actually—I visited the American Cemetery at Omaha Beach, and the gentleman who met me there did an outstanding job. I don't recall his name.

But he also introduced me to another employee that you have had there. In fact, the family has worked there for three generations. She was a French national but our employee. And they, of course, wanted to treat me very specially, but I said, "Let's just walk down to the beach."

And I have to tell you, standing on the water's edge and looking back across those hundreds of yards of open beach and up those steep cliff hillsides and trying to get your mind around what those must have faced on that day is not only a powerful and frightening experience, but one that I think left a deeply—a deep impression on me, so much so that I consider that one of the most meaningful days that I have actually had in Congress.

And we proceeded up the hillside there and stood in one of the German bunkers that was occupied by a German soldier named Sevrilow, who, at the end of his life, wrote a book and apparently had fired his weapon about 9 hours straight. And standing where he stood or laid, the wide open nature of that beach, again, just reminded you very powerfully of the—not only the gravity of that situation but just the horror of it.

Apparently Sevrilow wept as he fired his weapon, as he recalled later in life. But these were all facts that were given to me by your outstanding staff who were there.

Now, later in the day on my own I went to Pointe du Hoc and over to Sainte Mere Eglise. In August of 1944 a surgeon left his wife and two young children and joined the army and became a captain, and he, as best we can tell, was in a field hospital in England but then transferred quickly to France, and following up Patton's movements through Northern France. He was killed by an ordnance explosion and buried at Sainte Mere Eglise, and he was my grandfather. And so I had attempted to find the original gravesite but was able to learn that those had all been consolidated into the one cemetery there called the American Cemetery at Omaha Beach.

Something else, though, that I learned: The young French woman was my guide—her grandfather was initially employed in 1944 by us. He helped prepare our dead for transport back home. And in the war records, even though they are a bit sparse, of my own grandfather's death, I noticed that he was transported from his initial burial site at Sainte Mere Eglise to—through the Port of Cherbourg, which is where this young woman's grandfather had also worked.

So to stand there and imagine that maybe her grandfather handled the remains of my grandfather as he came to his final resting place, which is under your domain here in Arlington National Cemetery, again, was perhaps the most powerful day that I have had in Congress thus far.

I tell you all this only to say that I basically had to place myself—it was winter time but it was a lovely day. Your employees there are highly dedicated, honorable, noble people who deeply be-

lieve in this mission, as clearly all of us who do who are on this subcommittee.

To continue the memories of those who have gone before us and sacrificed with everything that they had is not only the right thing to do, it defines us as to who we are. Even though that is the past, I think it still defines us as to who we are.

I have taken my five daughters. I have taken my five daughters to visit my grandfather's grave at Arlington Cemetery. And it is a little bit hard for them to relate to that, but still, I think that is important for them to do, because I only grew up with stories about this and it wasn't until I was able to come to Congress—because my own father died when I was young—I was able to unpack the fullness of the story here.

So I don't have any hard questions for you, to be honest. I just really deeply appreciate what you do, what you have dedicated yourselves to doing. It had an extraordinary impact on me, as I know it does millions of other Americans who interact with you throughout—on an annual basis.

So I just wanted to give—put that out there for you. Sometimes these hearings can be a little bit tense and back and forth because we are all struggling with budgets and audits and all that. Just work hard to get it right, as I know you will do, and help us to do both missions—to manage this reasonably, in terms of tight economic times, but also, let's stay tethered to what you know is right, in terms of honoring particularly our war-dead and those who have gone before us.

So with that, I yield back, Mr. Chairman.

Mr. CULBERSON. A great story, and it truly is but for the work that you all do would not be possible for us, for our kids, for future generations to really understand or even begin to relate to the sacrifice of the men and women who made it possible for us to be here.

Mr. CLELAND. Mr. Chairman, may I respond?

Mr. CULBERSON. Please.

Mr. CLELAND. Thank you very much, Congressman Fortenberry.

Anyone who visits and doesn't come back awed by that experience doesn't have blood in their veins.

I have never seen such dedicated people in the work of our government as the French, Americans, foreign service nationals, and our superintendents in caring for the combat dead of generations ago like they were their brothers and sisters.

We actually have an employee—it is hard to even say the word “employee” they are so committed they are like family—at our Flanders Field Cemetery that, on his own, took it upon himself to go back and read about and study and find out about the lives of all 400 men who were buried at Flanders Field and then write a book on his own about it. I mean, that is the sense of dedication that these employees bring to their task. And until one actually goes to one of our overseas cemeteries and experiences that for themselves, it is hard to describe.

I will say that that is in keeping with the spirit in which the American Battle Monuments Commission was created, which General Pershing talked about when he would use the phrase, “Time will not dim the glory of their deeds.” That is our motto. That is our goal. And everything we do is measured on that.

So thank you very much for your visit. Please come back. And thank you very much for that insight.  
Thank you, Mr. Chairman.

#### ARLINGTON NATIONAL CEMETERY UNOBLIGATED BALANCES

Mr. CULBERSON. Thank you very much.

Just a couple other quick questions. I did want to ask about, apparently there was an outstanding balance left over in Arlington's accounts. I wanted to ask how that was and how you all applied that.

Ms. CONDON. Sir——

Mr. CULBERSON. Unobligated balances——

Ms. CONDON. Okay, the recovered funds from prior years. That was what enabled us to fully fund the ninth columbarium. Of those dollars we spent—that was about \$14 million—\$8.5 million of that was to take care of our backlog of maintenance repair. That is how we repaired the sewer system. We are repairing the eternal flame for President Kennedy because it has just not been taken care of. It is 50 years coming up, so we need to make sure we take care of that.

Our roads, our infrastructure, our water lines, \$2 million of that was for our I.T. advancements. So we literally have tried to heal ourselves the best without having to come to this committee for additional dollars by taking the unliquidated obligations from the past and putting it towards the maintenance and repair and the major projects that we have needed to do.

Mr. CULBERSON. How much of that maintenance backlog is left?

Ms. CONDON. Sir, that is why we put the bill on the table for \$25 million this year. When we did our study, we have probably close to \$70 million in backlog of maintenance and repair.

The sewer system had catastrophic failures, the water lines are all 50 years and older. The buildings were not taken care of. We had, too, catastrophic air conditioning. But what we are doing, sir, is as part of our master plan is programming out the maintenance and repair, doing the life, safety, and health issues first.

Mr. CULBERSON. By the way, do you all also have jurisdiction over and providing funding for the Arlington House?

Ms. CONDON. No, that is National Park Service.

#### AMERICAN BATTLE MONUMENTS COMMISSION AUDITS

Mr. CULBERSON. Okay.

Mr. Secretary, there is—it is my understanding that the Government Accountability Office will no longer conduct audits on the American Battle Monuments Commission. Can you discuss how the commission will be audited going forward and where you are in the process of ensuring those audits?

Mr. CLELAND. For the last 15 years the Congress has directed that annually the American Battle Monuments Commission be audited by the GAO. They have been good partners.

But now this is their last audit, and we will then have to spend some money to hire an outside audit firm——

Mr. CULBERSON. Yes, sir.

Mr. CLELAND [continuing]. And get that worked on, so that is what we will do. It is one of our fixed costs going forward, as one

might say, that present a challenge as we bump—if we had to bump up against sequestration a year from now.

Mr. CULBERSON. Yes, sir.

What about the—some of the outstanding GAO recommendations. How will you track those?

Mr. CLELAND. They shift them into two categories. One is management and the other is financial findings.

We have been clear for 15 years on the financial findings. We have management issues with which we deal. They will come up again this year. We track those.

We have been pretty good at basically clearing those up. About 60 or 70 percent of those are cleared up annually, but then there are always new ones with the GAO audit. So, you know, we are on top of it. We work closely with them.

I will say this: To a certain extent I feel that the ABMC is being better managed now than it was when I got there because—not because of me but because we have the power of technology here managing our finances now through a financial management system, which has driven everybody crazy but now they are adapting to it worldwide. But before we were back in the Kathy Condon's world of three-by-five cards and pens and pencils.

Ms. CONDON. The former world.

Mr. CLELAND. Former world. Sorry. Sorry about that.

Now we have a financial management system. If you speed things up, bad things seem to pop out faster. So, but we have a new financial management system that is in place and we are doing a better job of managing our finances worldwide and everybody is beginning to adapt to it. I think there are other things that we are more on top of now than we were 3 or 4 years ago.

Mr. CULBERSON. I suspect you had a fair amount to do with it.

Mr. CLELAND. Well, the ones that weren't on top of it were—are not there anymore.

Mr. CULBERSON. Deeply appreciate it.

I will have other questions for the record for each one of you.

I am going to pass it to my good friend, Mr. Bishop.

Mr. BISHOP. Thank you.

Just one question, Ms. Condon. The budget included \$84 million for the Millennium Project, and of course, that funding is tied up in the C.R.—

Ms. CONDON. Yes, sir.

#### SEQUESTRATION

Mr. BISHOP [continuing]. And now your budget is being hit by sequestration.

What impact will the sequestration have on Millennium Project, and at what point will the delay in the new start authority affect the starting date?

Ms. CONDON. Sir, if we do not award the contract for the Millennium Project this year and do not get the funding that will flip us beyond having their in-ground burial space in 2024, as I said, because it literally will take 10 years to do that. So we need to get that project started this fiscal year and award that contract.

Mr. BISHOP. So you need the C.R. to be untied?

Ms. CONDON. We need to do that because the bottom line, what it does, it will impact the future burials for our veterans and their loved ones.

Mr. BISHOP. Thank you.

#### MEMORIALS

Mr. FARR. [Off mike.]

Mr. CLELAND. Sir, it is—the American Battle Monuments Commission Memorial on the west coast, there—the Presidio in San Francisco has the names of the missing of those who died in the coastal waters of the United States in World War II—1941 to 1945—the coastal waters. That is the West Coast Memorial. We have one that honors the missing on the coastal waters of the Atlantic in Lower Manhattan in Battery Park.

So we have an East Coast Memorial honoring those missing in the coastal waters of the United States in World War II in Battery Park and one honoring those who lost the——

Mr. FARR. [Off mike.]

Mr. CLELAND. Those are confined to 1941 to 1945. That is the mission of those memorials.

Now, we keep finding new evidence from time to time—it was about 3 years ago that we added two names to the East Coast Memorial in New York. There were about 200 ships that were sunk between 1941 and 1945 by German submarines along the coastal United States, and a lot of those men came up missing. Those names are on the wall in Battery Park in our memorial there, and the same goes for the west coast.

But otherwise we have no memorials in the United States. We are the overseas people. We are all overseas.

Mr. FARR. [Off mike.]

Mr. CLELAND. Congressman, I am——

Mr. FARR. [Off mike.]

Mr. CLELAND. Yes, sir. The secretary of the Army has asked me to be the co-chair of an advisory committee, now, because full-blown statutory authority now, thanks to the Congress—to advise the secretary of the Army on matters concerning Arlington. That issue of a west coast Arlington will be on the agenda later in the spring when we meet as an advisory committee.

Mr. CULBERSON. Thank you.

Thank you very much. Truly, from the bottom of our heart we thank you for your service to the country, to the men and women in uniform present and past. Deeply appreciate the sacrifice you make on behalf of the country.

And we will submit further questions to you individually for the record.

Thank you very much, and the hearing is adjourned.

[Questions for the record follow:]

[Questions for the Record submitted by Congressman Young for Ms. Kathryn A. Condon follows:]

**Question 1.** Exemplary improvements have been made over the last few years at Arlington National Cemetery and I commend you for your hard work. I understand that your standards of accountability are now externally validated and this provides the requisite oversight to ensure Arlington National Cemetery operates as it should – however, what does the oversight plan look like for the long term? How long will third and fourth party oversight or intervention be utilized, and what measures will be taken to ensure instances of complacency seen in the past will not become an issue again?

**Answer.** We appreciate your recognition of the tremendous efforts Arlington National Cemetery's staff has made to restore this National Treasure. External oversight of Arlington National Cemetery over the past years has enabled us to develop and institutionalize more rapidly the critical controls that will ensure we maintain the highest standards into the future. Public Law (111-339) required the Secretary of the Army assess Arlington's compliance with directives and laws for three consecutive years. We have just begun our final of three assessments, which Congress directed the Department of Defense Inspector General (DoDIG) to conduct. In addition, the 2012 NDAA directed the DoDIG to conduct an inspection of Arlington National Cemetery during FY15. In parallel, Arlington also benefits from a Congressionally-mandated advisory group, the Advisory Committee on Arlington National Cemetery, which will continue to closely monitor the Cemetery into the future. The committee's mission is to provide the Secretary of Defense, through the Secretary of the Army, independent advice and recommendations, with respect to the administration of Arlington National Cemetery, the erection of memorials at the cemetery, and master planning for the cemetery.

In addition to these robust external oversight mechanisms, Arlington National Cemetery has made tremendous improvements in its ability to self assess and identify potential problems through the development of an organizational inspection program (OIP). This program, to be finalized this year, addresses the deficiencies noted by the many external audits conducted at Arlington National Cemetery over the last several years. Additionally, we are updating the governing Army regulation for Arlington National Cemetery, which will include policies, procedures and inspections for which this and all other Army cemeteries will follow.

Arlington National Cemetery continues to enhance the Family and visitor experience through its three pronged-efforts to ensure accuracy among records, the permanent marker and a geospatially-mapped grave location for all our Veterans and their loved ones.

Ultimately, the development and institution of these military standards and processes will ensure Arlington National Cemetery will uphold the faith and confidence of the American people that we have worked so diligently to restore.

[Questions for the Record submitted by Congressman Young for Ms. Kathryn A. Condon follows:]

**Question 2.** What will be the environmental impact of the millennium expansion project? What damage might be done to the surrounding areas, what steps are you taking to mitigate these projected damages, and how will your work translate to extended capability at Arlington National Cemetery in the future?

#### **Environmental Impact**

**Answer:** To allow for informed decision making, an analysis of the potential extent of environmental impacts was conducted for the Millennium Project and its alternatives in accordance with applicable law and regulations.

The analysis identified both positive and negative short-term and long-term impacts. The short-term impacts associated with the proposed action include land use, topography, drainage and surface water impacts, disturbance of soil and removal of vegetation, air and noise emissions, increased construction traffic, temporary closures or interruptions in a portion of the jogging path on Joint Base Myer-Henderson Hall near the construction site, and altered aesthetics from the presence of a construction site. Short-term impacts to utilities such as water and electric service may also be encountered during construction. Short-term impacts would cease with the completion of construction. Long-term impacts to land use, soils, topography and drainage, surface water, vegetation, wildlife, cultural resources and aesthetics would be expected as a result of the Proposed Action. The analysis determined that the direct, indirect, and cumulative impacts of the project would not be significant.

During an initial 45 day public comment period for the project's Environmental Assessment (EA) which ended in January 2013, approximately 30 individuals and organizations submitted comments on the EA. The primary concern raised was the impacts to the forested area on and adjacent to the Millennium Project site.

There are a total of 1804 trees at the project site which are greater than six inches diameter at breast height. At 65% design, approximately 882 of these trees will be removed, of which 60 are dead, 90 are invasive species, and 732 are healthy native trees. The trees identified to be removed on Arlington National Cemetery's property are all in areas that were clear cut during the Civil War. The impacted trees are a maximum of 145 years old, but the majority of impacted trees are less than 105 years old. No native trees will be removed from the area identified as the "Arlington Woods," an old growth forest containing trees up to 235 years old which is situated on adjacent National Park Service (NPS) property. To offset the impacts of the tree removal, approximately 600 native trees and 500 shrubs will be re-planted to replace a portion of the function of the trees removed.

### **Surrounding Area**

The environmental analysis reveals that the project will have no direct, indirect, or cumulative negative significant impacts on the surrounding area. Only minor indirect impacts would occur to resources such as aesthetics, hydrology, wildlife and vegetation.

### **Measures to Avoid, Minimize and Mitigate**

The National Environmental Policy Act requires federal agencies to analyze environmental impacts for proposed agency actions. Preliminary analysis has identified the following measures for the Millennium Project:

#### **Measures to Avoid Impacts:**

- Stream restoration using Natural Channel Design techniques
- Detailed design created to specifically avoid larger trees where feasible
- Oldest stands of trees completely avoided, with no direct impacts to stands of trees greater than 145 years-old

#### **Measures to Minimize Impacts:**

- Enhancing aesthetics
- Salamander protections on all NPS property
- Modified Regenerative Stormwater Conveyance construction methods with access limited to the channel
- Invasive species removal and control plan incorporated into design
- Native species used for all re-plantings in natural areas; formal areas may include a few non-native species (but no invasives)

#### **Measures to Mitigate and Offset Impacts:**

- 600 new trees and 500 new shrubs planted to offset the lost trees
- Materials from historic boundary wall used as facade on new boundary wall (Section 106 Mitigation)
- Vegetation re-location and inventory by local environmental organizations
- Historic American Buildings Survey of the Boundary Wall (Section 106 Mitigation)

### **Extended Capability**

Arlington National Cemetery performs 27 to 30 funeral services each day. If this project is not provided, the Cemetery will exhaust the existing burial space for in-ground burials in 2025 and for cremated remains in 2024. Based on the 65 % design, the project would expand the capability by 29,922 total new burial sites: 6,565 crypts for casket burials, 3,822 in-ground sites for cremated remains, 1,590 in-ground traditional burials, 115 in-ground custom spaces, and 17,830 columbarium niches for cremated remains.



[Questions for the Record submitted by Congressman Young for the Honorable Bruce Kasold follows:]

**Question 1.** You have improved upon the timelines of judicial review as well as the number of pending cases. Given these improvements, what is your vision for Fiscal Year 2014 and beyond, and what other measures will you implement that will address systemic faults within the system? How do we ensure the heroes of our Nation, our veterans, will be efficiently and effectively addressed while continuing to improve the system currently in place?

**Answer:** The vision of the U.S. Court of Appeals for Veterans Claims for Fiscal Year 2014 is first and foremost to continue to work as efficiently as possible to provide full and fair decisions in all matters before the Court. With our newest Judge appointed in December 2012, and two others appointed last summer, we are looking forward to operating at full strength and adjusting our staffing to best support a nine-judge Court. Although we have indeed made positive strides in managing our caseload and reducing the time a case awaits decision once fully briefed, litigation nevertheless remains a time-consuming process. Cases that are not resolved in our dispute resolution process must be briefed by the parties, which requires a minimum of 150 days. Moreover, extensions of time frequently are sought by the parties, such that the median time it takes from the time an appeal is filed until the parties have completed full briefing is more than thirteen months.

After two plus years as Chief Judge, and given the adjustments we have made over the past two years to streamline the review process without sacrificing quality, I am not aware of any "systemic faults" within the Court's realm of judicial review. Nevertheless, examining each phase of the case flow will remain a constant. Similarly, although not a systemic "fault", I continue to encourage Congress to establish a commission to evaluate the overall process of appellate review of Veterans benefits decisions B as noted in my written statement submitted to the Committee.

With regard to "systemic faults" within VA, and particularly given the magnitude of the number of claims now being filed and processed within VA, I defer to Secretary of Veterans Affairs who has responsibility for the agency and for administering the benefits programs for veterans.

[Questions for the Record submitted by Congressman Young for Steve McManus follows:]

**Question 1:** How will the planned reduction of personnel across the armed forces over the next few years negatively affect your operational funding streams and levels of care?

**Answer:** The planned personnel reductions will impact the AFRH in two sources of revenue: (1) \$.50 Payroll Deduction; and (2) Fines and Forfeitures.

Payroll Deduction: In FY 2012, AFRH received \$7.4M from the \$.50 payroll deduction. The planned personnel reduction will impact this revenue stream by -\$200,000 in FY 2014 growing to -\$400,000 per year in the outyears. We do not expect this revenue decrease to significantly impact AFRH operations or level of care.

Fines and Forfeitures: Historically, the Fines and Forfeitures revenue stream increases as deployments decrease and the force downsizes. Therefore, we expect a slightly positive impact on Fines and Forfeitures revenues as a result of the planned personnel reduction with no significant impacts to operations or level of care.

[Questions for the Record submitted by Congressman Young for Steve McManus follows:]

**Question 2:** Can you expand on your plan to cut costs through your stated strategic goal of stewardship? How does this vision of oversight transfer into real cost savings and efficiencies?

**Answer:** The AFRH goal for Stewardship addresses many facets of our operations and translates into actual reductions in the cost areas. Specific major cost savings are seen between the years before the Washington campus (undertaking the Scott Project) was improved and the implementation which is now occurring in Fiscal Year 2013.

Major cost savings are being achieved through the Scott Project. The overarching goal of the Scott Project has been to streamline excessive maintenance costs and reducing the Washington Home's operational footprint.

New cost savings will come from:

- Closing one of two dining facilities and associated operations.
- Decreasing custodial requirements by over 400 thousand.
- Reducing facility maintenance.
- Lowering the cost of all utilities.
- Eliminating the need for on-campus transport.
- Closing the power plant
- Closing the 214 thousand square-foot LaGarde Building