

WATER RESOURCES: THE ROLE OF THE PUBLIC AND PRIVATE SECTORS

HEARING BEFORE THE SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE ONE HUNDRED FIFTEENTH CONGRESS FIRST SESSION

MAY 9, 2017

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C O N T E N T S

Page

MAY 9, 2017

OPENING STATEMENTS

Inhofe, Hon. James M., U.S. Senator from the State of Oklahoma	1
Cardin, Hon. Benjamin, U.S. Senator from the State of Maryland	5

WITNESSES

Semonite, Lieutenant General Todd T., Commanding General and Chief of Engineers, U.S. Army Corps of Engineers	7
Prepared statement	9
Response to an additional question from Senator Duckworth	12
Lyons, James K., Director/CEO, Alabama State Port Authority	13
Prepared statement	15
Humphreys, Grant, Town Founder, Carlton Landing, Oklahoma	21
Prepared statement	24
Rahn, Pete K., Maryland Secretary of Transportation	66
Prepared statement	68
Goche, Rick, Commissioner, Port of Bandon	72
Prepared statement	74

ADDITIONAL MATERIAL

Letter from American Rivers, Rivers Connect Us	99
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WATER RESOURCES: THE ROLE OF THE PUBLIC AND PRIVATE SECTORS

TUESDAY, MAY 9, 2017

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:33 p.m. in room 406, Dirksen Senate Building, Hon. James Inhofe (chairman of the subcommittee) presiding. Present: Senators Inhofe, Capito, Boozman, Moran, Ernst, Sullivan, Shelby, Cardin, Merkley, Gillibrand, Markey, Duckworth and Harris.

Senator INHOFE. Committee will come to order.

Since we do have members here who want to be recognized to introduce different ones, I happen to be one of those, I think we might go ahead before opening statements and do that before we lose someone.

We already know Lieutenant General Todd Semonite. This is your third time here, is that correct?

Lieutenant General Todd. Yes, sir.

Senator INHOFE. You are a regular here.

I would recognize at this time Senator Cardin to introduce Pete Rahn.

Senator CARDIN. Mr. Chairman, thank you very much.

It is a pleasure to have Secretary Rahn here before our committee. He is the Secretary of Transportation for Maryland.

As I was telling the Chairman, this is the third State where he has been Secretary of Transportation. He has also directed the Missouri Department of Transportation and the New Mexico State Highway and Transportation Department. He just cannot hold on to a job.

We are very proud of the work he does in Maryland. We have a pretty challenging organization in Maryland where the Secretary of Transportation is responsible for all modes of transportation and coordinating all modes of transportation.

Mr. Rahn has done an outstanding job in directing that department. It is a very large budget.

He also served as President of the American Association of State Highway and Transportation Officials from 2007 to 2008. He has served in other positions in national leadership. We are proud to have him before our committee.

Senator INHOFE. Very good.

I will recognize Senator Merkley for your introduction.

Senator MERKLEY. Thank you, Mr. Chairman and Ranking Member, for holding this subcommittee hearing to discuss the importance of investing in our ports and waterway infrastructure.

I am pleased to introduce Bandon Port Commissioner Rick Goche from my home State of Oregon who is here to testify. Not only is he a port commissioner, he has been a fisherman and small businessman for almost 50 years. He is involved in many aspects of the fishing community. He owns and operates a fishing vessel, *Peso II*, and owns the Sacred Sea Tuna brand.

He is the Chairman of the Oregon Albacore Commission. He is President of Aquatic Resources Inc., a consulting group for live seafood holding and shipping. He is Chairman of FISHCRED, a statewide fishermen's organization.

Very few people know as intimately as Rick the importance of maintenance for our small ports, our navigation channels and our jetties. In fact, Rick should probably be at home preparing his boat for annual maintenance but he is here on behalf of the fishermen whose lives and livelihoods depend on this funding to make sure they can get to safe harbor.

He has crossed about every bar between San Francisco and Canada. He is here to advocate for the Army Corps budget to make sure our small ports stay the economic driver of our coastal communities.

Thank you for being here, Commissioner. We appreciate it.

Senator INHOFE. Thank you. Welcome, Commissioner Goche.

Senator Shelby, would you like to introduce Mr. Lyons?

Senator SHELBY. Thank you, Chairman Inhofe and Ranking Member Cardin.

It is a great opportunity for me today to introduce James Lyons who is the Director and CEO of the Alabama State Port Authority. I am glad he could join us here today.

I have known Jimmy and his family for many years and the work he has done at the Port Authority of Mobile. The Port of Mobile has not only been vital to our State but also to the Gulf Coast Region.

Jimmy, as I said, is the Director and CEO of Alabama State Port Authority. The Port of Mobile is currently the tenth largest U.S. seaport in import and export of domestic trade by total volume.

The port's largest commodities are coal, crude oil, steel and petroleum. In any given year, between 52,000,000 to 67,000,000 tons of cargo is moved annually through the port. That number continues to grow.

Jimmy Lyons has continuously worked to meet the growing demands of post-Panama Canal market. In 2014, the Port Authority submitted a request to the Corps of Engineers to consider increasing the depth and width of the Mobile Harbor channel to its authorized dimensions.

The Corps subsequently began a general reevaluation report which examines potential costs and benefits associated with the deepening and widening of the port. This study is expected to conclude in 2019.

Mr. Chairman, the Port of Mobile provides access to nearly 15,000 miles of inland waterways serving the Great Lakes, the Ohio Valley, the upper Mississippi and Tennessee Valley ports.

Simply put, the ports serve as an economic driver for much more than just Mobile.

The new Administration has made economic growth a top priority to ensure that our industries and businesses, big and small, can continue to compete in the increasingly complicated global marketplace.

To facilitate this growth, it is important that Congress make infrastructure legislation a priority. The Corps plays, as we all know an important role in modernizing our Nation's waterways. Corps projects provide more than \$100 billion annually in net economic benefits. I believe this demonstrates the job creation and economic growth associated with such investments.

I am thankful the committee today, under your leadership, is working to understand the challenges we are facing. I look forward to the testimony of all the witnesses.

Thank you, Mr. Chairman.

Senator INHOFE. Director Lyons, welcome.

I will not say we saved the best to last; that sounds a little self-serving but we have Mr. Grant Humphreys, Town Founder of Carlton Landing, Oklahoma. I am happy to have Grant here. I have known his daddy, Kurt, for longer than he has been alive. It is a pleasure having you here in the capacity of what you are doing successfully in Oklahoma.

He is a real eState developer, investor and homebuilder. About 10 years ago, Grant began the process of founding and developing Carlton Landing at Lake Eufaula, Oklahoma.

Some of you may not be aware of the fact that Oklahoma has more miles of freshwater shoreline than any of the 50 States. Did you know that, Senator Shelby?

Senator SHELBY. I did not.

Senator INHOFE. In Carlton Landing, Grant has embarked on an ambitious project which is already showing great successes which he will be sharing with us.

In addition to founding and developing Carlton Landing, Grant is also the founder and principal of Traditional Craft Homes, a home building company providing custom and specific production homes.

In developing a project on Lake Eufaula, Grant has become involved with a community of lake developers in the region and can speak to his experience and that of others with getting a project started.

I welcome you here today, Grant.

**OPENING STATEMENT OF HON. JAMES INHOFE,
U.S. SENATOR FROM THE STATE OF OKLAHOMA**

Senator INHOFE. Today's first Transportation and Infrastructure Subcommittee hearing is on a subject that is very important to Nation, including my home State of Oklahoma. Our Nation's water resources provide our economy with a platform for the movement of goods to facilitate trade with the world, bring jobs and many other benefits to the communities that surround them.

U.S. Corps of Engineers projects generate over \$109 billion annually in economic benefits and generate over \$34 billion in revenue to the United States Treasury.

Unfortunately, like most of our infrastructure, our water resources are aging and in great need of repair and upgrading. Recognizing this need, the last two Congresses have worked to authorize new projects and create reforms to provide more Federal funding and also private investment, something we could not do not too long ago.

Today's hearing will explore the benefits our water resources provide to local and national economies and examine the continued needs that must be met so the U.S. can remain globally competitive, provide jobs and other local benefits here at home.

In Oklahoma, we know these benefits firsthand with ports along the McClellan-Kerr-Arkansas Navigation System connecting Oklahoma with the Mississippi River and with the rest of the world.

With over 20 Army Corps of Engineers-managed lakes in my State, our industries and our citizens know the impact of our many water resource projects through cheaper goods, cheaper electricity, jobs, flood protection and many recreational opportunities.

The McClellan-Kerr-Arkansas River Nation System is 445 miles long and spans Arkansas and the eastern part of Oklahoma. Between the Port of Muskogee and Tulsa Port of Catoosa, Oklahoma ports are home to over 70 companies and industries shipping 5.7 million tons of cargo with values of \$22.56 billion, employing more than 6,500 Oklahomans and creating an overall economic impact of more than \$400 million to my State each year.

The ability to move all kinds of goods without relying solely on one form of transportation keeps shipping costs low, benefiting companies that ship their wares regionally and globally, and benefiting consumers who can further stretch their dollars.

In addition to moving products and manufactured goods, other Army Corps projects help our communities by providing for flood risk management, water storage, hydropower and recreation.

Every authorized use of a Corps project allows the surrounding communities to realize a greater potential for economic development and improves the quality of life for those who depend on the infrastructure either directly or indirectly.

The challenge before us today is to understand the full need for repairing and maintaining our current infrastructure and the need for new projects to ensure that the United States remains globally competitive and our communities continue to reap the benefits of the Army Corps infrastructure.

With the top of infrastructure in the news during the election cycle and within the new Administration, the time is now to work toward solutions to meeting these needs.

I thank our witnesses for being here today.

I want to make one comment about the attendance here. This is taking place at the same time we are having a Senate Armed Services Committee hearing of which I am the Ranking Member, so it is difficult to be in two places at once. We will be going back and forth.

Senator Cardin.

**OPENING STATEMENT OF HON. BENJAMIN CARDIN,
U.S. SENATOR FROM THE STATE OF MARYLAND**

Senator CARDIN. First, Mr. Chairman, let me say what a pleasure it is to be sitting next to you in this committee as we convene the first public hearing of our subcommittee.

Senator Inhofe and I came to the U.S. Congress on the same day in the House of Representatives. We have been friends ever since. It is a real pleasure to serve with him on this subcommittee because, I am going to let you in on a secret, Senator Inhofe is one of the most progressive people I know in this Country on infrastructure development.

Senator INHOFE. I am glad you qualified that.

Senator CARDIN. I always told him I would be glad to come to his State to campaign for him but he told he would prefer me to stay in Maryland.

The two of us share a passion for the importance of water infrastructure, roads and bridges, and transit systems for the entire modernization of our infrastructure because both of us understand it means jobs. It means U.S. competitiveness. It means America having the ability to compete globally. That is what it means. We recognize the importance of the governmental part, the private sector part and putting this all together.

I particularly want to acknowledge my pleasure to serve as the Ranking Member with Senator Inhofe on this subcommittee. I think it is very appropriate that our first hearing deals with the role of public-private sector and water resources because we need both.

You heard Senator Inhofe brag a little bit about his State on water projects. Well, I could spend the next 2 hours talking about the State of Maryland. I am not going to do that but I am going to compliment again Secretary Rahn for the leadership we have in our Maryland port.

I had a briefing on the Maryland port last week. We are doing extremely well. For January 2017, the Port of Baltimore hit another record month. We are the closest to the Midwest and any other East Coast port which gives Maryland an advantage. We rank ninth overall in value of cargo. Baltimore is well known for the cars that come in and out of that port as the largest in that region. We are significantly increasing our capacity on containers, we handle a great deal.

One of the facts I have to put in the record and brag about is the General Commerce ranked the Port of Baltimore as No. 1 in the Nation for container berth productivity for 3 years in a row, with the port averaging 71 container movements each hour per berth. We are pretty efficient and are proud of our efficiency in the Port of Baltimore.

Under our State leadership, we moved quickly recognizing that the expansion of the Panama Canal would allow larger vessels to be able to be handled. We had to add the facilities to the Port of Baltimore in order to be able to deal with that. Baltimore is one of only four eastern U.S. ports with a 50-foot channel and a 50-foot container berth allowing it to accommodate some of the largest container ships in the world.

On July 19, 2016, the Ever Lambent cargo carrier from Taiwan was the first super-sized container ship to reach Baltimore through the Panama Canal, so we are ready. It is critically important to our economy.

I have some numbers. This will be typical of just about every port in our Country. The business from the port generates 13,000-plus direct jobs, with more than 127 jobs in total in Maryland linked to the port activities. This is very important to our economy. Three billion dollars in wages and salaries contribute more than \$310 million to State and local tax revenues.

This is important business for a Senator from Maryland. It is important business for a Senator from every one of our States. That is why we are particularly pleased to have this hearing.

I do want to point out that we cannot do this just by one of the stakeholders alone. We appreciate the role the Federal Government plays. It is very important, the direct help of water resources. We will talk today a bit about the next important leg in Maryland which is Mid Bay on the dredging materials and reclaiming of lands.

My predecessor, Senator Sarbanes, was directly responsible for Poplar Island, which has been a great success and a model for the Nation, allowing reclaiming of land as well as location for dredge material. We now need to move on to Mid Bay, which has already been studied. I think we are on track, but we will talk about it.

We also need the roads, the bridges, the rail and also the private sector. This hearing is an attempt to try to understand that we need all the above. I hope, as a result of this hearing and further hearings we have, that we will be able to get the investments by the public and private sector so that American, indeed, be competitive in our port and water activities so we can get the job growth that the people of this Country need.

[The prepared statement of Senator Cardin follows:]

Senator INHOFE. Thank you, Senator Cardin.

Let me say that we have worked so well together for so many years and we work on things that actually become productive. Confession is good for the soul, if you will pardon me for bragging a little bit.

When we had been having our meeting with the Chairman on the Republican side every Tuesday at 12:15, when it comes to my turn, I always say, now, from the committee that actually does things because we did.

I would say to my friend, Senator Cardin, we had the FAST Act, the Water Act, we had TSCA, the Chemical Act, three of the four largest projects or bills actually passed. We are used to accomplishing things.

We have many, such as Senator Capito and I, who have other committees at the same time so, because we have five witnesses, we are going to try to get you to adhere, if you would, to the 5-minute limit on your comments. Of course your entire statement will be made a part of the record.

We will start with General Semonite.

**STATEMENT OF LIEUTENANT GENERAL TODD T. SEMONITE,
COMMANDING GENERAL AND CHIEF OF ENGINEERS, U.S.
ARMY CORPS OF ENGINEERS**

General SEMONITE. General Inhofe, Ranking Member Cardin and distinguished members of the subcommittee, I am Lieutenant General Todd T. Semonite, Commanding General of the U.S. Army Corps of Engineers and the 54th Chief of Engineers.

I am pleased to be here today to discuss the role of the United States Army Corps of Engineers Civil Works Program and the associated value of water resource investments across the Nation.

The Corps has played a significant a significant role in the development of the Nation's water resources and currently manages an extensive national water resource infrastructure portfolio. This includes maintenance of 13,000 miles of coastal navigation channels, 12,000 miles of inland waterways, 715 dams, 241 locks, 14,000 miles of levees and hydropower plants at 75 locations.

These projects help provide risk reduction from flooding in our river valleys and along our coasts, facilitate the movement of approximately 2 billion tons of waterborne commerce and provide up to 24 percent of the Nation's hydropower.

There are about 250 million recreational visits a year to Corps lands and reservoirs, making the Corps one of the top Federal recreation providers.

Corps water resource investments bring significant value to the Nation. For example, the United States maritime and transportation industry supports approximately \$2 trillion in commerce with over 2 billion tons of commerce moving through harbors, channels and waterways constructed and maintained by the Corps.

Approximately 98 percent of the United States overseas trade by weight and 99 percent by volume enters or leaves the United States through a U.S. coastal port. The inland waterways support this commerce by facilitating the export of approximately 60 percent of U.S. grain, 22 percent of coal and 22 percent of petroleum products.

Corps risk reduction management projects and activities provide resilient risk reduction infrastructure and prepare individuals and communities for potential floods. The Corps is responsible for the construction and operation of 383 major dam and reservoir projects that regulate floodwaters in the Nation's major rivers and tributaries and has constructed over 14,700 miles of levees in partnership with local, non-Federal partners.

Additionally, the Corps has constructed over 90 major coastal shoreline protection projects along 240 miles of the Nation's coastline that provides storm damage reduction benefits to vulnerable coastal communities.

Over the past 10 years, it is estimated, on average, the Corps risk management reduction projects have prevented over \$65 billion worth of flood damages to urban and rural communities across the Nation.

The Corps maintains recreation facilities at over 400 of its multipurpose projects. The Corps has a long history of developing partnership within existing recreation authorities. It leases about half of the 5,000 recreationsites at these multipurpose projects to the

public and private entities, including private sector commercial operators, States and local governments.

Private recreationsites include approximately 562 privately owned marinas, resorts, campgrounds, boat ramps, fuel docks, convenience stores and other public use areas.

The Corps constructed much of this infrastructure in the first half of the twentieth century. Some of it is experiencing various stages of degradation and disrepair. In fact, approximately half of the Corps lock and dam facilities are more than 50 years old and bring operations and maintenance challenges commensurate with their age.

The Corps dedicates a significant amount of its resources to maintain the key features of these locks and dams, hydropower facilities and other water resources infrastructure. Per these requirements, a significant portion of the Civil Works Program is devoted to maintaining these systems so they can continue to provide economic and environmental benefits to the Nation and to address significant risk to safety.

To support the current and future requirements of the Nation's water resource infrastructure, the Corps is exploring alternative financing and funding options, including public-private partnerships, also referred to as P-3s through an assessment of private policy requirements and application of project-specific experience. The Corps is seeking to demonstrate how collaboration between the public and private sectors may improve the Corps' ability to deliver the Nation's infrastructure needs.

The Corps recognizes that significant investments are required to sustain the performance of our water infrastructure portfolio to an acceptable level of risk. We greatly appreciate the support from the Congress in addressing these needs.

As required in WRDA 2014, the Corps provided a report to Congress in the spring of 2016 capturing lessons learned from the exploration of P-3 concepts to date. As part of that journey, and with the support of Congress, the Corps was able to start Fargo-Moorehead Risk Management Project in North Dakota.

We acknowledge the congressional direction in the recent Fiscal Year 2017 appropriation language regarding the need for a more robust P-3 policy and look forward to working with Congress and the Administration to develop this policy guidance.

Investments by the Civil Works Program reduces the risk of flood impacts in communities throughout the Nation, facilitates commercial navigation, restores and protects significant ecosystems, generates low cost renewable hydropower and supports American jobs.

Continued investment in critical civil works infrastructure projects is an investment in the Nation's economy, security, employment and quality of life, now and into the future.

Thank you for the privilege of testifying about the Corps' role in sustaining the Nation's water resource infrastructure and economic opportunities associated with our Civil Works Program.

I am happy to answer any questions you may have.

[The prepared statement of General Semonite follows:]

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS

COMPLETE STATEMENT

OF

LIEUTENANT GENERAL TODD T. SEMONITE
COMMANDING GENERAL AND CHIEF OF ENGINEERS

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
UNITED STATES SENATE

ON

“Water Resources: the Role of the Public and Private Sectors”

MAY 9, 2017

Chairman Inhofe, Ranking Member Cardin, and Members of the Subcommittee, I am Lieutenant General Todd Semonite, Commanding General and Chief of Engineers. I am pleased to be here today to discuss the role of the U.S. Army Corps of Engineers (Corps) Civil Works program in the development, management, protection, and restoration of water resources across the Nation. The three main missions of the Corps are commercial navigation, flood and storm damage reduction, and aquatic ecosystem restoration.

The Corps has played a significant role in the development of the Nation's water resources. The Corps works with our Nation's coastal ports to maintain their channels, operates and maintains the inland waterways, supports State and local flood risk management activities, works to restore significant aquatic ecosystems, and operates and maintains multipurpose dams, as well as the reservoirs behind them. There are about 250 million day-visits a year for recreation at Corps lands and reservoirs, making the Corps one of the top Federal recreation providers.

The infrastructure that the Corps maintains includes 13,000 miles of coastal navigation channels (including the channels of the Great Lakes), 12,000 miles of inland waterways, 715 dams, 241 locks at 195 navigation sites, 14,700 miles of levees, and hydropower plants at 75 locations with 353 generating units. These projects help provide risk reduction from flooding in our river valleys and along our coasts, facilitate the movement of approximately two billion tons of waterborne commerce, and provide up to 24 percent of the Nation's hydropower.

The Corps constructed much of this infrastructure in the first half of the twentieth century. Some of it is experiencing various stages of degradation and disrepair. The Corps dedicates a significant amount of its resources to maintain the key features of this infrastructure.

The Corps has been improving its ability to focus on the work that will provide the highest economic, environmental, and safety returns to the Nation. For example, the Corps Infrastructure Strategy focuses on managing the Corps infrastructure projects more efficiently. This strategy utilizes lifecycle portfolio management based on an assessment of the risk reduction and other consequences of a proposed investment.

Approximately 98% of U.S. overseas trade by weight, and 99.6% by volume, enters or leaves the United States through a U.S. coastal port. The Corps maintains the principal navigation channels of these ports, and works with them on proposals to deepen, widen, or otherwise improve their Federal channels, for example, in order to accommodate larger vessels.

Another primary mission of the Corps is flood and storm damage reduction. The Corps operates dams, reservoirs, and levees to reduce flood risks; it has also constructed levee systems that local authorities operate and maintain. The Corps works with the Federal Emergency Management Agency, and other Federal agencies, to support States and local communities with emergency flood fighting and flood recovery

activities, and provides floodplain management technical services directly to States and local communities in support of their flood risk management objectives. Additionally, the Corps has constructed projects to reduce flood risks along 240 miles of the nation's 2,700 miles of shoreline.

The Corps also helps restore significant ecosystems under its aquatic ecosystem restoration program, another primary mission area. This program includes work to address damage to aquatic ecosystems caused by the way in which the Corps and others have developed the Nation's water resources, such as in the Everglades, and in the Upper Mississippi River, the Missouri River, and the Columbia River basins.

The Corps maintains recreation facilities at 403 of its multi-purpose projects. The Corps has a long history with developing partnerships within existing recreation authorities. It leases about one-half of the 5,000 recreation sites at these 403 projects to other public and private entities, including private sector commercial operators, States, and local governments. Private recreation sites include approximately 562 privately owned marinas, resorts, campgrounds, boat ramps, fuel docks, convenience stores, and other public use areas.

This concludes my testimony. Thank you for allowing me to testify about the Corps role in sustaining the Nation's water resources infrastructure and economic opportunities associated with our Civil Works program. I am happy to answer any questions you may have.

**Senate Environment and Public Works Committee
Subcommittee on Transportation and Infrastructure
hearing entitled, “Water Resources: The Role of the Public and Private Sectors”
May 9, 2017
Questions for the Record for Lieutenant General Todd T. Semonite**

Senator Duckworth:

1. In and around Illinois, most locks and dams were built before anyone in this room was born, which is a testament to the Army Corps’ expertise, but a troubling indication that we continue to kick the can when it comes to investing in our nation’s infrastructure. Illinois is home to more than 72,000 farms covering 27 million acres and these Illinois farmers depend on barge transportation get their crops to market. When working well, Illinois’ 1,118 miles of navigable waterways gives our farmers a competitive advantage. However, every time a lock breaks down, that costs my state time and money – and hurts downstream businesses that do not receive vital goods on time.

Lt. Gen. Semonite, to what extent is the Administration prioritizing our inland system in the context of developing a potential “Infrastructure Proposal?” Has the Corps received any direction for the White House to suggest that our locks and dams will be prioritized? Do you have any sense of which projects in the Upper Mississippi River Basin may be prioritized?

Answer:

The U.S. Army Corps of Engineers is providing the Administration with information to assist in the development of an Infrastructure Initiative. We recognize the economic importance of both our inland and coastal navigation systems, and we have provided information on both, in response to Administration requests. We do not have a sense of the specific projects that may be included as part of the Administration’s infrastructure package nor how such potential projects might be financed. In addition, we do not have insights into how inland navigation projects may be prioritized relative to other infrastructure project types. An Infrastructure Initiative fact sheet recently released with the FY 2018 budget provides additional insight to the Administration’s plans and can be viewed at:

https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/budget/fy2018/fact_sheets/2018%20Budget%20Fact%20Sheet_Infrastructure%20Initiative.pdf

Senator INHOFE. Very good. Thank you, General.
Director Lyons.

**STATEMENT OF JAMES K. LYONS, DIRECTOR/CEO, ALABAMA
STATE PORT AUTHORITY**

Mr. LYONS. Thank you, Mr. Chairman, Ranking Member Cardin, and distinguished members of the subcommittee.

My organization, the Alabama State Port Authority, is the non-Federal sponsor at the Port of Mobile which as Senator Shelby mentioned, is the tenth largest U.S. seaport by total trade.

The committee understands that 80 percent of global consumption occurs outside our borders and ships carrying our commerce are getting much larger than our deepwater seaports can handle. At Mobile, Post-Panamax or wide-bodied tankers are already servicing our terminals, albeit inefficiently.

Despite our constraints, we have attracted manufacturing and retail distribution investments, including Wal-Mart's newly announced 2.6 million square foot international distribution center which is presently under construction.

Growth is unsustainable at our current channel depth and width. My organization has invested over \$850 million in facilities and Federal channel infrastructure. Two of our investments in the private petroleum terminals recently reported double digit cargo growth.

Mobile's public and private terminals generate about \$23.5 billion in economic value and employ over 154,000 people. On the larger scale, the U.S. seaports generate \$4.6 trillion in economic value.

U.S. seaports will invest \$154.8 billion and create 1.6 million jobs by 2020 and 82 percent of that investment will occur in the U.S. gulf. Ports are doing their part to grow the economy and we provide significant return on Federal investment.

The time has now come for both the Administration and Congress to give equal weight to seaports when grappling with infrastructure investments. Under-investment and under-funding the Corps' Civil Works Program results in inefficient, poorly maintained harbors, thereby increasing shipper costs, reducing our global competitiveness, aggravating the maintenance, dredging backlog, adversely impacting our tax base and job market.

We must endeavor to revise law and reform procedures to better plan, fund, implement and maintain waterway infrastructure necessary for U.S. commerce. I will respectfully a few suggestions to achieve these goals.

One is continue biennial review of the Water Resources Development Act to further timely reforms. Also, the Corps should submit annually to Congress a comprehensive report on its Civil Works Program to provide line item insight to program progression and costs.

Two is the Corps should implement a strategic 5 year budget cycle. Today, the Corps works on 2 year budgets that fail to capture any project's full capital need through implementation.

For example, the Corps' budget will only address two of the three-plus years of an authorized study and provides no guarantees for project engineering and design or construction phase funding.

Once authorized projects are in the pipeline, they should be budgeted and secure funds through to completion.

Three is to provide full allocation of the Harbor Maintenance Trust Fund available funds to guarantee year-in and year-out maintenance obligations. Five year budgeting cycles could provide Congress with specifics on long range maintenance funding obligations while providing new insights into newly authorized project maintenance.

Fourth is to streamline the 3-3-3 Rule waiver process. Complex studies require necessary science to comply with NEPA. Much of that science takes a year or more to complete. Corps guidance requires that waivers be held until its tentatively selected plan is completed, adding up to a year to the project. Streamline the process and delegate the waiver decision authority to the division commander.

Five is to reduce or eliminate the external peer review so the Corps has qualified professionals capable of sound engineering and program delivery. Many external experts do not understand Corps processes or mandates. The Corps focuses on educating consultants on the why rather than sound engineering further delaying implementation.

We agree we must modernize our ports and it will cost billions of dollars. As deepened and widened channels come online, there will be additional demands on the Harbor Maintenance Trust Fund.

We achieve significant gains in asset management through risk-based analysis and performance-based budgeting but we need to take a longer view toward budgeting and identifying program savings by reducing bureaucracy.

The Alabama State Port Authority thanks this committee for its leadership and recognizing the nexus between water resources and economic prosperity. I appreciate this opportunity and am happy to address any questions.

[The prepared statement of Mr. Lyons follows:]

**United States Senate
Committee on Environment and Public Works
Subcommittee on Transportation and Infrastructure
Hearing on the
“Needs and Opportunities of our Nation’s Ports, Waterways and Army Corps of
Engineers Lakes/Properties and to Examine Funding and Financing”
May 9, 2017 – 2:30 p.m.
Room 406 / Dirksen Senate Office Building
Testimony of James K. Lyons
Director and Chief Executive Officer
Alabama State Port Authority**

Chairman Inhofe, Ranking Member Cardin, and distinguished members of the Subcommittee, thank you for the opportunity to discuss the nation’s need to modernize its seaport infrastructure. My name is Jimmy Lyons, and for the past 18 years, I have been the Director and Chief Executive for the Alabama State Port Authority (Authority).

The Authority represents the public cargo terminals and is the federal project sponsor at the Port of Mobile, currently ranked 10th largest U.S. seaport in total trade.¹ Our nation’s economic growth in the 21st century will largely depend on global trade as 95% of the world’s population and 80% of global consumption occur outside the U.S. To cost efficiently service that trade, the ships commonly referred to as Post-Panamax or wide-bodied vessels are getting bigger – much larger than our current system of deep-water seaports can handle. The Port of Mobile is one of the few of our top 50 deep-water ports currently handling, albeit inefficiently, these types of ships. At our port, these ships

¹ U.S. Waterborne Commerce Statistics 2015

are servicing the container, petroleum, coal and steel trades. Because of our capabilities, the region has attracted both domestic and foreign manufacturing and retail distribution investments, including Walmart's recently announced 2.5 million square foot super international distribution center.

Between 2001 and 2016, the Authority invested over \$850 million in shore-side facilities and federal channel infrastructure to meet the infrastructure needs of shippers and ocean carriers, and to ensure market competitiveness. In the past two years, two of our recent new terminal investments have experienced double-digit cargo growth. Additionally, our private petroleum terminals have experienced double-digit growth. Both the public and private terminals at Mobile generate \$23.5 billion in economic value and employ over 154,000 people, in Alabama alone.

Seaport cargo activities across our nation accounts for 26 percent of the U.S. economy generating \$4.6 trillion in total economic activity and contributing more than \$321 billion in federal, state and local taxes. In 2016, the American Association of Port Authorities surveyed its U.S. member ports as to how much they and their private-sector partners planned to spend on port-related freight and passenger infrastructure over the next five years. The answer was a whopping \$154.8 billion. This five-year investment by seaports and their partners represents more than a three-fold increase over the combined \$46 billion figure obtained from the same survey five years ago. I am proud to report that of the six U.S. port regions polled, U.S. Gulf ports' port and private capital investment planned through 2020 totaled \$127.7 billion or 82% of the total planned U.S. port investments. Aside from the economic activity these investments generate, Lancaster, Pa.-based Martin Associates, an internationally recognized maritime economic analysis

firm, calculated a whopping 1.6 million direct, indirect and induced domestic jobs created from that \$155 billion in port capital investments. Seaports deliver significant return on federal investment and both the seaports ports and the private sector are clearly investing in tomorrow. Now we need full consideration and weight in the nation's federal infrastructure planning, budgeting and investment programs.

Mobile is in need of federal channel modernization to accommodate the increasing vessel size, improve efficiencies and generate cost savings for shippers. Further, Mobile is among the 90 percent of the nation's top 50 ports engaged in foreign waterborne commerce that require regular maintenance dredging. In total, dredged ports move nearly 93% of all waterborne commerce by weight annually.

Under-investment in seaport channels and harbors and under-funding of the Corps' civil works programs result in inefficient channels and poorly maintained harbors increasing costs for port users, reducing U.S. global competitiveness, and exacerbating the maintenance dredging backlog, all of which adversely impact the U.S. tax base and job market.

I would offer that both Congress and the U.S. Army Corps of Engineers consider revisions to law, regulatory reforms and administrative procedural tweaks to better plan, fund, implement and maintain waterway infrastructure necessary to U.S. commerce.

1. Water Resources Development Act should receive biennial review and updates in Congress. I applaud the hard work of this committee to take up timely review of WRDA. To augment the work of Congress and to improve funding delivery to the US Army Corps of Engineers, the Corps should submit a comprehensive annual status report on its Civil

Works program implementation. This report would provide line item insight as to project progression and costs.

2. The U.S. Army Corps of Engineers should implement strategic budgeting in five (5) year cycles providing line item specifics for Investigations, Construction and Operations & Maintenance (O&M). That budget exercise should receive annual updates to reflect authorized project progression. Currently, the Corps Districts submit annually their respective budgets and then compete with the other districts for limited dollars, particularly in O&M. The current practice (two-year budget development process) fails to capture a majority of the projects' full capital needs through implementation. For example: Under the 3-3-3 Rule, or for those projects that receive waivers to 3-3-3, the two-year budget development process and annual funding only addresses one of the three plus years of authorized study funding needed and provides no guaranteed funding for project engineering and design or construction phases. Further, the two-year budgeting process does not request funding for Project Engineering and Design (PED) until Record of Decision (ROD) adding in many cases up to two years to the project schedule, if funded. From a practical standpoint, PEDs, if funded, can be started at the Agency Decision Milestone, typically six months to a year prior to finalizing a decision document. I urge Congress and the Administration to recognize once authorized projects are in the pipeline, it means funding through completion should be in the pipeline to avoid costly delays. The start-stop mentality is inefficient and adds unnecessary cost burdens to the process. The proposed strategic 5-year budgeting cycle method could help identify in advance funding requirements necessary to complete those authorized projects providing clear advance direction for budgeting and appropriations.

3. Congress should commit to full allocation of available funds in the Harbor Maintenance Trust Fund to guarantee year in-year out funding for the maintenance of authorized obligations identified in the Corps Civil Works budget. A system of annual budget reporting and 5-year budget cycles should provide a higher level of insight into long-range construction and maintenance funding obligations, while providing Congress the knowledge base and appropriate tools to evaluate the feasibility of authorizing new project construction and added long-range federal maintenance obligations.

4. Streamline the 3-3-3 Rule waiver process. It is fully acknowledged by local sponsors that large, complex studies require extensive study and new data to address modeling or environmental condition. The necessary science to comply with NEPA can be costly and take more than a year to obtain leaving a 3-3-3 process unachievable. Waivers are an appropriate tool; however, waivers can cost a project schedule up to a year in delays. Under recent Corps guidance, waivers are held until the Corps approves their Tentatively Selected Plan. Streamline this process and delegate waiver decision authority to the Division Commander.

5. Reduce or eliminate altogether Independent External Peer Reviews (IEPRs) to reduce study and permitting time. The Corps is staffed with qualified, licensed or accredited professional engineers, scientists, economists, etc., capable of delivering sound engineering and program delivery. Many of these external experts have little understanding of Corps processes or Congressional mandates and much of the peer review time is spent educating consultants on the why and not necessarily on the soundness of the engineering. The entire program adds unnecessary time and costs to projects.

There is legitimate and urgent need for seaport investment to serve the larger vessels transiting most trade lanes. Modernization of our nation's deep-water seaport infrastructure will cost billions of dollars. Further, federal project investment in ports will ultimately draw on the Harbor Maintenance Trust Fund, as deepened and widened channels are brought online. While the Corps has made significant gains in asset management through risk based analysis and performance based budgeting, there are compelling reasons to realize program savings can be achieved by using strategic 5-year budget cycles and streamlining bureaucracy.

The Alabama State Port Authority thanks this Committee for its leadership in recognizing the nexus between water resources and economic prosperity. Thank you again for this opportunity, and I am happy to address any questions.

Senator INHOFE. Thank you, Director Lyons.
Mr. HUMPHREYS.

**STATEMENT OF GRANT HUMPHREYS, TOWN FOUNDER,
CARLTON LANDING, OKLAHOMA**

Mr. HUMPHREYS. Chairman Inhofe, Ranking Member Cardin and distinguished members of the committee, it is a pleasure to be here today.

As a third generation real eState investor and developer from Oklahoma, we the pleasure of creating places that foster community and allow folks to live healthy and rewarding lives.

Our family has had a long history on Lake Eufaula. We have been there for over 45 years now.

Ten years ago, we began a journey of creating a new town on the shores of Lake Eufaula in southeast Oklahoma. We call the place Carlton Landing. The site we chose was a 1,900-acre site that was on the same cove where I learned to water ski as a boy. The land is connected to 10 miles of shoreline that is either owned or controlled by the Corps of Engineers.

It is our desire that Carlton Landing would be seen as a model for good development, the kind that conserves our natural assets, that provides a boost to rural economies and creates great places for people to live, work, create and play.

Before I share a story, I want to say a few words about the Corps staff. We have worked closely with the Corps staff since 2007 and have built a good rapport. To their credit, we found them to be accessible, responsive, capable and committed. I have great respect for their authority and the critical nature of their mission.

Here is our story. In 2008, we put together a master plan for Carlton Landing which included 3,000 homes, a town center, shops, restaurants, schools, churches, parks and trails. The vision was to create a complete lakefront community. Since the Corps controlled all access to the lake, from the beginning we understood that our ability to implement that vision would be absolutely dependent on our ability to work with the Corps.

We requested a minor zoning change that would allow us to have walking trails to access the lake, must a four foot-wide, gravel chip trail. It was suggested that we partner with a conservation group, so we partnered with the Nature Conservancy. Then it was suggested that we might have a smoother track to get approval if we were a public entity, so we went through the process of actually taking our master plan community and incorporating it into a public municipality.

Over a 3-year timeframe, through all these steps, the Corps' response to our rezoning request was professional, courteous but it was always the answer "no."

Title 36 specifically empowers the District Commander to use discretion in making minor changes to a shoreline management plan. We discovered that due to the fact that the Eufaula EIS and not been updated since 1977, the previous District Commander at the Tulsa District Office had made promises to Federal environmental agencies that absolutely no changes would be made until a new EIS was completed. EIS's take funding and Congress had deferred that funding for several sessions.

We were also informed that private money could not be accepted. The lake was in a zoning gridlock and the local Corps staff's hands were tied.

By the summer of 2010, it appeared that our vision for Carlton Landing was dead in the water. In March 2011, Senator Inhofe met directly with the Tulsa District Commander. Within days, we saw a new tone. Forward motion was realized and the Corps staff was now on a new mission to update the Eufaula EIS.

By April 2013, the EIS was completed and a new shoreline management plan was created. The rezoning action that we needed was complete.

By 2015, the Town of Carlton Landing had completed a long term lease of 420 acres of Federal lands from the Corps. Today, we are working on dozens of projects still with the Corps office trying to bring that vision to fruition.

Ultimately, it took us 8 years to obtain Corps permission to install a community boat dock with a gangway attached to our own land, 8 years. Somehow, despite the regulatory roadblock, we were able to start and create a lake town even though we did not have lake access.

While it is true we have had success with the Corps, the journey to get here has been anything but easy. Unfortunately, our success came only after direct, top-down political pressure from the highest levels in Washington.

Without a forceful hand of political involvement to unfreeze the process and create a door of opportunity, I believe our efforts would continue to bear no fruit. In our case, the staff was well intended but their hands were tied by past commitments and regulatory gridlock.

It is unclear how many Corps projects are affected by the same structural barriers that have been established over time but issues such as the petrified EIS or a frozen shoreline management plan are a deal killer for a private developer.

This should not be the case because it limits success only to those with political connections, deep pockets and the ability to wade through unrealistic timelines. Every private sector developer project, Carlton Landing included, is absolutely dependent upon obtaining assurances of entitlements within a reasonable timeframe.

In preparation for today's hearing, I received good feedback from several developers from across the Country. Some have had a positive experience with the Corps, but several have had a very troubling experience. Some had experiences so difficult that they had to walk away from the deal resulting in significant financial loss. I think that is more the norm than the exception.

I appreciate General Semonite's no-nonsense approach to accomplishing his mission. I believe he is the kind of leader that the Corps needs to turn around the ship and create a culture of action that brings about the desired outcomes.

I also appreciate the legislative work of the Water Resources Development Act. It gives clear direction and aims at the right targets.

In closing, there is a strong market for careful, smart, sustainable development on our Nation's lakes, rivers and waterways. The

Corps is in a position to either encourage or hinder economic growth at the local level.

If we are serious about attracting private investment in and around our natural resources in a way that protects our natural assets while also maximizing their value, I believe it is necessary to set the table for developers and create a better process to clearly define the Corps' regulatory landscape in a way that works for the private sector.

Thank you.

[The prepared statement of Mr. Humphreys follows:]

Written Testimony of Grant Humphreys, Town Founder, Carlton Landing, OK
Environment and Public Works Committee
Subcommittee on Transportation and Infrastructure
May 9, 2017

INTRODUCTION

Thank you Mr. Chairman and Members of the Committee.

BACKGROUND

In 2007, I began a journey of creating a new town on the shores of Lake Eufaula in my home state of Oklahoma. My family has a long history on Lake Eufaula, spanning back three generations. Our experience on the lake has been rich – full of family memories and moments connected with nature. In many ways, our identity as a family has been shaped by the lake and by the land. As a real estate developer, I want to create places that bring people together, allow folks to live a healthy and rewarding life, connected to the outdoors. These are the values that have guided our vision for Carlton Landing.

SUSTAINABILITY

In Oklahoma, we say in our state song, “We know we belong to this land. And the land we belong to is grand.” Whether it’s our Native American heritage or our ancestors like my Great Grandmother who risked life and limb during the Oklahoma Land Runs, we instinctively have a strong connection to the land.

As Town Founder, I accepted a stewardship role of the natural resources in and around Carlton Landing. Many times, real estate development rightfully earns a bad name because it replaces nature with a poorly conceived and a carelessly planned built environment – one that loses value and fails to enhance quality of life. When this happens, people are justified to resent the change because it’s a raw deal. But we approach it differently. We see the natural state as something of great value. If we choose to trade a natural environment for a built environment, we want it to grow in value over time – and this can happen if it enhances the quality of life for those who live and interact within the community.

The site we chose for Carlton Landing was 1,650 acres of wooded land with rolling hills, flowing streams and abundant wildlife. The land was just like God made it, totally undeveloped and natural. It is completely surrounded by land owned or controlled by the Corps which includes 10 miles of shoreline.

From the beginning, we desired for Carlton Landing to set a new standard for sustainable community development, and these values of natural conservation and ecological stewardship are evident in the Carlton Landing master plan. Agrarian land is integrated into the built environment so that a local food system can exist within the community. The land’s existing hydrology is respected with creeks and lower areas remaining natural green spaces, providing an

Written Testimony of Grant Humphreys, Town Founder, Carlton Landing, OK
Environment and Public Works Committee
Subcommittee on Transportation and Infrastructure
May 9, 2017

uninterrupted network of wildlife migration paths. The shoreline is left intact as much as possible so that the lake's natural edge might be preserved for future generations.

REALIZING VALUE

Carlton Landing's master plan is compelling, calling for more than 3,000 homes to be built over more than 30 years. It included a Town Center complete with shops, restaurants, schools, churches, parks and trails. In terms of economic impact, we expect to realize more than \$2 billion dollars of private investment as the master plan is built out. Over time, we expect Carlton Landing to be one of the more important economic development projects for the Lake Eufaula area, for southeast Oklahoma and for the Oklahoma tourism industry.

In many ways we've been able to accomplish our goals. Over the past 6 years, we have:

- formed a new public rural water district,
- incorporated our community into a new public municipality – The Town of Carlton Landing,
- worked with the Corps of Engineers staff at the Lake Eufaula Project Office and Tulsa District Office to see a new Environmental Impact Statement and Alternatives Analysis completed in order to rewrite the Master Plan for Lake Eufaula,
- converted our master plan into a municipal Urban Design Code,
- created an \$80 million tax increment financing district,
- leased 420 acres from the Corps of Engineers.
- created the first rural public charter school in Oklahoma,
- created hundreds of jobs in the local area
- completed and sold 130 homes with 50 more currently in construction.

We're encouraged by the strong response from the market as a regional draw with owners coming from Oklahoma City, Tulsa, Arkansas, Dallas and Houston. This year, we plan to build 75 homes, a wedding chapel, a conference facility, and an expansion to our public charter school into its third building.

There is a strong market for good development on our nation's rivers – smart, careful, sustainable development activity on our nation's lakes, rivers and waterways. It is our desire for Carlton Landing to serve as a model for development which conserves our natural resources, breathes much needed life into our rural economies and creates great places for people to live, work, create and play.

REGULATION

Written Testimony of Grant Humphreys, Town Founder, Carlton Landing, OK
Environment and Public Works Committee
Subcommittee on Transportation and Infrastructure
May 9, 2017

For the past nine years, we've worked closely with the Corps of Engineers and have fostered a good rapport with the Corps staff. I'd like to think that we've done everything possible to earn their trust and not willfully violate their regulations. We respect their authority and recognize the critical nature of their mission in terms of protecting our national security, providing for economic stability, promoting public health and preserving our natural resources. We also understand that, while developing the local economy has not been one of their core missions, the Corps is in a position to allow or to deter economic development at the local level.

To their credit, I've found the Corps staff to be accessible and responsive. I've seen the Corps coordinate massive projects with the discipline of a military mission. I've found the Corps staff to be a smart and committed group of professionals.

But I also need to state that our experience in navigating the waters of Corps regulation has been anything but easy. In preparation for today's hearing, I've received good feedback from several private sector real estate developers. I've heard from those who have had great experiences and those who have had business killing experiences. But unfortunately, I think the difficult track of Corps regulation is the norm more than the exception.

Every private sector development project, Carlton Landing included, is absolutely dependent on obtaining an assurance of entitlements within a reasonable timeframe. In our case, we began working with the Corps in 2008 and it took 7 years before we had the Corps' permission to install a community boat dock with a gangplank attached to our land. There were extenuating circumstances with our site, but had we known that it would take so long, we might not have proceeded. How can you have a lake town with no lake access?!

We went in blindly and hoped that we could work through the process. While we had a good rapport and while the tone was courteous, the answer from the Corps was always "no". In our particular case, I don't believe the local staff was being unreasonable considering the circumstances. They were doing what they could with the options at their disposal.

When we first met with the Corps in 2008, we presented our plans for the land and started the permitting process. We sought to make a minor change to the Shoreline Management Plan, changing the zoning from "Fish and Wildlife Protection" to "Limited Development". Title 36 specifically empowers a District Commander to use discretion to make minor changes to the Shoreline Management Plan, but in light of the fact that the Eufaula EIS had not been updated since 1977, the previous District Commander of the Tulsa District Office made a promise to other federal environmental agencies that absolutely NO changes would be made until a new EIS was completed. For many years, Congress did not allocated funds for the EIS and we were informed that private money could not be accepted. So

Written Testimony of Grant Humphreys, Town Founder, Carlton Landing, OK
Environment and Public Works Committee
Subcommittee on Transportation and Infrastructure
May 9, 2017

the lake was in a zoning gridlock and the local Corps staff's hands were tied. And our vision for Carlton Landing was dead in the water.

We appealed to our good Senator who met directly with the District Commander. And within days, we saw a different tone and forward motion was realized. Over the next 2.5 years we saw a completed EIS process, a new Shoreline Management Plan, our land was rezoned to "Public Recreation High Intensity" and we completed a long-term lease of 420 acres from the Corps.

The success we've realized in working with the Corps has come only after direct, top-down political pressure from the highest levels of Washington. Without a forceful hand of political involvement to unfreeze the process or create a door of opportunity, I believe that our efforts would have continued to bear no fruit. It is unclear how many Corps projects are affected by structural barriers which have been established over time. This should not be the case because it limits success only to those with political connections and deep pockets that can wait out an unrealistic timeline.

CONCLUSION

To conclude, I appreciate General Semonite's "no nonsense" approach to accomplishing the mission. He's the kind of leader the Corps needs to turn the ship and create a culture of action that brings about the desired outcomes. I also appreciate the language of the 2014 and 2016 Water Resource Development Acts. The legislation is clear and is aiming at the right targets.

But if we are serious about attracting private investment in and around our natural resources in a way that maximizes the value of assets managed by the Corps, I believe that it will be necessary to create a better process to educate the market about opportunities and more clearly define the regulatory landscape in a language and within a timing that fits within the constraints of private developers. Thank you.

CARLTON LANDING

PROJECT TIMELINE

- 2007:**
- **June:** Land search begins as a hunt for a grass landing strip at Lake Eufaula.
 - **August:** While driving across the land, the idea of a New Urbanist lakefront community is born.
- 2008:**
- **June:** Remaining land parcels assembled by Carlton Landing development entity.
 - **July:** DPZ completes master plan affecting 950 acres of Carlton Landing property.
- 2009:**
- **May:** Eight architects (4 from Oklahoma, 4 from New Urban Guild) participate in an architectural design charrette to determine the architectural vernacular for Carlton landing and create the initial collection of home plans.
 - **May:** Planners (Tom Low, Guy Pearlman) and civil engineers (Tim Johnson, Peter Borelli) conduct an intensive design charrette to develop a plan for Carlton Landing's stormwater management system according to "Light Imprint New Urbanism". The resulting plan provides an environmentally conscious approach to stormwater management and land hydrology.
 - **September:** Initial staking and land clearing activity commences.
- 2010:**
- **January:** Infrastructure development commences.
 - **March:** The Carlton Landing Builders Guild is established with 6 homebuilders serving as the founding members.
 - **April:** The Farm at Carlton Landing is cleared, tilled and put under cover crop.
 - **May:** Memorial Day Weekend – First on-site marketing event held in Carlton Landing.
 - **September:** Steve Mouzon completes the First Edition of "The Living Tradition – Design Code for Carlton Landing".
- 2011:**
- **January:** Homebuilding activity commences.
 - **April:** Carlton Landing Drive and Ridgeline Road are completed to provide 3 miles of paved access from Highway 9A to the Town Center.
 - **May:** In response to Carlton Landing's request to modify the Shoreline Management Plan, following an Act of Congress, the U.S. Army Corps of Engineers agrees to complete an Environmental Impact Study on the entire Lake Eufaula project area.
 - **May:** Land development activity halted by the Oklahoma Dept of Environmental Quality.
 - **July:** First residential lot sold.
 - **November:** Approval granted for new public magnet school, Carlton Landing Academy.
 - **December:** New public water district formed to serve Carlton Landing – Rural Water, Sewer, and Solid Waste Management District No. 20, Pittsburg County, Oklahoma.
 - **Through End of Year 2011:**
 - First phase of infrastructure (180 taps) nearing completion.

- 2012:**
- **February:** Groundbreaking for Carlton Landing Academy.
 - **February:** Oklahoma Dept of Environmental Quality authorizes the continued construction of utility systems. Land development activity resumes.
 - **April:** First phase of infrastructure completed and open for service.
 - **April:** First occupancy granted in Carlton Landing to Grant and Jen Humphreys.
 - **August:** First day of classes at Carlton Landing Academy.
 - **Through End of Year 2012:**
 - 13 homes completed.
 - 11 homes sold or rented and occupied. 2 completed homes remain on the market.
- 2013:**
- **January:** Architects and planners participate in a Town Center planning charrette to refine the vision for the mixed-use town center and conference facilities.
 - **March:** After 2 years of scheduled environmental assessment process costing \$3.5 Million, the U.S. Army Corps of Engineers completes the Lake Eufaula Environmental Impact Study.
 - **March:** All federal lands adjacent to Carlton Landing rezoned from "Fish and Wildlife Conservation" to "Public Recreation High Intensity".
 - **October:** Town of Carlton Landing officially incorporated into a new municipality
 - **November:** Carlton Landing Academy ranked #1 statewide out of 1,782 schools assessed by the State Department of Education.
 - **Through End of Year 2013:**
 - 18 homes completed this year.
 - 31 homes completed to date.
 - 29 homes sold or rented and occupied. 2 completed homes remain on the market.
- 2014:**
- **January:** Town Trustees pass a 3% local sales tax.
 - **May:** First harvest of the Carlton Landing Farm. CSA starts with 31 members.
 - **September:** To encourage economic development, the Town of Carlton Landing decides to begin the process of creating a Tax Increment Financing ("TIF") District.
 - **Through End of Year 2014:**
 - 35 homes completed this year.
 - 66 homes completed to date.
 - 64 homes sold or rented and occupied. 2 completed homes remain on the market.
- 2015:**
- **February:** 100th residential lot sold.
 - **March:** The TIF Review Committee votes to approve the TIF Economic Development Plan.
 - **June:** Long-term ground lease on 420 acres of waterfront land executed with the US Army Corps of Engineers
 - **August:** Carlton Landing Comprehensive Plan accepted by the Planning Commission
 - **August:** Town Trustees pass resolution to annex additional 900 acres of land
 - **September:** Town Trustees create a 235 acre Tax Increment Financing District which will generate up to \$80 million in public investment over the next 25 years
 - **Through End of Year 2015:**
 - 44 homes completed this year.
 - 110 homes completed to date.
 - 105 homes sold or rented and occupied. 5 completed homes remain on the market.

- 2016:**
- **February:** Carlton Landing voters approve a self-imposed 15 mil property tax increase to fund a \$9.5MM General Obligation Bond Initiative, providing civic structures, cultural facilities, sports facilities, street lighting, stormwater management infrastructure and parks and trails.
 - **April:** Carlton Landing Academy Charter School is approved as the first public rural charter school in Oklahoma
 - **May:** Trail construction begins in the Carlton Landing Nature Center in the Corps lease land.
 - **June:** First Annual KCBS Sanctioned "Smoke on the Water" BBQ Competition.
 - **July:** Carlton Landing featured in a 5-page story in Southern Living magazine.
 - **August:** Carlton Landing Academy kicks off its first day of classes as a public charter school.
 - **September:** Construction commences on Phase 1 of the Residence Club at Carlton Landing.
 - **October:** National Town Builders Association holds their Fall Roundtable in Carlton Landing. Andres Duany returns to Carlton Landing for the first time since 2008.
 - **Through End of Year 2016:**
 - 50 homes completed this year.
 - 160 homes completed to date.
 - 150 homes sold or rented and occupied. 10 completed homes remain on the market.

By the Numbers:

- 15 Million – Number of people who live within a 3.5 hour drive of Carlton Landing
- 0 – Number of similar communities within a 300 mile radius of Carlton Landing
- 102,000 – surface acres of Lake Eufaula, the largest lake in Oklahoma and the 9th largest manmade lake in the USA
- 2,280 – acres in Carlton Landing. This includes 1,860 acres owned by Carlton Landing's Town Founder and 420 acres leased by the Town of Carlton Landing from the Corps of Engineers
- 80 – number of homes projected to be built each year
- 2,200 to 2,500 – number of homes projected to be built within Carlton Landing TIF District
- \$31.0 Million – Average annual home construction volume projected for the next 5 years
- \$80 Million – projected public investment through the Carlton Landing TIF District
- \$9.5 Million – projected public investment through the 2016 Carlton Landing GO Bond Initiative
- > 30 – years to build-out Carlton Landing
- \$1.5 to \$2.0 Billion – total private investment projected for Carlton Landing

LEASE NO. DACW56-1-15-268

**DEPARTMENT OF THE ARMY
LEASE TO NON-STATE GOVERNMENTAL AGENCIES
FOR PUBLIC PARK AND RECREATIONAL PURPOSES
ROUNDTREE LANDING
EUFAULA LAKE
PITTSBURG COUTNY, OKLAHOMA**

THIS LEASE is made on behalf of THE UNITED STATES OF AMERICA (the "United States"), between **THE SECRETARY OF THE ARMY**, acting by and through the Chief, Real Estate Division, U.S. Army Corps of Engineers, Tulsa District, hereinafter referred to as the "Grantor", and **THE TOWN OF CARLTON LANDING**, hereinafter referred to as the Lessee.

WITNESSETH:

That the Secretary, by authority of Title 16, United States Code, Section 460d, and for the consideration hereinafter set forth, hereby leases to the Lessee, the property identified in **EXHIBIT A**, attached hereto and made a part hereof, hereinafter referred to as the premises, for public park and recreational purposes.

THIS LEASE is granted subject to the following conditions:

1. TERM

Said premises are hereby leased for a term of twenty-five (25) years, beginning June 15, 2015 and ending June 14, 2040.

2. CONSIDERATION

The consideration for this lease is the operation and maintenance of the premises by the Lessee for the benefit of the United States and the general public in accordance with the conditions herein set forth.

3. NOTICES

All correspondence and notices to be given pursuant to this lease shall be addressed, if to the Lessee, to The Town of Carlton Landing, 20 Boulevard, Carlton Landing, OK 74432; and, if to the Grantor, to U.S. Army Corps of Engineers, Tulsa District, Attention: Chief, Real Estate Division, 1645 South 101st East Avenue, Tulsa, OK 74128-4609, or as may from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope, or wrapper, addressed as aforesaid, and deposited, postage prepaid, in a post office regularly maintained by the United States Postal Service.

4. AUTHORIZED REPRESENTATIVES

Except as otherwise specifically provided, any reference herein to "Secretary of the Army," "Grantor," or "said officer" shall include their duly authorized representatives. Any reference to "Lessee" shall include sublessees, assignees, transferees, concessionaires, and its duly authorized representatives.

5. DEVELOPMENT PLANS

a. The premises shall be developed and used in accordance with the Lessee's implementing Plan of Recreation Development and Management (Development Plan) attached as **EXHIBITS B1 AND B2** which shows the facilities and services necessary to meet the current and potential public demand and the management and development activities to be undertaken by the Lessee and any sublessees.

b. The Lessee shall be guided by an annual Plan of Operation and Maintenance in furtherance of the Lessee's implementing Development Plan. No later than January 1 of each year, the Lessee will submit the annual Plan to be mutually agreed on between the Lessee and the Grantor. Such annual Plan shall include but is not limited to the following:

(1) Plans for management, maintenance and development activities to be undertaken by the Lessee and any sublessees.

(2) Report of the management, maintenance and development accomplishments of the Lessee for the preceding year.

(3) Report on any significant modification of policies or procedures which are planned for the following year as well as those implemented in the preceding year.

(4) Minor modifications to the development plan. Major modifications are to be accomplished by amendment to the Plan before proceeding to implement any changes in the development or management of the leased premises.

(5) Budget of the Lessee for carrying out all activities for the upcoming year.

(6) Personnel to be used in the management of the leased premises.

(7) Annual certification that all water and sanitary systems on the premises have been inspected and comply with Federal, state and local standards as required by the condition on **APPLICABLE LAWS AND REGULATIONS**. The Lessee will also provide a statement of compliance with the Rehabilitations Act and the Americans with Disability Act, as required in the condition on **NON-DISCRIMINATION**, noting any deficiencies and providing a schedule for correction.

c. In the event development plans substantially change during the lease term from those described in the Environment Impact Statement additional National Environmental Policy Act (NEPA) analysis will be required.

d. The use and occupation of the premises shall be subject to the general supervision and approval of the Grantor. During the term of the lease, the Grantor will notify the Lessee of any updates to the existing project Master Plan affecting the premises and the Lessee may provide comments.

6. STRUCTURES AND EQUIPMENT

The Lessee shall have the right, during the term of the lease, to erect such structures and to provide such equipment upon the premises as may be necessary to furnish the facilities and services authorized. Those structures and equipment shall be and remain the property of the Lessee, except as otherwise provided in the Condition on **RESTORATION**. However, no structures may be erected or altered upon the premises unless and until the type of use, design, and proposed location or alteration thereof shall have been approved in writing by the Grantor. The Grantor may require the Lessee, upon the completion of each of the proposed developments to furnish complete "as built" construction plans for all facilities.

7. APPLICABLE LAWS AND REGULATIONS

a. The Lessee shall comply with all applicable Federal laws and regulations and with all applicable laws, ordinances, and regulations of the state, county, and municipality wherein the premises are located, including, but not limited to, those regarding construction, health, safety, food service, water supply, sanitation, use of pesticides, and licenses or permits to do business. The Lessee shall make and enforce such regulations as are necessary and within its legal authority in exercising the privileges granted in this lease, provided that such regulations are not inconsistent with those issued by the Secretary of the Army or with the provisions of 16 U.S.C. § 460d.

b. The Lessee will provide an annual certification that all water and sanitary systems on the premises have been inspected and comply with Federal, state and local standards. The Lessee will also provide a statement of compliance with the Rehabilitations Act and the Americans with Disability Act, as required in the condition on **NON-DISCRIMINATION**, noting any deficiencies and providing a schedule for correction.

c. In addition to other applicable codes, the lessee and sublessees shall comply with the current editions of the National Fire Protection Association (NFPA) codes and standards, including, but not limited to NFPA 70, National Electric Code, NFPA 303, Fire Protection Standard for Marinas and Boatyards, and the codes and standards of the American National Standards Institute (ANSI), including, but not limited to the

National Electrical Safety Code. Upon request by the Grantor, the lessee / sublessees will provide a certification that all electrical installations on the premises have been inspected by a qualified individual and comply with the applicable codes.

8. CONDITION OF PREMISES

a. The Lessee acknowledges that it has inspected the premises, knows its condition, and understands that the same is leased without any representations or warranties whatsoever and without obligation on the part of the United States to make any alterations, repairs, or additions thereto.

9. FACILITIES AND SERVICES

The Lessee shall provide the facilities and services as agreed upon in the Development Plan referred to in the Condition on **DEVELOPMENT PLANS** either directly or through subleases or concession agreements that have been reviewed or accepted by the Grantor. These subleases or agreements shall state: (1) that they are granted subject to the provisions of this lease; and (2) that the agreement will not be effective until the third party activities have been approved by the Grantor. The Lessee will not allow any third party activities with a rental to the Lessee or prices to the public which would give the third party an undue economic advantage or circumvent the intent of the Development Plan. The rates and prices charged by the Lessee or its sub-lessees or concessionaires shall be reasonable and comparable to rates charged for similar goods and services by others in the area. The use of sub-lessees and concessionaires will not relieve the Lessee from the primary responsibility for ensuring compliance with all of the terms and conditions of this lease.

10. TRANSFERS, ASSIGNMENTS, SUBLEASES

a. Without prior written approval of the Grantor, the Lessee shall neither transfer nor assign this lease nor sublet the premises or any part thereof, nor grant any interest, privilege, or license whatsoever in connection with this lease.

b. The Lessee will not sponsor or participate in timeshare ownership of any structures, facilities, accommodations, or personal property on the premises. The Lessee will not subdivide nor develop the premises into private residential development.

11. FEES

Fees may be charged by the Lessee for the entrance to or use of the premises or any facilities, however, no user fees may be charged by the Lessee or its sub-lessees for use of facilities developed in whole or part with federal funds if a user charge by the Corps of Engineers for the facility would be prohibited under law.

12. ACCOUNTS, RECORDS AND RECEIPTS

All monies received by the Lessee from operations conducted on the premises, including, but not limited to, entrance, admission and user fees and rental or other consideration received from its concessionaires, may be utilized by the Lessee for the administration, maintenance, operation and development of the premises. Beginning 5 years from the date of this lease and continuing at 5-year intervals, any such monies not so utilized or programmed for utilization within a reasonable time shall be paid to the Grantor. The Lessee shall establish and maintain accurate records and accounts and provide an annual statement of receipts and expenditures to the Grantor. Annual or weekly entrance fees not collected on the Project, which also are honored at other recreational areas operated by the Lessee, are excluded from this requirement. The Grantor shall have the right to perform audits or to require the Lessee to audit the records and accounts of the Lessee, third party concessionaires and sub-lessees, in accordance with auditing standards and procedures promulgated by the American Institute of Certified Public Accountants or by the state, and furnish the Grantor with the results of such an audit.

13. PROTECTION OF PROPERTY

The Lessee shall be responsible for any damage that may be caused to property of the United States by the activities of the Lessee under this lease and shall exercise due diligence in the protection of all property located on the premises against fire or damage from any and all other causes. Any property of the United States damaged or destroyed by the Lessee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Lessee to the satisfaction of the Grantor, or, at the election of the Grantor, reimbursement may be made therefor by the Lessee in an amount necessary to restore or replace the property to a condition satisfactory to the Grantor.

14. RIGHT TO ENTER AND FLOOD

The right is reserved to the United States, its officers, agents, and employees to enter upon the premises at any time and for any purpose necessary or convenient in connection with Government purposes; to make inspections; to remove timber or other material, except property of the Lessee; to flood the premises; to manipulate the level of the lake or pool in any manner whatsoever; and/or to make any other use of the land as may be necessary in connection with project purposes, and the Lessee shall have no claim for damages on account thereof against the United States or any officer, agent, or employee thereof.

15. LIGHTS, SIGNALS AND NAVIGATION

There shall be no unreasonable interference with navigation by the exercise of the privileges granted by this lease. If the display of lights and signals on any work hereby authorized is not otherwise provided for by law, such lights and signals as may be

prescribed by the Coast Guard or by the Grantor shall be installed and maintained by and at the expense of the Lessee.

16. INSURANCE

a. At the commencement of this lease, the Lessee, unless self-insured, and its sub-lessees and concessionaires at the commencement of operating under the terms of this lease as third parties, shall obtain from a reputable insurance company or companies contracts of liability insurance. The insurance shall provide an amount not less than that which is prudent, reasonable and consistent with sound business practices or a minimum Combined Single Limit of \$1,000,000 whichever is greater, for any number of persons or claims arising from any one incident with respect to bodily injuries or death resulting therefrom, property damage, or both, suffered or alleged to have been suffered by any person or persons, resulting from the operations of the Lessee, sub-lessees and concessionaires under the terms of this lease. The Lessee shall require its insurance company to furnish to the Grantor a copy of the policy or policies, or, if acceptable to the Grantor, certificates of insurance evidencing the purchase of such insurance. The Grantor shall have the right to review and revise the amount of minimum liability insurance required.

b. The insurance policy or policies shall specifically provide protection appropriate for the types of facilities, services and products involved; and shall provide that the Grantor be given thirty (30) days notice of any cancellation or change in such insurance.

c. In the event the Lessee is self-insured, the Lessee shall certify such self-insurance in writing in the minimum amount specified above to the Grantor. The Lessee's insurance status shall not eliminate the requirement for its sub-lessees and concessionaires to have insurance from a reputable insurance carrier as set out above.

d. The Grantor may require closure of any or all of the premises during any period for which the Lessee and/or its sub-lessees and concessionaires do not have the required insurance coverage.

17. RESTORATION

On or before the expiration of this lease or its termination by the Lessee, the Lessee shall vacate the premises, remove the property of the Lessee, and restore the premises to a condition satisfactory to the Grantor. If, however, this lease is revoked, the Lessee shall vacate the premises, remove said property therefrom, and restore the premises to the aforesaid condition within such time as the Grantor may designate. In either event, if the Lessee shall fail or neglect to remove said property and restore the premises, then, at the option of the Grantor, said property shall either become the property of the United States without compensation therefore, or the Grantor may cause the property to be removed and no claim for damages against the United States or its

officers or agents shall be created by or made on account of such removal and restoration work. The Lessee shall also pay the United States on demand any sum which may be expended by the United States after the expiration, revocation, or termination of this lease in restoring the premises.

18. NON-DISCRIMINATION

a. The Lessee shall not discriminate against any person or persons or exclude them from participation in the Lessee's operations, programs or activities conducted on the leased premises, because of race, color, religion, sex, age, handicap, or national origin. The Lessee will comply with the Americans with Disabilities Act and attendant Americans with Disabilities Act Accessibility Guidelines (ADAAG) published by the Architectural And Transportation Barriers Compliance Board.

b. The Lessee, by acceptance of this lease, is receiving a type of Federal assistance and, therefore, hereby gives assurance that it will comply with the provisions of Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d); the Age Discrimination Act of 1975 (42 U.S.C. § 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300) issued as Department of Defense Directives 5500.11 and 1020.1, and Army Regulation 600-7. This assurance shall be binding on the Lessee, its agents, successors, transferees, sub-lessees and assignees.

19. SUBJECT TO EASEMENTS

This lease is subject to all existing easements, easements subsequently granted, and established access routes for roadways and utilities located, or to be located, on the premises, provided that the proposed grant of any new easement or route will be coordinated with the Lessee, and easements will not be granted which will, in the opinion of the Grantor, interfere with developments, present or proposed, by the Lessee. The Lessee will not close any established access routes without written permission of the Grantor.

20. SUBJECT TO MINERAL INTERESTS

This lease is subject to all outstanding mineral interests. As to federally owned mineral interests, it is understood that they may be included in present or future mineral leases issued by the Bureau of Land Management (BLM), which has responsibility for mineral development on Federal lands. The Secretary will provide lease stipulations to BLM for inclusion in such mineral leases that are designed to protect the premises from activities that would interfere with the Lessee's operations or would be contrary to local laws.

21. COMPLIANCE, CLOSURE, REVOCATION AND RELINQUISHMENT

a. The Lessee and/or any sub-lessees or licensees are charged at all times with full knowledge of all the limitations and requirements of this lease, and the necessity for correction of deficiencies, and with compliance with reasonable requests by the Grantor. This lease may be revoked in the event that the Lessee violates any of the terms and conditions and continues and persists in such non-compliance, or fails to obtain correction of deficiencies by sub-lessees or licensees. The Lessee will be notified of any non-compliance, which notice shall be in writing or shall be confirmed in writing, giving a period of time in which to correct the non-compliance. Failure to satisfactorily correct any substantial or persistent non-compliance within the specified time is grounds for closure of all or part of the premises, temporary suspension of operation, or revocation of the lease, after notice in writing of such intent. Future requests by the Lessee to extend the lease, expand the premises, modify authorized activities, or assign the lease shall take into consideration the Lessee's past performance and compliance with the lease terms.

b. This lease may be relinquished by the Lessee by giving one (1) year prior written notice to the Grantor in the manner prescribed in the Condition on **NOTICES**.

22. HEALTH AND SAFETY

a. The Lessee shall keep the premises in good order and in a clean, sanitary, and safe condition and shall have the primary responsibility for ensuring that any sub-lessees and concessionaires operate and maintain the premises in such a manner.

b. In addition to the rights of revocation for non-compliance, the Grantor, upon discovery of any hazardous condition on the premises that presents an immediate threat to health and/or danger to life or property, will so notify the Lessee and will require that the affected part or all of the premises be closed to the public until such condition is corrected and the danger to the public eliminated. If the condition is not corrected within the time specified, the Grantor will have the option to: (1) correct the hazardous conditions and collect the cost of repairs from the Lessee; or, (2) revoke the lease. The Lessee and its assignees or sub-lessees shall have no claim for damages against the United States, or any officer, agent, or employee thereof on account of action taken pursuant to this condition.

23. PUBLIC USE

No attempt shall be made by the Lessee, or any of its sub-lessees or concessionaires, to forbid the full use by the public of the premises and of the water areas of the project, subject, however, to the authority and responsibility of the Lessee to manage the premises and provide safety and security to the visiting public.

24. PROHIBITED USES

a. The Lessee shall not permit gambling on the premises or install or operate, or permit to be installed or operated thereon, any device which is illegal, or use the premises or permit them to be used for any illegal business or purpose. There shall not be conducted on or permitted upon the premises any activity which would constitute a nuisance.

b. As an exception, some games of chance, such as raffles, games and sporting events, may be conducted by nonprofit organizations under special use permits issued in conjunction with special events, if permissible by state and local law. Any request to conduct such activities must be submitted in writing to the Grantor.

c. In accordance with state and local laws and regulations, the Lessee may sell, store, or dispense, or permit the sale, storage, or dispensing of beer, malt beverages, light wines or other intoxicating beverages on the premises in those facilities where such service is customarily found. Bar facilities will only be permitted if offered in connection with other approved activities. Advertising of such beverages outside of buildings is not permitted. Carry out package sales of hard liquor is prohibited.

25. NATURAL RESOURCES

a. The Lessee shall cut no timber, conduct no mining operations, remove no sand, gravel, or kindred substances from the ground, commit no waste of any kind, nor in any manner substantially change the contour or condition of the premises, except as may be authorized under and pursuant to the Development Plan described in the Condition on **DEVELOPMENT PLANS** herein.

b. The Lessee may salvage fallen or dead timber; however, no commercial use shall be made of such timber. Except for timber salvaged by the Lessee when in the way of construction of improvements or other facilities, all sales of forest products will be conducted by the United States and the proceeds therefrom shall not be available to the Lessee under the provisions of this lease.

c. The Lessee shall not remove any standing dead timber below the 585 elevation conservation pool, except as may be authorized by the Lake Project and the Oklahoma Department of Wildlife Conservation and approved in writing by the Tulsa District Real Estate.

d. All planned or potential temporary or permanent construction or earthmoving impacts involving any jurisdictional water of the United States whether momentarily wet or dry, particularly as related to aquatic sites, creeks, streams, jurisdictional wetlands, and the lake itself, shall be fully documented and coordinated in writing with the Lake Project and Regulatory of the Tulsa District during the planning and design phase of the proposed project and in all cases before any construction activities are begun. Section 404 of the Clean Water Act shall be followed to the utmost. The latest industry-standard

engineering-based Best Management Practices for construction in or near aquatic sites shall be incorporated into the planning process and be fully implemented and continuously maintained during all work.

26. DISPUTES CLAUSE

a. Except as provided in the Contract Disputes Act of 1978 (41 U.S.C. § 7101-7109) (the Act), all disputes arising under or relating to this lease shall be resolved under this clause and the provisions of the Act.

b. "Claim," as used in this clause, means a written demand or written assertion by the Lessee seeking, as a matter of right, the payment of money in a sum certain, the adjustment of interpretation of lease terms, or other relief arising under or relating to this lease. A claim arising under this lease, unlike a claim relating to the lease, is a claim that can be resolved under a lease clause that provides for the relief sought by the Lessee. However, a written demand or written assertion by the Lessee seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified as required by subparagraph c.(1) below.

c. A claim by the Lessee shall be made in writing and submitted to the Grantor for a written decision. A claim by the Government against the Lessee shall be subject to a written decision by the Grantor.

(1) For Lessee claims exceeding \$100,000, the Lessee shall submit with the claim a certification that:

- (i) The claim is made in good faith;
- (ii) Supporting data are accurate and complete to the best of the Lessee's knowledge and belief; and
- (iii) The amount requested accurately reflects the lease adjustment for which the Lessee believes the Government is liable.

(2) If the Lessee is an individual, the certificate shall be executed by that individual. If the Lessee is not an individual, the certification shall be executed by:

- (i) A senior company official in charge at the Lessee's location involved; or
- (ii) An officer or general partner of the Lessee having overall responsibility of the conduct of the Lessee's affairs.

d. For Lessee claims of \$100,000 or less, the Grantor must, if requested in writing by the Lessee, render a decision within 60 days of the request. For Lessee-certified claims over \$100,000, the Grantor must, within 60 days, decide the claim or notify the Lessee of the date by which the decision will be made.

e. The Grantor's decision shall be final unless the Lessee appeals or files a suit as provided in the Act.

f. At the time a claim by the Lessee is submitted to the Grantor or a claim by the Government is presented to the Lessee, the parties, by mutual consent, may agree to use alternative means of dispute resolution. When using alternate dispute resolution procedures, any claim, regardless of amount, shall be accompanied by the certificate described in paragraph c.(2) of this clause, and executed in accordance with paragraph c.(3) of this clause.

g. The Government shall pay interest on the amount found due and unpaid by the Government from (1) the date the Grantor received the claim (properly certified if required), or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury, as provided in the Act, which is applicable to the period during which the Grantor receives the claim, and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

h. The Lessee shall proceed diligently with the performance of the lease, pending final resolution of any request for relief, claim, appeal, or action arising under the lease, and comply with any decision of the Grantor.

27. ENVIRONMENTAL PROTECTION

a. The Lessee, including the Lessee's subtenants/successors or assigns, employees, agents, contractors and invitees of any of them, will use all reasonable means available to protect the environmental and natural resources and where damage nonetheless occurs from activities of the Lessee, including the Lessee's subtenant/successors or assigns, employees, agents, contractors and invitees of any of them, the Lessee shall be liable to restore the damaged resources.

b. The Lessee, including the Lessee's subtenants/successors or assigns, employees, agents, contractors and invitees of any of them, shall protect the project against pollution of its air, ground and waters by complying, at its sole cost and expense, with all Environmental Laws that are or may become applicable to the premises or the Lessee's activities on the premises, including but not limited to all applicable Federal, state, and local laws, regulations, USACE policies, and other requirements. The disposal of any toxic or hazardous materials within the premises is specifically prohibited.

c. The term "Environmental Law", as used herein, means any statute, law, act, ordinance, rule, regulation, order, decree, or ruling of any Federal, State and/or local governmental, quasi-governmental, administrative or judicial body, agency, board, commission or other authority relating to the protection of health and/or the environment or otherwise regulating and/or restricting the use, storage, disposal, treatment, handling, release, and/or transportation of Hazardous Substances, including, without limitation,

the Comprehensive Environmental Response Compensation and Liability Act, the Resource Conservation and Recovery Act, the Federal Water Pollution Control Act, the Clean Air Act, the Hazardous Materials Transportation Act, the Toxic Substances Control Act, the Emergency Planning and Community Right To Know Act, and the environmental control laws of the State of Oklahoma, each as now or hereafter amended, and all regulations and interpretive guidelines respectively promulgated thereunder.

d. The Lessee is required to participate in all aspects of any recurring (annual) Environmental Review Guide for Operations (ERGO) assessment, including but not limited to pre-briefings, the Outgrant Pre Visit Questionnaire, the assessment, exit briefings, etc., of their outgranted area. The Lessee shall promptly initiate and complete all necessary corrective actions, as determined and directed by the Lessor, in order to fully resolve those findings contained in ERGO Environmental Compliance Assessment Reports. Failure of the Lessee to take the required corrective action(s) identified in the ERGO Environmental Compliance Assessments may be referred to the appropriate enforcement agency that will render final determinations with respect to compliance with relevant laws or regulations. Continued non-compliance by the Lessee may also serve as grounds for revocation of this Lease.

e. The Lessee shall require all sanitation facilities on boats moored at the Lessee's facilities, including rental boats, to be sealed against any discharge into the lake. Services for waste disposal, including sewage pumpout of watercraft, shall be provided by the Lessee's as appropriate. The Lessee shall not discharge waste or effluent from the premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

f. The Lessee must obtain approval in writing from the Government before any pesticides or herbicides are applied to the premises.

28. ENVIRONMENTAL CONDITION OF PROPERTY

An Environmental Condition of Property (ECP) Report documenting the known history of the property with regard to the storage, release or disposal of hazardous substances was completed. Upon expiration, revocation, or termination of this lease or in the event a significant environmental change occurs while said lease is in effect, another ECP shall be prepared which will document the environmental condition of the property at that time. A comparison of the two surveys will assist the Grantor in determining any environmental restoration requirements. Any such requirements will be completed by the Lessee in accordance with the condition on **RESTORATION**.

29. HISTORIC PRESERVATION

The Lessee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archaeological, architectural or other cultural artifacts, relics, remains, or objects of antiquity. In the event such items are discovered on the premises, the Lessee shall immediately notify the Grantor and protect the site and the

material from further disturbance until the Grantor gives clearance to proceed.

30. CEMETERY FENCES

The Lessee shall construct and maintain fences, enclosing all cemeteries or graves within the leased area as specified in **EXHIBIT C**, and shall permit ingress and egress thereto.

31. SOIL AND WATER CONSERVATION

The Lessee shall maintain in a manner satisfactory to the Grantor, all soil and water conservation structures that may be in existence upon said premises at the beginning of, or that may be constructed by the Lessee during the term of, this lease, and the Lessee shall take appropriate measures to prevent or control soil erosion within the premises. Any soil erosion occurring outside the premises resulting from the activities of the Lessee shall be corrected by the Lessee as directed by the Grantor.

32. DEDICATED ROADS

The Lessee shall provide records within one (1) year from the effective date of said lease that all access roads from Highway 9 to the premises are fully and clearly dedicated for public use, and these roads shall continue to be dedicated for public use while said lease is in effect.

33. TRANSIENT USE

a. Camping, including transient trailers or recreational vehicles, at one or more campsites for a period longer than thirty (30) days during any sixty (60) consecutive day period is prohibited. The Lessee will maintain a ledger and reservation system for the use of any such campsites.

b. Occupying any lands, buildings, vessels or other facilities within the premises for the purpose of maintaining a full- or part-time residence is prohibited, except for employees residing on the premises for security purposes, if authorized by the Grantor.

34. COVENANT AGAINST CONTINGENT FEES

The Lessee warrants that no person or selling agency has been employed or retained to solicit or secure this lease upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Lessee for the purpose of securing business. For breach or violation of this warranty, the United States shall have the right to annul this lease without liability or, in its discretion, to require the Lessee to pay, in addition to the lease rental or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

35. OFFICIALS NOT TO BENEFIT

No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this lease or to any benefits to arise therefrom. However, nothing herein contained shall be construed to extend to any incorporated company if the lease be for the general benefit of such corporation or company.

36. MODIFICATIONS

This lease contains the entire agreement between the parties hereto, and no modification of this agreement, or waiver, or consent hereunder shall be valid unless the same be in writing, signed by the parties to be bound or by a duly authorized representative; and this provision shall apply to this clause as well as all other conditions of this lease.

37. DISCLAIMER

This lease is effective only insofar as the rights of the United States in the premises are concerned; and the Lessee shall obtain such permission as may be required on account of any other existing rights. It is understood that the granting of this lease does not eliminate the necessity of obtaining any Department of the Army permit which may be required pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (30 Stat. 1151; 33 U.S.C. § 403), or Section 404 of the Clean Water Act (33 U.S.C. § 1344).

38. MINIMUM WAGE REQUIREMENT (EXECUTIVE ORDER 13658)

a. Any reference in this section to "prime contractor" or "contractor" shall mean the Lessee and any reference to "contract" shall refer to the Lease.

b. The parties expressly stipulate this contract is subject to Executive Order 13658, the regulations issued by the Secretary of Labor in 29 CFR part 10 pursuant to the Executive Order, and the following provisions.

c. Minimum Wages.

(1) Each worker (as defined in 29 CFR 10.2) engaged in the performance of this contract by the prime contractor or any subcontractor, regardless of any contractual relationship which may be alleged to exist between the contractor and worker, shall be paid not less than the applicable minimum wage under Executive Order 13658.

(2) The minimum wage required to be paid to each worker performing work on or in connection with this contract between January 1, 2015 and December 31, 2015 shall be \$10.10 per hour. The minimum wage shall be adjusted each time the Secretary of Labor's annual determination of the applicable minimum wage under section 2(a)(ii) of Executive Order 13658 results in a higher minimum wage. Adjustments to the

Executive Order minimum wage under section 2(a)(ii) of Executive Order 13658 will be effective for all workers subject to the Executive Order beginning January 1 of the following year. If appropriate, the contracting officer, or other agency official overseeing this contract shall ensure the contractor is compensated only for the increase in labor costs resulting from the annual inflation increases in the Executive Order 13658 minimum wage beginning on January 1, 2016. The Secretary of Labor will publish annual determinations in the Federal Register no later than 90 days before such new wage is to take effect. The Secretary will also publish the applicable minimum wage on www.wdol.gov (or any successor Web site). The applicable published minimum wage is incorporated by reference into this contract.

(3) The contractor shall pay unconditionally to each worker all wages due free and clear and without subsequent deduction (except as otherwise provided by 29 CFR 10.23), rebate, or kickback on any account. Such payments shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under this Executive Order may not be of any duration longer than semi-monthly.

(4) The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with the Executive Order minimum wage requirements. In the event of any violation of the minimum wage obligation of this clause, the contractor and any subcontractor(s) responsible therefore shall be liable for the unpaid wages.

(5) If the commensurate wage rate paid to a worker on a covered contract whose wages are calculated pursuant to a special certificate issued under 29 U.S.C. 214(c), whether hourly or piece rate, is less than the Executive Order minimum wage, the contractor must pay the Executive Order minimum wage rate to achieve compliance with the Order. If the commensurate wage due under the certificate is greater than the Executive Order minimum wage, the contractor must pay the 14(c) worker the greater commensurate wage.

d. Withholding. The agency head shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the prime contractor under this or any other Federal contract with the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay workers the full amount of wages required by Executive Order 13658.

e. Contract Suspension/Contract Termination/ Contractor Debarment. In the event of a failure to pay any worker all or part of the wages due under Executive Order 13658 or 29 CFR part 10, or a failure to comply with any other term or condition of Executive Order 13658 or 29 CFR part 10, the contracting agency may on its own action or after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment, advance or guarantee of funds until such violations have ceased. Additionally, any failure to comply

with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost. A breach of the contract clause may be grounds for debarment as a contractor and subcontractor as provided in 29 CFR 10.52.

f. The contractor may not discharge any part of its minimum wage obligation under Executive Order 13658 by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Act, the cash equivalent thereof.

g. Nothing herein shall relieve the contractor of any other obligation under Federal, State or local law, or under contract, for the payment of a higher wage to any worker, nor shall a lower prevailing wage under any such Federal, State, or local law, or under contract, entitle a contractor to pay less than \$10.10 (or the minimum wage as established each January thereafter) to any worker.

h. Payroll Records.

(1) The contractor shall make and maintain for three years records containing the information specified in paragraphs (h)(1) (i) through (vi) of this section for each worker and shall make the records available for inspection and transcription by authorized representatives of the Wage and Hour Division of the U.S. Department of Labor:

- (i) Name, address, and social security number.
- (ii) The worker's occupation(s) or classification(s).
- (iii) The rate or rates of wages paid.
- (iv) The number of daily and weekly hours worked by each worker.
- (v) Any deductions made; and
- (vi) Total wages paid.

(2) The contractor shall also make available a copy of the contract, as applicable, for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available such records for inspection and transcription shall be a violation of 29 CFR part 10 and this contract, and in the case of failure to produce such records, the contracting officer, upon direction of an authorized representative of the Department of Labor, or under its own action, shall take such action as may be necessary to cause suspension of any further payment or advance of funds until such time as the violations are discontinued.

(4) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct investigations, including interviewing workers at the worksite during normal working hours.

(5) Nothing in this clause limits or otherwise modifies the contractor's payroll and recordkeeping obligations, if any, under the Davis-Bacon Act, as amended, and its implementing regulations; the Service Contract Act, as amended, and its implementing regulations; the Fair Labor Standards Act, as amended, and its implementing regulations; or any other applicable law.

i. The contractor (as defined in 29 CFR 10.2) shall insert this clause in all of its covered subcontracts and shall require its subcontractors to include this clause in any covered lower-tier subcontracts. The prime contractor and any upper-tier subcontractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with this contract clause.

j. Certification of Eligibility.

(1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Service Contract Act, section 3(a) of the Davis-Bacon Act, or 29 CFR 5.12(a)(1).

(2) No part of this contract shall be subcontracted to any person or firm whose name appears on the list of persons or firms ineligible to receive Federal contracts.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

k. Tipped employees. In paying wages to a tipped employee as defined in section 3(t) of the Fair Labor Standards Act, 29 U.S.C. 203(t), the contractor may take a partial credit against the wage payment obligation (tip credit) to the extent permitted under section 3(a) of Executive Order 13658. In order to take such a tip credit, the employee must receive an amount of tips at least equal to the amount of the credit taken; where the tipped employee does not receive sufficient tips to equal the amount of the tip credit the contractor must increase the cash wage paid for the workweek so that the amount of cash wage paid and the tips received by the employee equal the applicable minimum wage under Executive Order 13658. To utilize this proviso:

(1) The employer must inform the tipped employee in advance of the use of the tip credit;

(2) The employer must inform the tipped employee of the amount of cash wage that will be paid and the additional amount by which the employee's wages will be considered increased on account of the tip credit;

(3) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received); and

(4) The employer must be able to show by records that the tipped employee receives at least the applicable Executive Order minimum wage through the combination of direct wages and tip credit.

l. Antiretaliation. It shall be unlawful for any person to discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to Executive Order 13658 or 29 CFR part 10, or has testified or is about to testify in any such proceeding.

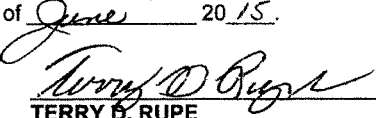
m. Disputes concerning labor standards. Disputes related to the application of Executive Order 13658 to this contract shall not be subject to the general disputes clause of the contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 10. Disputes within the meaning of this contract clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the workers or their representatives.

n. Notice. The contractor must notify all workers performing work on or in connection with a covered contract of the applicable minimum wage rate under the Executive Order. With respect to service employees on contracts covered by the Service Contract Act and laborers and mechanics on contracts covered by the Davis-Bacon Act, the contractor may meet this requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination under those statutes. With respect to workers performing work on or in connection with a covered contract whose wages are governed by the FLSA, the contractor must post a notice provided by the Department of Labor in a prominent and accessible place at the worksite so it may be readily seen by workers. Contractors that customarily post notices to workers electronically may post the notice electronically provided such electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to workers about terms and conditions of employment.

o. If a duly authorized representative of the United States discovers or determines, whether before or subsequent to executing this contract, that an erroneous determination regarding the applicability of Executive Order 13658 was made, contractor, to the extent permitted by law, agrees to indemnify and hold harmless the United States, its officers, agents, and employees, for and from any and all liabilities, losses, claims, expenses, suits, fines, penalties, judgments, demands or actions, costs, fees, and damages directly or indirectly arising out of, caused by, related to, resulting from or in any way predicated upon, in whole or in part, the erroneous Executive Order 13658 determination. This includes contractor releasing any claim or entitlement it

would otherwise have to an equitable adjustment to the contract and indemnifying and holding harmless the United States from the claims of subcontractors and contractor employees.

IN WITNESS WHEREOF I have hereunto set my hand by authority of the Secretary of the Army this 23 day of June 20 15.


TERRY B. RUPE
DISTRICT CHIEF OF REAL ESTATE
REAL ESTATE CONTRACTING OFFICER

THIS LEASE is also executed by the Lessee this 23 day of June 20 15.

THE TOWN OF CARLTON LANDING:

By: 
JOANNE CHINNICI
MAYOR OF CARLTON LANDING

CERTIFICATE OF AUTHORITY

I, Jordan Sowers, certify that I am the Town Manager
(Name) (Secretary or Attesting Officer)

of the Town of Carlton Landing, named as grantee/lessee/licensee herein;
(Agency Name)

that Joanne Chinnici, who signed this Agreement on behalf
(Officer Name)

of said Town of Carlton Landing, was then Mayer
(Agency Name) (Officer Title)

of the Agency; and that said Agreement was duly signed for and on behalf of

the Town of Carlton Landing by authority of its governing body and is
(Agency Name)

within the scope of its statutory powers.

Signed, _____

Secretary of Attesting Officer

(The person that signed the attached instrument cannot sign Certificate)

This form certifies that the person signing the attached instrument has the authority to do so. The signature of the Secretary/Attesting Officer and the Individual signing the attached instrument cannot be the same.

U.S. ARMY CORPS OF ENGINEERS
TULSA DISTRICT



ROUNDTREE LANDING

Area contains 420 acres of which 297 acres are land and 123 acres are water, located in Sections 5 and 6, T8N, R17E and Sections 31 and 32, T9N, R17E, Pittsburg County, Oklahoma

GRANTEE NAME: Town of Carlton Landing

CONTRACT NO.: DACW56-1-15-268

PROJECT: Eufaula Lake

EXHIBIT A

SPECIFICATIONS FOR BARRIER TO PROTECT ENVIRONMENTALLY SENSITIVE AREA

The purpose of the exclusion zone is to protect an environmentally sensitive location from the direct and indirect impacts of human presence. This will be accomplished by permanently excluding people from the end of the small peninsula using a well-marked fence in upland areas and bollards and cable near the shoreline. The fence will physically exclude pedestrians from the area. The bollards and cable will physically exclude vehicle traffic such as golf carts while not representing a hazard to navigation during times of inundation.

Fencing

Furnish all materials, equipment, and labor necessary to install fencing across the peninsula located near the leased portion of Roundtree Landing at Eufaula Lake. The exact start and end points for the fence will be indicated by the Corps of Engineers.

1. The fence shall be 11½ gauge galvanized chain link 4ft. high.
2. Line post - 1½ in. OD Sch 40. Concrete footing 10in diameter 24in. depth.
3. Terminal/Gate post - 2½in. OD Sch 40. Concrete footing 12in. diameter 30in. depth.
4. Bracing - Terminal/Gate posts braced to nearest line post with 1½ in. OD Sch 40.
5. Top rail - 1½ in. OD Sch 40.
6. Gate - A 4 ft. wide chain link single swing gate shall be constructed near the center.
7. Location - The fence shall be approximately 550 ft long and be installed in a straight line may be needed to prevent encroachment on trees. The final location will be marked and location is approved. The fence will be installed from 592 ft elevation on the eastern side to the 592 ft elevation on the western side.
8. Signage - A notice sign (see sign specs below) will be mounted on the fence at each end near the terminal post and every 50 ft. between.
9. Tension Wire - 9GA smooth tension wirer will be attached to the top and bottom of the fence fabric with hog rings every 24in.
10. Tie Wire - 9GA aluminum tie wire will be placed every 15in. on line posts and every 24in. on top rail.
11. Footings - hand mixed concrete
12. Fittings - Standard galvanized tension bars and carriage bolts, pressed steel rail-end, and die-cast aluminum dome caps.

Bollards

1. Steel pipe bollards shall be installed every 3ft. beginning at the termination of the fence and ending at the 585ft. elevation line.
2. Pipe - 4in. OD, API Sch 40 steel pipe
3. Footing - hand mixed concrete
4. End treatment - the tops of each bollard will be capped and welded to prevent water entering the interior of the pipe.
5. Bollards will be anchored in concrete footings 12in. diameter, ½ of the height of the bollard with a minimum of 24in. depth.
6. All bollards, except the bollards on the end farthest from the fence will have a finished height of 6 ft. above ground level. The terminal bollards will be installed with a finished height at 597 ft. elevation.
7. Marker - A 24in. standard retroreflective diamond "Danger" navigation sign will be installed facing the water at the top of each terminal bollard. Lettering will be minimum 3in. block letters. Approximately 3in. from the bottom of the sign a 6in. wide 3M High intensity (#3870) White Reflective Tape will be installed encircling the entire bollard. Sufficient bracing will be installed to support and

EXHIBIT C

attach the sign to the bollard pipe.

8. Sign – A notice sign (see sign spec below) will be centered at 4ft. above ground level on the terminal bollards. The sign will be installed parallel to the fence and face the land.

Signs

1. Sign – A standard 17x11 in. aluminum “NOTICE” sign with 1 in. black letters “ENVIRONMENTALLY SENSITIVE AREA” and in red letters on the last line “NO ACCESS”
2. Signs will be installed on terminal bollards, at the end of each fence near the terminal posts and each 50 ft. along the fence.
3. Attachment - The signs will be bolted to the bollards with stainless hardware to prevent rust. Signs will be attached to the fence with aluminum or stainless rings or other non-rusting method approved in advance by the Corps of Engineers.

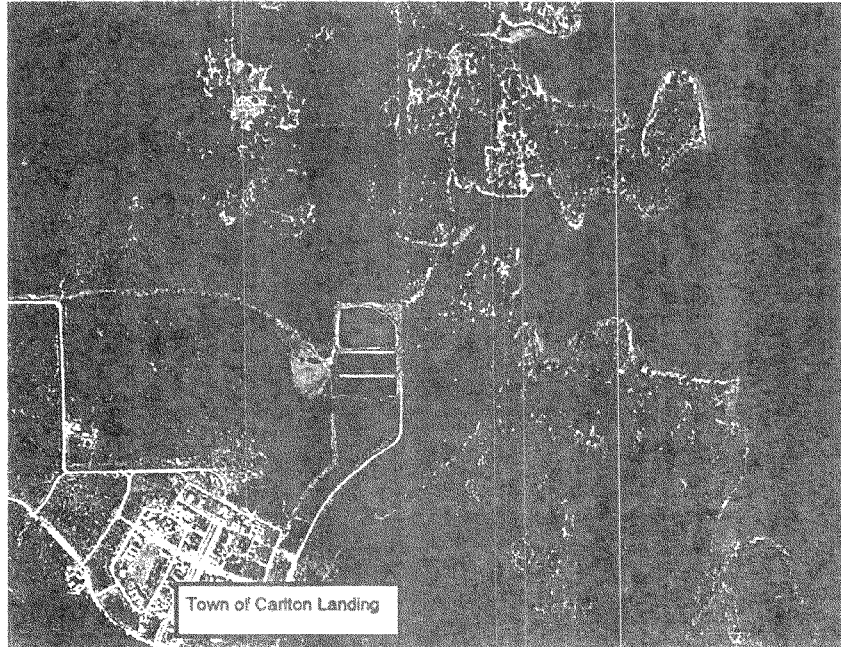


EXHIBIT "B-1"

USE PLAN
ACTIVITIES TO BE OFFERED

1. Minimum Activities Required by the Lessor:
 - a. Furnish facilities for mooring and docking privately owned boats
 - b. Servicing, repairing, maintaining, and caring for privately owned boats
 - c. Sale of gasoline and oil
 - d. Sale of food, refreshments, fishing tackle, bait, fishing licenses and other supplies
 - e. Providing a marine sanitary boat pump-out system
 - f. Furnish premier and Primitive Campsites
 - g. Construct hiking and biking trails
2. Optional Activities That May Be Offered by the Lessor:
 - a. Rental of boats and personal watercraft
 - b. Chartering of dinner cruises on the lake
 - c. Launch and retrieval of boats for storage and/or service purposes
 - d. Sale of miscellaneous boats, personal watercraft and related accessories
 - e. Sale of miscellaneous recreational related merchandise, sportswear, equipment and accessories
 - f. Furnish guide service and/or charter service
 - g. Rental of floating and fixed location cabins
 - h. Furnish a fishing dock

EXHIBIT "B-2"

DEVELOPMENT PLAN

The following is a narrative explanation of the Development Plan as presented in the attached timeline.

YEAR 2015

1. Nature Center
 - a. Hiking & Biking Trails
 - i. Construct 10% of the Trails (project 10% complete)
 - b. Education & Natural Play Areas
 - i. Construct 20% of the Play Areas (project 20% complete)
 - c. Rental Cabins
 - i. Complete Landscape and Architectural Design
 - d. Outdoor Amphitheatre
 - i. Complete Landscape and Architectural Design
2. Roundtree Landing Cove Side
 - a. Sports Fields
 - i. Clearing, Grading and Erosion Control
3. The Marina
 - a. Boat Slips
 - i. Add 16 additional slips (total of 31)
 - b. Floating Cabins
 - i. Complete architectural design
 - c. Premium Campsites
 - i. Extend utilities and access road

YEAR 2016

1. Nature Center
 - a. Hiking & Biking Trails
 - i. Construct 20% of the Trails (project 30% complete)
 - b. Education & Natural Play Areas
 - i. Construct 20% of the Play Areas (project 40% complete)
 - c. Rental Cabins
 - i. Construct Rental Cabins 1-4 of 12 (project 33% complete)
 - d. Outdoor Amphitheatre
 - i. Complete Phase 1 Construction (project 50% complete)
 - e. Nature Center Facilities
 - i. Complete Phase 1 Landscape and Architectural Design
2. Adventure Zone
 - a. Kayaks and Paddleboards
 - i. Increase inventory
 - b. Wibit Aquatic Play Zone
 - i. Install Phase 1 of Wibit Sports Park (project 40% complete)
 - c. Courtesy Dock
 - i. Install Courtesy Dock (project 100% complete)

- d. Bouldering Course
 - i. Install Bouldering Course (project 100% complete)
 - e. Paintball Area
 - i. Construct Fixed Elements (project 100% complete)
 - f. Outdoor Recreation Area
 - i. Install zipline and slackline course (projects 100% complete)
- 3. Roundtree Landing Cove Side
 - a. Sports Fields
 - i. Overseed Field in the spring and in the fall
 - b. Horse Riding Trails
 - i. Construct 20% of the Horseriding Trails (project 20% complete)
 - c. Premium Campsites
 - i. Construct Premium Campsites 1-5 of 20 (project 25% complete)
- 4. Summer Camp
 - a. Tents and Cabins
 - i. Construct Cabins 1-2 of 8 and Tents 1-3 of 12 (project 25% complete)
 - b. Supporting Facilities
 - i. Construct Dining Hall (project 25% complete)
 - c. Swim Beach
 - i. Construct Swim Beach and Lake Access (project 100% complete)
 - d. Outdoor Recreation Facilities
 - i. Construct Archery Range and Campfire Area (project 25% complete)
- 5. The Marina
 - a. Boat Slips
 - i. Relocate boat slips to Marina Site
 - b. Floating Cabins
 - i. Construct Floating Cabins 1-4 of 12 (project 33% complete)
 - c. Premium Campsites
 - i. Construct Premium Campsites 1-4 of 16 (project 25% complete)
 - d. Primitive Campsites
 - i. Construct Primitive Campsites 1-10 of 40 (project 25% complete)
 - e. Infrastructure and Access Roads
 - i. Extend Utilities and Access Road
 - f. Lake Store
 - i. Commence Construction on Lake Store (not complete by end of year)

YEAR 2017

- 1. Nature Center
 - a. Hiking & Biking Trails
 - i. Construct 20% of the Trails (project 50% complete)
 - b. Education & Natural Play Areas
 - i. Construct 20% of the Play Areas (project 60% complete)
 - c. Rental Cabins
 - i. Construct Rental Cabins 5-8 of 12 (project 67% complete)
 - d. Nature Center Facilities
 - i. Award Construction Contract
- 2. Adventure Zone

- a. Kayaks and Paddleboards
 - i. Increase inventory
 - b. Wibit Aquatic Play Zone
 - i. Install Phase 2 of Wibit Sports Park (project 80% complete)
 - c. Outdoor Recreation Area
 - i. Install Pony Rides and Bungee Bounce (projects 100% complete)
 - d. Climbing Wall
 - i. Construct Phase 1 of the Climbing Wall (project 50% complete)
- 3. Roundtree Landing Cove Side
 - a. Sports Fields
 - i. Construct Baseball Diamond (project 75% complete)
 - b. Horse Riding Trails
 - i. Construct 20% of the Horseriding Trails (project 40% complete)
 - c. Premium Campsites
 - i. Construct Premium Campsites 6-10 of 20 (project 50% complete)
- 4. Summer Camp
 - a. Tents and Cabins
 - i. Construct Cabins 3-4 of 8 and Tents 4-6 of 12 (project 50% complete)
 - b. Supporting Facilities
 - i. Construct Arts and Crafts Building (project 50% complete)
 - c. Outdoor Recreation Facilities
 - i. Construct Volleyball Court (project 50% complete)
- 5. The Marina
 - a. Boat Slips
 - i. Add 30 Boat Slips (total of 60)
 - b. Floating Cabins
 - i. Construct Floating Cabins 5-8 of 12 (project 67% complete)
 - c. Premium Campsites
 - i. Construct Premium Campsites 5-8 of 16 (project 50% complete)
 - d. Primitive Campsites
 - i. Construct Primitive Campsites 21-20 of 40 (project 50% complete)
 - e. Infrastructure and Access Roads
 - i. Complete Paving and Parking Area
 - f. Lake Store
 - i. Complete Construction on Lake Store (project 100% complete)
 - g. RV Resort
 - i. Extend Utilities and access Road

YEAR 2018

- 1. Nature Center
 - a. Hiking & Biking Trails
 - i. Construct 20% of the Trails (project 70% complete)
 - b. Education & Natural Play Areas
 - i. Construct 20% of the Play Areas (project 80% complete)
 - c. Rental Cabins
 - i. Construct Rental Cabins 9-12 of 12 (project 100% complete)
 - d. Outdoor Amphitheater

- i. Complete Phase 2 Construction (project 100% complete)
 - e. Nature Center Facilities
 - i. Complete Phase 1 Construction (project 50% complete)
- 2. Adventure Zone
 - a. Kayaks and Paddleboards
 - i. Increase inventory
 - b. Wibit Aquatic Play Zone
 - i. Install Final Phase of Wibit Sports Park (project 100% complete)
- 3. Roundtree Landing Cove Side
 - a. Sports Fields
 - i. Construct Spectator Stands (project 100% complete)
 - b. Horse Riding Trails
 - i. Construct 30% of the Horseriding Trails (project 70% complete)
 - c. Premium Campsites
 - i. Construct Premium Campsites 11-15 of 20 (project 75% complete)
- 4. Summer Camp
 - a. Tents and Cabins
 - i. Construct Cabins 5-6 of 8 and Tents 7-9 of 12 (project 75% complete)
 - b. Supporting Facilities
 - i. Construct Field House (project 75% complete)
 - c. Outdoor Recreation Facilities
 - i. Construct Basketball Courts (project 75% complete)
- 5. The Marina
 - a. Boat Slips
 - i. Add 40 Boat Slips (total of 100 slips)
 - b. Floating Cabins
 - i. Construct Floating Cabins 9-12 of 12 (project 100% complete)
 - c. Premium Campsites
 - i. Construct Premium Campsites 9-12 of 16 (project 75% complete)
 - d. Primitive Campsites
 - i. Construct Primitive Campsites 21-30 of 40 (project 75% complete)
 - e. RV Resort
 - i. Construct Sites 1-30 of 60 (project 50% complete)
 - ii. Construct Amenities (project 50% complete)

YEAR 2019

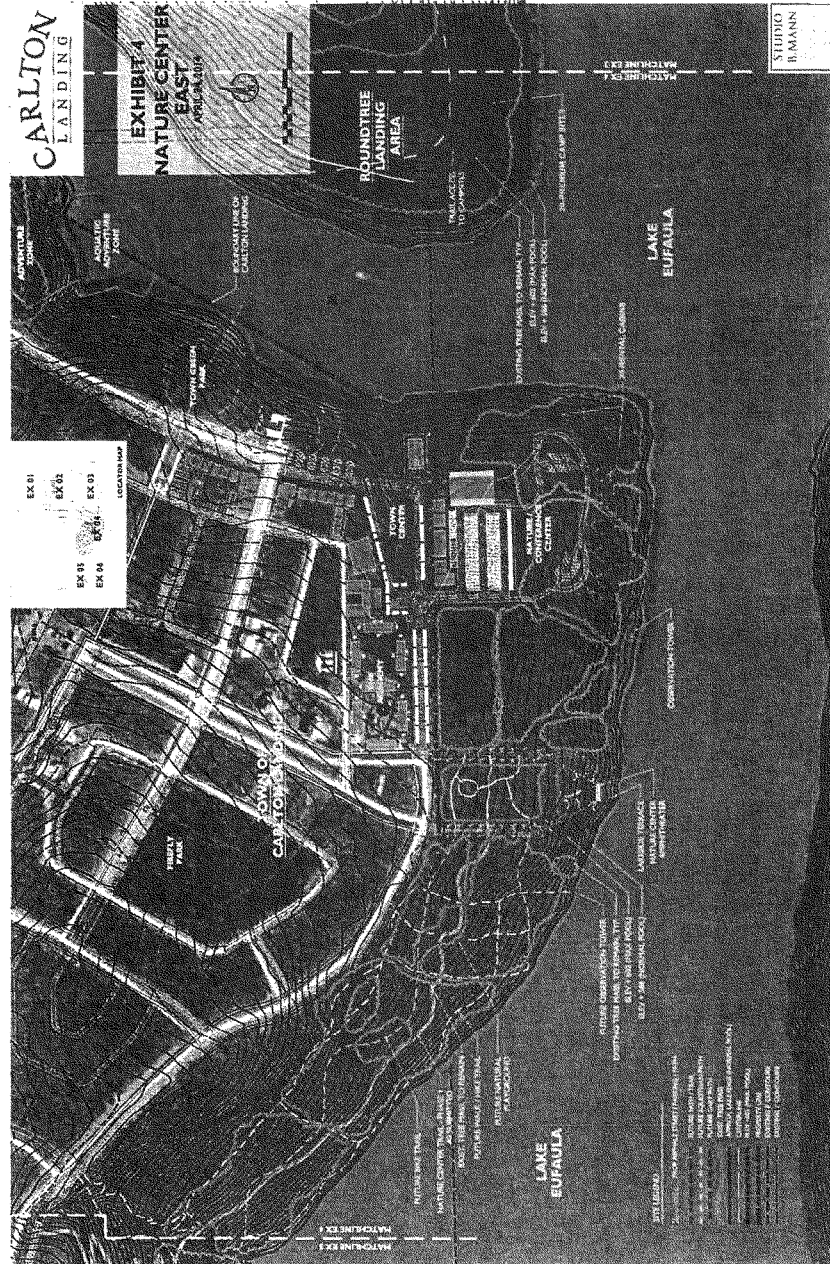
- 1. Nature Center
 - a. Hiking & Biking Trails
 - i. Construct 30% of the Trails (project 100% complete)
 - b. Education & Natural Play Areas
 - i. Construct 20% of the Play Areas (project 100% complete)
 - c. Nature Center Facilities
 - i. Complete Phase 2 Design
 - ii. Award Phase 2 Construction Contract
- 2. Adventure Zone
 - a. Kayaks and Paddleboards
 - i. Increase inventory

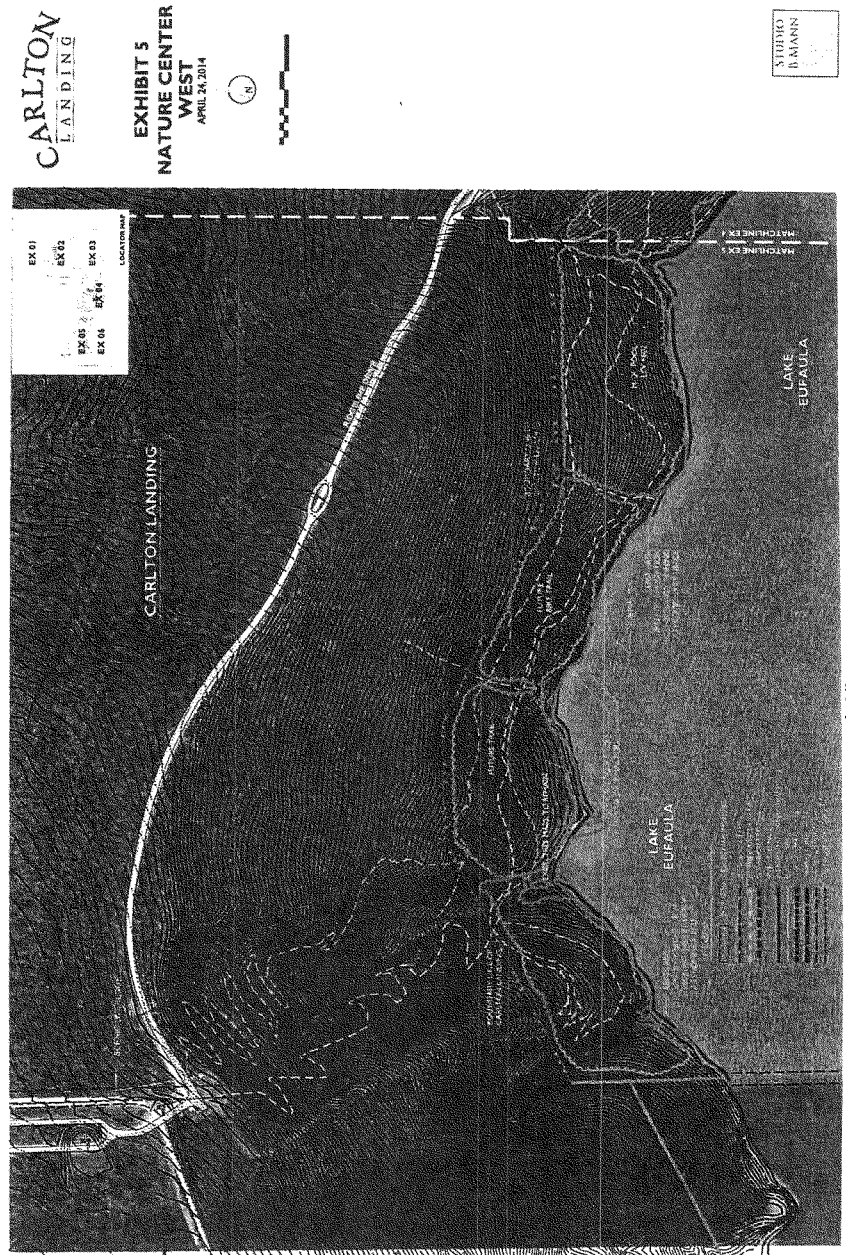
- b. Climbing Wall
 - i. Construct Phase 2 of the Climbing Wall (project 100% complete)
 - 3. Roundtree Landing Cove Side
 - a. Horse Riding Trails
 - i. Construct 30% of the Horseriding Trails (project 100% complete)
 - b. Premium Campsites
 - i. Construct Premium Campsites 16-20 of 20 (project 100% complete)
 - 4. Summer Camp
 - a. Tents and Cabins
 - i. Construct Cabins 7-8 of 8 and Tents 10-12 of 12 (project 100% complete)
 - b. Supporting Facilities
 - i. Construct Camp Offices and Clinic (project 100% complete)
 - c. Outdoor Recreation Facilities
 - i. Construct Tennis Courts (project 100% complete)
 - 5. The Marina
 - a. Boat Slips
 - i. Add 50 Boat Slips (total of 150 slips)
 - b. Premium Campsites
 - i. Construct Premium Campsites 13-16 of 16 (project 100% complete)
 - c. Primitive Campsites
 - i. Construct Primitive Campsites 31-40 of 40 (project 100% complete)
 - d. RV Resort
 - i. Construct Sites 31-60 of 60 (project 100% complete)
 - ii. Construct Amenities (project 100% complete)
 - e. Lakefront Restaurant
 - i. Construct Lakefront Restaurant (project 100% complete)

YEAR 2020

- 1. Nature Center
 - a. Nature Center Facilities
 - i. Complete Phase 2 Construction (project 100% complete)
- 2. Adventure Zone
 - a. Kayaks and Paddleboards
 - i. Increase inventory
- 3. The Marina
 - a. Boat Slips
 - i. Add 50 Boat Slips (total of 200 slips)

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Senator INHOFE. Thank you, Mr. Humphreys.
Secretary RAHN.

**STATEMENT OF PETE K. RAHN, MARYLAND SECRETARY OF
TRANSPORTATION**

Mr. RAHN. Good afternoon, Mr. Chairman, Ranking Member Cardin and members of the subcommittee. Thank you for inviting me to discuss the roles of the public and private sectors for our ports.

Ports are the key links in U.S. access to the global transportation network and Federal navigation channels provide access to these facilities. I thank the Committee for continuing to support maritime infrastructure and commerce, especially with respect to essential dredging projects that keep our shipping channels, our maritime highways, safe and open for business. This is a high priority for the Hogan Administration.

The Helen Delich Bentley Port of Baltimore is an economic engine, not just for Maryland and the region, but for our Nation. As Senator Cardin mentioned in his opening remarks, it generates approximately 13,650 direct jobs and about 128,000 total jobs linked to port activities. It is noteworthy that the average income for the port direct job is 16 percent higher than the average Maryland salary.

Our public-private partnership agreement with Ports America Chesapeake and the availability of a 50-foot deep container berth has positioned the Port of Baltimore to attract cargo growth associated with last year's Panama Canal expansion. Our tonnage increased 9.3 percent in the first 8 months since the Canal opened. The port's coal business also increased significantly over the same period, as these ships need deep water too.

The U.S. Army Corps of Engineers has been very responsive to our port, to our shippers, carriers and congressional concerns about the planning process for channel improvements and has initiated reforms that were included WRRDA 2014.

Because of these planning reforms, WRRDA 2014 and WRDA 2016 authorized nine major port projects that provide for channel improvements to accommodate the new generation of larger and much more economically efficient ships and capitalize on the opening of the improved Panama Canal.

This inventory of new projects, along with several ongoing efforts that predate WRRDA 2014, produced an inventory of 11 projects with a total cost in excess of \$4 billion and a Federal cost in excess of \$2.5 billion. Out of the 11 projects to date, only two received Federal funding and a third project was completed by a port that simply could not wait for Federal funding.

The average appropriation over the last 8 years for coastal navigation construction has been about \$170 million per year. While this represents an increase over the Administration's budget request for those years, it requires about 15 years to clear the existing inventory.

In the highly competitive world economy, the low level of Federal funding to construct navigation channel improvements is holding back America and is simply unacceptable.

It is not only navigation projects that are at issue. Like most ports, it is critical that the Port of Baltimore deliver sufficient, long-term dredged material placement capacity to support maintenance of its 50-foot deep channel in terms of both depth and width to capitalize on that anticipated growth and maintain our existing business.

The Mid-Chesapeake Bay Island project, authorized in WRRDA 2014, will use dredged material from the port's navigation channels to restore the James and Barren Islands and recreate a critical environmental resource in the Middle Chesapeake Bay.

Like all WRRDA 2014 projects, this project faces deauthorization in calendar year 2021 if it does not receive Federal funds for construction by that time. The Mid-Chesapeake Bay Island Project is critical because it will provide 45-plus years of dredged material placement capacity.

Federal funding is essential to enable opening the Mid-Bay Project by the time it is needed and to avoid deauthorization. I thank the Chairman and Ranking Member for their support of the Mid-Bay Project in WRRDA 2014 and respectfully ask the subcommittee to support report language in the next Water Resources Development Act to ensure continued authorization for the Project.

Additionally, Federal funding for Corps dredging has been constrained over the last several years and continued constraints in funding will negatively impact the port. With larger ships calling today, it is imperative that Baltimore's harbor and channels be maintained at fully authorized depths and widths on a year-round basis to facilitate efficient and safe maritime commerce.

Maryland remains fully committed to working with our Federal partners and the private sector to deliver safe, efficient and cost effective maritime commerce infrastructure in Maryland that contributes to the 26 percent of U.S. GDP and 23 million American jobs attributable to all ports.

Thank you again for the opportunity to testify and I would be happy to answer any questions.

[The prepared statement of Mr. Rahn follows:]

STATEMENT OF
PETE K. RAHN
 SECRETARY
 MARYLAND DEPARTMENT OF TRANSPORTATION

BEFORE THE
 SENATE COMMITTEE ENVIRONMENT AND PUBLIC WORKS
 SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
 U.S. SENATE

*The Importance of U.S. Army Corps of Engineers – Civil Works Funding to the
 Port of Baltimore*

May 9, 2017

Chairman Inhofe, Ranking Member Cardin, and Members of the Committee, thank you for inviting me to appear before you today to discuss the roles of the public and private sectors for our ports. Ports are the key links in U.S. access to the global transportation network and federal navigation channels provide access to these facilities. I thank the Committee for its interest in continuing to support maritime infrastructure and commerce – especially with respect to essential dredging projects that keep our shipping channels, our marine highways, safe and open for business. This is a high priority in Maryland for Governor Larry Hogan's Administration.

The Helen Delich Bentley Port of Baltimore is an economic engine, not just for Maryland and the region, but for our nation. It generates approximately 13,650 direct jobs and about 127,600 total jobs are linked to Port activities. The Port generated jobs represent \$2.9 billion in salaries, \$2.2 billion in business revenues, and \$310 million in State and local tax revenues. It is noteworthy that the average income for a Port direct job (\$61,877) is 16 percent better than the average Maryland salary.

Our public-private partnership agreement with Ports America Chesapeake and the availability of a 50-foot deep container berth has positioned the Port of Baltimore to attract cargo growth associated with last year's Panama Canal expansion. Our containerized cargo tonnage increased 9.3 percent in the first eight months since the Canal opened the third set of locks. The Port's coal business also increased significantly over the same period, as these ships need deep water too.

The U.S. Army Corps of Engineers (Corps) has been very responsive to port, shipper, carrier and Congressional concerns about the length of the planning process for channel improvements and has initiated reforms that were reflected in provisions of the Water Resources Reform and Development Act of 2014 (WRRDA 2014). Because of these planning reforms, WRRDA 2014 and the Water Resources Development Act of 2016 (WRDA 2016) authorized nine major port projects that provide for channel improvements to accommodate the new generation of larger and much more economically efficient ships and capitalize on the opening of the improved Panama Canal. This inventory of new projects along with several ongoing efforts that predate WRRDA 2014 produced an inventory of 11 projects with a total cost in excess of \$4 billion and a federal cost in excess of \$2.5 billion. Out of the 11 projects to date, only two received federal funding and a third project was completed by a port and state that simply could not wait for federal funding.

The average federal yearly appropriation over the last eight years for coastal navigation construction has been about \$170 million per year. While this represents a substantial Congressional increase over the Administration budgets for those years, it would still require

about 15 years to clear the existing inventory. In the highly competitive world economy, the low level of federal funding to construct navigation channel improvements is holding America back. That is unacceptable.

It is not only navigation projects that are at issue. Like most ports, it is critical that the Port of Baltimore deliver sufficient long-term dredged material placement capacity to support maintenance of its 50-foot deep channel in terms of both depth and width to capitalize on that anticipated growth and maintain our existing business. The Mid-Chesapeake Bay Island project in Maryland that was authorized in WRRDA 2014 will use dredged material to restore the James and Barren Islands and recreate a critical environmental resource in the Middle Chesapeake Bay. In the process, it will support the Port of Baltimore by providing for the placement of material dredged from the navigation channels. Like all WRRDA 2014 projects, this project faces deauthorization in calendar year 2021 if it does not receive federal funds for construction. The Mid-Chesapeake Bay Island Project is critical to preserving and growing waterborne cargo through the Port of Baltimore's channels because it will provide 40 plus years of dredged material placement capacity. The cost share for this project is 65 percent federal / 35 percent non-federal. Federal funding is essential to enable opening the Mid- Bay Project's James Island to dredged material placement by the time it is needed *and* to avoid deauthorization. I thank the Chairman and Ranking Member for their support of the Mid-Bay Project in WRRDA 2014 and respectfully ask the Sub-Committee to support report language in the next Water Resources Development Act to ensure continued authorization for the Project.

Federal funding for Corps dredging has been constrained over the last several years and continued constraints in funding will negatively impact the channels and business at the Port of Baltimore. With ships today larger than those calling in the past, it is imperative that Baltimore's harbor and channels be maintained at fully authorized depths and widths on a year-round basis to facilitate efficient and safe maritime commerce in a very competitive environment and avoid costly environmental damage that could accrue from grounding. We look forward to working with you and the Appropriations Committees to ensure adequate federal Operations and Maintenance (O&M) funding for Ports.

We support the American Association of Port Authorities (AAPA) recommendation that Congress fund Harbor Maintenance Tax-related work at \$1.33 billion for federal fiscal year (FFY) 2018 to hit the target established in WRRDA 2014 and continue the path to full utilization of the Harbor Maintenance Trust Fund (HMTF) revenue for its intended purpose by FFY 2025.

Maryland remains fully committed to working with our federal partners and the private sector to deliver safe, efficient, and cost-effective maritime commerce infrastructure in Maryland that contributes to the 26 percent of U.S. Gross Domestic Product (GDP) and 23 million American jobs* attributable to ports.

Thank you again for the opportunity to testify, and I will be happy to answer any questions.

*Source: American Association of Port Authorities statistics

Senator INHOFE. Thank you, Secretary Rahn.
Commissioner GOCHE.

**STATEMENT OF RICK GOCHE, COMMISSIONER, PORT OF
BANDON**

Mr. GOCHE. Thank you, Chairman Inhofe, Ranking Member Cardin and the rest of the members. I appreciate the opportunity to speak here for small ports in the Pacific Northwest, Oregon and across the Country.

I come from a little town called Bandon, Oregon with a population of little over 3,000. I have been a commercial fisherman most of my life. Now, I fish primarily for albacore tuna.

My brother and I, when we get ready to go fishing, we supply our boat with enough provisions to be at sea for about 2 weeks at a time. We spend most of that time between 100 and 200 miles offshore.

Because our boats are relatively small and relatively slow, when weather is forecasted that is beyond our means to deal with, we have to go into whatever port is closest to us. When the forecast is even worse, we have to sometimes just downwind and take whatever is on that trajectory.

This is where the term "safe harbor" comes from because when weather is bad, any harbor is better than being at sea. From a fisherman's perspective, every port, whether large or small, is important.

We have preferences though. The main reason that we have preferences is because of bars. I understand some here may not be familiar with the term "crossing a bar," but in the Pacific Northwest, understanding that term can be a matter of life or death.

The bar is a term used for where a hump is formed in the entrance to the harbor from the downstream sediment that drops when it comes up against the swells and tides of the ocean. During ebb tides, the river water speeds up and narrows at that hump and creates the pressure against the incoming swells. Those swells build and steepen and tip over and become breakers. That is where the term "breaking bar" comes from.

I did not understand until I started coming back and talking with people here that breaking bars are pretty much a unique condition relative to the rest of the coast. In the Pacific Northwest, every bar is a breaking bar at one time or another.

I could not really understand until I figured out that while these small ports budgets' were zeroed out year after year, budget after budget, Administration after Administration, now I know. So I want to help you understand how important bar dredging is in the Pacific Northwest.

There are a couple of ways to minimize the threat of a breaking bar. One is to build jetties that steer the current of the river a few degrees off the dominant swell. That has been done many, many decades ago all over the Pacific Northwest. Because of lack of funding, most of those jetties are in disrepair and are becoming more and more dangerous and less and less effective.

Another way to minimize the deadliness of breaking bars is to dredge that hump to which I referred. Every year, sediment coming downstream comes up against the swell where the river broadens

out, and drops that sediment caused by the heavy rains typical and characterize the Pacific Northwest coast.

There is one thing that both methods have in common. That is funding. The Portland District of the Army Corps of Engineers does a great job dredging our navigation channels and taking care of things, given the resources.

When insufficient funding is provided, as is often the case for small ports, the bar shallows and breaks and lives are lost. The reason lives are lost is because when those breakers are happening, a boat transiting that breaking bar comes up against a freak wave or a sneaker wave that is bigger and faster than the rest of the waves, then the boat basically turns into a surfboard, loses control and literally rolls over. Many deaths happen because of this.

In Oregon, there are 15 communities with small ports. In every one of those communities the port is the equivalent of an anchor business. Everyone sitting at this table understands that. The Port of Bandon in 2014 commissioned a study that found that \$62 million of economic benefit is generated annually as a result of our access to sea that is maintained by the port dredging.

Operation and maintenance of our Nation's navigation infrastructure is a Federal responsibility. However, chronic underfunding for ports large and small is causing our water infrastructure to deteriorate impacting safety and reducing America's competitiveness.

I have been encouraged by the recent efforts in Congress to ensure that all the moneys paid into the Harbor Maintenance Trust Fund every year is used to fund the Corps of Engineers. However, we, from small ports, are concerned that this will not happen quickly enough. Many of our Nation's ports may have long since silted in by the time that money is made available.

Again, I appreciate this opportunity to speak with you. I know it might be hard to understand but if everything you have is wrapped up in your boat and your boat feeds your family, you go fishing.

Even when everything is optimal, some of us do not make it home. I am just here to ask you to give us the best chance you can that we can make it in and home to our families.

[The prepared statement of Mr. Goche follows:]

STATEMENT OF
RICK GOCHE
COMMISSIONER, PORT OF BANDON (OREGON)
BEFORE THE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS SUBCOMMITTEE ON
TRANSPORTATION AND INFRASTRUCTURE
UNITED STATES SENATE
WATER RESOURCES: THE ROLE OF THE PUBLIC AND PRIVATE SECTORS

May 9, 2017

Good afternoon, Chairman Inhofe, Ranking Member Cardin and members of the Subcommittee. Thank you for the opportunity to talk about the importance of Funding for the Army Corps of Engineers to maintain navigation channels and jetties at small ports in the Pacific Northwest, and around the country.

I'm here from Bandon, Oregon, which has a population of 3,307. I have been a commercial fisherman for most of my life. I'm a small business owner. And I'm currently running for my third term as a port commissioner in the Port of Bandon. I should be home preparing my boat for its annual maintenance but I have something I need to talk with you about.

I've been involved in the seafood business from research to retail for most of the past 50 years. As a commercial fisherman I've crossed every bar from San Francisco to Canada at one time or another. Now I fish primarily for tuna off of Oregon and Washington. Our region's tuna fleet includes about 600 boats that fish tuna off Oregon and Washington.

My brother and I pack our boat with supplies for two weeks at a time and spend most of that time between 100 and 200 miles off shore. Because our boats are only capable of about 7 knots in heavy weather, and because we are so far offshore, if unsafe weather is forecasted, we must go into whatever harbor is closest. If the forecast is wrong, we can be in a situation where our only course is downwind to whatever port is on that trajectory. This is where the term "safe harbor" comes from. When weather is bad, any harbor, big or small, is safer than being at sea.

So from a fisherman's perspective EVERY port, large and small, is important. Do we have preferences? Yes. The main reason we have preferences is the safety of the bar.

The term "bar" may not be familiar to everyone here, but for people in the Pacific Northwest that take boats out into the ocean, understanding of this term is a matter of life or death. Bar is the term used for the point where the harbor entrance, in my region normally near the mouth of a river, forms a "hump" where sediment builds up as the downstream river water comes up against

the ocean waves. During ebb tides, river and tidal flows combine to create a stronger current that comes up against the incoming ocean swell. If the swell is large enough and the bar is shallow enough the energy of the swell is tipped-over resulting in a “breaker”. Breakers are dramatically steeper than the swell and the life threatening danger is when a boat is attempting to come into the entrance, and the boat encounters a “sneaker” wave that is larger than expected – the wave steepens, and the boat goes out of control as it essentially turns into a surfboard, goes broadside and rolls over. This dangerous condition is referred to as a “breaking bar”.

It wasn't until I came to D.C. the first time advocating for dredging of the bars of our small ports that I realized breaking bars is a phenomenon mostly unique to the Pacific Northwest. Until that realization dawned I couldn't understand how budget-after-budget could zero out small port dredging when so many lives, let alone livelihoods, depend on minimizing the threat of breaking bars.

There are a couple of ways to minimize the threat of a breaking bar. One way is for the Army Corp of Engineers to build jetties that steer the current a few degrees off the dominant swell direction. This was done on every bar in the Pacific Northwest many, many decades ago, but today, most of those jetties are in dire need of repair and are getting less and less effective. Another way to minimize the deadliness of a breaking bar is to regularly dredge out the sediment that builds up every year from the torrential rains that characterize the Pacific Northwest coast.

There is one thing that both of these have in common, and that is funding. The Portland District of the Army Corp of Engineers does a fantastic job of maintaining our jetties and dredging our navigation channels given the resources made available to them by Congress. But when sufficient funding for these activities is not available, as is often the case for small ports, the bar shallows, and breaks, and inevitably, lives are lost.

For me, safety is paramount. But for thousands of others, funding for dredging and jetty maintenance is tied to their economic livelihood.

Oregon's ports and harbors rank amongst our state's most valuable assets and are critical to maintaining and creating jobs across our great state. In Oregon there are 15 communities with small ports with ocean access. In every one of those communities the port is the equivalent of their anchor business. These small ports are hubs for international trade, recreation, and commercial fishing — each more important than ever to the economic health of Oregon's communities. In rural counties, port activities provide an important employment base and are often primary drivers of local prosperity.

The Port of Bandon is a case study for this. Our port attracts approximately 300 vessels per year, and has gained a strong tourism presence through sport-fishing and recreational crabbing. Tourists enjoy a full range of recreational activities including full marina facilities, crab docking, scenic river walk and nature pathway, amphitheater and a new boardwalk.

The Bandon Marina includes a public boat ramp and 90 moorage slips that are typically occupied, especially in the summer months. The Oregon State Marine Board estimates that there were 23,377 boating related trips in the Coquille Bay during 2011. That number excludes a

greater number of land-based crabbers, fisherman and visitors that accompany Coquille Bay boaters. In addition to the Bandon Marina, crab dock and boat launch, the Port of Bandon owns several real estate holdings that provide lease space for businesses. A Coast Guard motor lifeboat is based in the Port marina during summer months.

The Port of Bandon along with approximately 54 port-related businesses employs an estimated 484 workers. This includes a charter service, a bait shop, two fish markets, two marine insurance businesses, as well as numerous restaurants and hotels. We contracted a study in 2014 of the impact of our port on the local economy. It found that 62 million dollars (\$35.1 million direct and \$27 million indirect/induced) of economic benefit is generated annually by our port as the result of the funding that allows the Army Corps of Engineers to maintain our navigation channels and jetties.

This story is repeated up and down the Oregon coast, and around the country. Most of this impact can be tied directly to funding for annual maintenance dredging and maintenance of our jetty infrastructure. If these ports are not maintained, these economic numbers would plummet, and the coastal economy would be in worse shape than it already is.

Operation and Maintenance of our nation's navigation infrastructure is a Federal responsibility. In rural counties, where most of America's small ports are located, port activities provide an important employment base and are often primary drivers of local prosperity. Our ports are home to fishing fleets, marinas and recreational facilities, and are critical to maintaining and creating jobs.

Chronic underfunding by Congress of Federal Army Corps of Engineers operations and maintenance activities for small ports around the country is causing our water infrastructure to deteriorate, impacting safety and reducing America's economic competitiveness. Unless something is done soon, the navigation channels leading to our nation's ports will silt in and the jetties protecting our communities will crumble.

I have been encouraged by efforts in Congress to ensure that all of the money that goes into the Harbor Maintenance Trust Fund (HMTF) every year is used to fund Army Corps of Engineers dredging and jetty maintenance. However, we on Oregon's coast are concerned that this will not happen quickly enough. Many of our nation's ports may have long-since silted in by the time money is available. This funding is needed now.

I appreciate the opportunity to talk about what funding means to me, my community, and to rural communities around the country. I have included additional documentation to support my testimony, including an illustration of the breaking bar that I described in my testimony, and a chart that provides additional detail about the dangers of breaking bars in the Pacific Northwest.

I know it may not make sense to you but if everything you have is wrapped up in your boat, and your boat feeds your family, you go fishing. Even when everything is optimal some of us don't make it home. I'm here asking you to give us the best chance you can, so we can make it in, and home, to our families.

Senator INHOFE. Thank you, Mr. Goche. That was very informational.

We are going to have 5 minutes of asking questions. If there is a desire for a second round, we can do that.

Let me start with General Semonite. You have been before this committee several times. We have been listening to the President not just in the Administration now but when he was campaigning talking about a very ambitious infrastructure program.

I would like to ask have you had conversations either with the President or with members of the Administration concerning any of the details of what the plans are from his perspective?

General SEMONITE. Yes, sir. I think, first of all, the most important thing of those discussions has been a theme all of you have already said. That is that many Americans think of infrastructure as roads, airfields, and bridges. We need to continue to expand that dialog to talk about coastal ports and inland waterways.

We have had several questions from the Administration to my staff asking specifically what are some things are significant challenges you are faced with on budgetary issues and where could there be some of those projects that would be well served by additional infrastructure funding.

The other thing, I think, is the Administration is very interested in the potential for private-public partnerships. We have been asked a lot of questions about what would be some of the studies or cases of how you could see where a public-private partnership could take off some of the burden to the taxpayers.

The third area in which we have been asked questions is are there some things when it comes to processes or procedures where we can un-encumber you and allow you to continue to do your job perhaps in a manner that might be a bit more efficient and effective.

Working through the Assistant Secretary of the Army for Civil Works, we have provided answers to some of those questions. We do not know any outputs right now. We have mainly been in a provide mode. We do not know exactly where that is going to end up.

Senator INHOFE. I think it is important that the public knows these conversations are taking place. I have had a few conversations. Also I know that this committee is going to be a very busy committee.

You might remember in one of your earlier appearances in reference to the Tulsa District, we had that rather unpleasant experience with a senior employee's statement from the Corps of Engineers. The statement was made "If it were up to me, there would be no lake development." I want you to get in the record right now your response to that statement.

General SEMONITE. I think I will say the same thing I said last month. The Corps of Engineers certainly sees a very active role for private-public partnerships. With respect to our recreation facilities and some of those numbers I gave you, we would continue to endorse those.

If there was a member of my staff who felt that is not appropriate, then that is on me and I will fix that. I do think it is important to clarify though that there are some very specific examples where the appropriate procedures by the private vendor were not

followed. As a result, based on our procedures, we had to request the right information, for instance, design, permitting, that kind of stuff. There could be some frustration with very specific cases that come up.

Senator INHOFE. That statement does not fit those circumstances, however.

Speaking of that, Mr. Humphreys, in your testimony, you talk about the difficulty in navigating the various permitting processes with the Corps of Engineers. Are there any examples, other than what you used in your opening statement, you would like to share with us?

Mr. HUMPHREYS. Right now, we are going through a process on private land that extends into the lake. It is not part of the Corps' property but it is affected by a flowage easement, so the Corps has the right to flood our private property.

We are trying to put a waterfront park into this area, doing some erosion control and a swim beach and a performance lawn. This is the front lawn of Carlton Landing, a place that we have been wanting to see built out from the beginning.

We ran into an issue where the 602 line is the elevation where you can develop down to that land and not have to worry about flood risk. Below that, we did not realize that there is also a 585 line, which is the top of the conservation pool.

We have been working on this project for several months and it had to go through the local office to get to the Tulsa office into the regulatory office before we understood that just the couple feet that we are wanting to do some impact and stabilization of the erosion control of the bank below 585 was going to bump us into a general permit adding on four to 6 months to the process.

That was something where had we known the lay of the land from a regulation standpoint at the very beginning of the process, it could have been avoided.

Senator INHOFE. I think that is good. There is not time to give the examples that are out there but it is a bureaucratic problem. I think everyone up here knows that and everyone at the table down there knows that.

While time is somewhat limited during the course of these questions, anything we can get from the witnesses for the record would be very helpful for us to have.

Senator CARDIN.

Senator CARDIN. I want to thank all of our witnesses. I found your testimony to be very helpful.

General Semonite, I certainly support, in the appropriate manner, leveraging the best we can between public-private partnerships but I also acknowledge the tremendous return we get from the public investment. The multiplier effect is as high as 22 to 1 on economic benefits and 7 to 1 in revenues generated to the U.S. Treasury. It is a good investment.

I want to get to the point that Secretary Rahn made. That is that because of the backlog of projects and the limited appropriated moneys, there are delays. Those delays could very well cause previously authorized projects not to be funded within the time restrictions and could jeopardize those projects being done at all.

I take it what we are facing in Maryland is not untypical as to what is happening around the rest of the Country?

General SEMONITE. Sir, that is right. I think, though, it is more important to be able to make sure we understand the national ramifications of some of these projects that do not get done, so I will talk about this particular one, Mid Bay Island.

I was the Division Commander in New York and directly championed Mid Bay as we went through the civil works review process back in 2007 and 2008. There is great potential there.

The challenge is that if we do not find a place to put dredge material, a strategic long-term plan, these harbors and ports will continue to have more and more challenges. Baltimore is going to run out of land for dredge material somewhere around 2027, based on current conditions. I could be off a year or two.

The question is, if we do not find it on the shores of the land, and that is hard because land development, condominiums and everything else are taking the shores, if we do not do it inside the water when the sediment is OK to be able to dump inside the water or if we do not build islands like Mid Bay, we do not have any other options.

All the benefits this committee has talked about in the economic piece, we have to find some solution to be able to solve these issues.

Senator CARDIN. I thank you for that. That is why Congress authorized Mid Bay in 2014 because we recognized the lead time was necessary. We still had capacity at Poplar Island, we still had other capacity for dredge material, but we knew if we did not start that ball rolling, we would run out of capacity.

Mr. Chairman, I remember coming to Congress many years ago with battles on where you were going to be able to put dredge material. It was politically impossible to find a location in the Baltimore region to put dredge material.

My predecessor, Senator Sarbanes, came up with Poplar Island and it became a win-win situation. It is now an environmental restoration project of returning wetlands and species to the Chesapeake and the location for a significant amount of dredge material but that is running near its capacity. We still have some time left and that is why Mid Bay.

Secretary Rahn, can you tell me where we are in regard to Mid Bay and how important it is that stay on track from the point of view of being authorized for the Army Corps and funded?

Mr. RAHN. Absolutely, Senator. As far as Mid Bay, you have mentioned how important it is. The plan right now is that Mid Bay would be coming on as Poplar Island, which is incredibly popular with the public as this great facility people go to see wildlife and enjoy the area, we need another place to go and that has been designated as Mid Bay.

The issue right now is that there had been a DMMP ordered by the Corps to study placement of dredge materials. That has been going on now I believe since 2011. It should be completed hopefully sometime this summer.

At that point, once we have an approved plan, then it has to go to headquarters for approval from the Corps of Engineers headquarters. Then it has to be funded. All of those things have to occur.

Right now, we are fairly confident about approval of the DMMP plan. The critical pieces are approval from the Corps headquarters and then funding, funding, funding and we need to start with that and continue with that to make sure the Country continues to benefit from the productivity of the Baltimore Port.

Senator CARDIN. If it does not stay on schedule and it is not ready, we run of capacity, does that we jeopardize the ability to have the width and depth in our channels necessary for commercial activities?

Mr. RAHN. It absolutely does. Right now, we are seeing the benefits over the last eight or 9 months given the large ships that are making their way into the port. We can see that continuing and expect it to grow. That cannot occur if the channel itself is filling both from depth and width.

If we have a major storm that comes up the Bay, we will lose the capacity of the channel much sooner.

Senator CARDIN. Thank you, Mr. Chairman.

Senator INHOFE. Senator Ernst.

Senator ERNST. Thank you, Mr. Chairman.

Thank you, gentlemen, for appearing here today. General Semonite, thank you very much. It is really good to see you again.

Given the topic of today's hearing, I would like to continue the conversation we have been having regarding the Cedar Rapids Flood Risk Management Project. I would like to share with everyone here today, those on the committee, those of you on the panel and in the audience that the September 2016 floods which impacted Cedar Rapids where the Cedar River crested at a level second to only the 2008, 500-year flood event, caused Cedar Rapids to lose \$26 million in sales and production due to being essentially shut down for an entire week when they were evacuated due to the floods.

As I mentioned to you before, the city of Cedar Rapids is our second largest city. Its success is critical to the entire economic well being of the State of Iowa. There are products Cedar Rapids produces and manufactures that have domestic and global impacts.

For example, breakfast cereal manufacturers in Cedar Rapids produce 13 percent of total U.S. output. Industry in Cedar Rapids also processes as much as 19 percent of the global oat crop in value added manufacturing per year.

Wet corn milling in Cedar Rapids accounts for 8 percent of U.S. domestic ethanol production. The quantity of corn processed each year in Cedar Rapids exceeds the size of the domestic corn crop of Canada, the Republic of South Africa or the Russian Federation. That is a lot of corn, folks.

These are all products and goods that at some point or another rely on the Corps infrastructure to move.

With that being said, I did notice a couple of provisions that I mentioned here earlier in the omnibus explanatory statement for the Corps that I think could apply to a community like Cedar Rapids.

There seems to be new provisions in the Corps work plan that requires you to provide Congress with more descriptions of the rating systems used to evaluate projects and explain why certain projects were considered as being less competitive. I also saw the

provision that said "Administration budget matrix shall not be a reason to disqualify a study or project from being funded." We think that is a great step forward.

Can I take this as a sign that the Corps and the Administration are looking to improve its system that calculates the economic benefits of flood control projects? Will you commit to continuing to work to make sure we are able to move the Cedar Rapids Flood Mitigation Project forward in Fiscal Year 2018?

General SEMONITE. Senator, thank you for that question. You and I have talked several times on this. We are in awe of the people of Cedar Rapids who were very heroic back in that flood fighting. That is not a position that we should put Americans in, to have to be able to fight for their lives.

On the other hand, this is a project which, unfortunately, does not rise high when it comes to the current method for racking and stacking projects with respect to the benefit cost ratio. We are committed to doing everything we can to continue to champion that project. The Corps will certainly do that. I do not know exactly how it will fall out in the rest of that process.

Senator ERNST. We do have to continue pushing because as I went through all these different examples of what passes through Cedar Rapids on a daily basis, the impact to the economics of the State is pretty clear.

When you are comparing the cost of the property in Iowa, it is much lower than the cost of a property on the coastline. Of course you have great big, beautiful, million dollar homes but that does not mean to a person living in Iowa that their home is worth any less to them. It is just based on what everyone else believes is the value of the home. We do have to consider that.

As a reminder, the assistance that Cedar Rapids needs from the Corps is just 3 percent of the cost of damages that it went through in 2008. We need to continue pushing this issue. I look forward to more conversations with you in the future and a way forward for the people of Cedar Rapids.

Thank you.

Senator INHOFE. Thank you, Senator Ernst.

Senator MERKLEY.

Senator MERKLEY. Thank you, Mr. Chairman.

I wanted to focus for a moment on the Harbor Maintenance Trust Fund. In 2016, the amount spent was 80 percent of the incoming receipts. In 2017, that fell to 55 percent of the receipts.

My question is for you, General. If we had spent all of the receipts from 2017, do you have enough infrastructure projects, meritorious infrastructure projects for those funds?

General SEMONITE. Senator, there is clearly a very long list of requirements. We definitely have most of the time, more requirements than funds available.

Senator MERKLEY. The question I want to raise is these receipts that go into the Harbor Maintenance Trust Fund are from the industry itself, from the shipping. Given the State of our jetties, given the State of our dredging, given the State of our locks, shouldn't we spend every dollar that comes in on maintenance of our water infrastructure?

General SEMONITE. Senator, I think obviously a lot of different considerations go into the use of the Harbor Maintenance Trust Fund. I would continue to say that we will champion full use of that where possible, but as far as exactly how that is expended, there are obviously a lot of players there.

Senator MERKLEY. Thank you, General. It was appropriately diplomatically stated. I appreciate the point that yes, there are plenty of infrastructure projects that need to be worked on.

Mr. Lyons, I believe you said in your testimony that under-investment in seaport channels and harbors and under-funding the Corps' civil works program results in inefficient channels, poorly maintained harbors, increasing costs for port users, reducing U.S. global competitiveness, exacerbating maintenance, dredging backlog, all of which adversely impact the U.S. tax base and job market.

Mr. Lyons, would you support using all of the Harbor Maintenance Trust Funds to actually sustain, maintain and improve the infrastructure?

Mr. LYONS. Yes, Senator, I would. I believe, as the General said, there are plenty of projects out there. There are a lot of projects that are marginally maintained or not even maintained to their full authorized depths.

We have especially big problems in the Great Lakes ports. Our harbor requires maintenance because we are fed by a river and river silt. Some years, we have much more material to move than in others and there are years that we are very marginally able to take care of it.

Sometimes we have some delays where we have to experience a narrow channel where we have to go to one-way traffic because of the sides of the channel have filled up and they do not have sufficient funds to get to it. Yes, I would absolutely support that.

Senator MERKLEY. Thank you.

Mr. Goche, when you are looking at the ports on the Oregon coast and we skip a year of dredging, in some of these ports that have rivers feeding them and silt coming down the river, is even skipping a single year sometimes problematic for the commerce and the safety of that community?

Mr. GOCHE. Absolutely, Senator. A case in point, on the Rogue River, they missed a year of dredging and it was a particularly wet year that year. Now it is going to cost way more than 2 years' worth of dredging to get that caught up because it is silted in so badly that now they cannot go in with a regular Corps dredge. They are going to have to farm out the job with a different kind of dredge that uses a pipe to even get the Corps dredge in.

Senator MERKLEY. This is like an extra \$800,000, I believe or something like that, just to get back to where you can do the normal project?

Mr. GOCHE. Correct.

Senator MERKLEY. Sometimes you have a situation where not only is it boats coming in, but also the ability of the Coast Guard to get out to do rescue?

Mr. GOCHE. Yes, and that is the case once again on the Rogue because I do not think they are even going to be able to get the Coast Guard to come in to help on this bad breaking bar because the Coast Guard does not have enough depth to transit it.

Senator MERKLEY. You can easily find uses important to the economy and the safety of Oregon's coastal communities for spending some of the unspent Harbor Maintenance Trust Fund?

Mr. GOCHE. You bet.

Senator MERKLEY. Thank you so much for coming out from Oregon to share this perspective. I really do appreciate the small port set aside, the 10 percent set aside, that has been so important to Oregon's coastal economy. It is something we need to keep doing for all of our smaller ports around the Country.

Senator INHOFE. Thank you, Senator Merkley.

Senator SHELBY.

Senator SHELBY. Thank you, Mr. Chairman.

General Semonite, you had a lot of experience with the Corps before you got to your present position. We have been talking about the Panama Canal and its impact on shipping, its relevance to deeper ports in the Gulf, and so forth. Tell us how important the modernization of the Panama Canal is and what impact it will have or should have on all of our ports, especially the Gulf ports.

General SEMONITE. Senator, I was there at the opening of the Panama Canal; I saw the first ship come through. I was amazed at the amount of volume that came through. As several of you have said, the economic impact on both the economy and the GDP, I think that is off the table on how much impact that will have.

Senator SHELBY. Would call it a game changer as far as shipping?

General SEMONITE. I think it is a game changer, yes, sir.

Senator SHELBY. A game changer now and into the future.

General SEMONITE. If you do not then have the ability to receive those, not every single port will take the big ships without a doubt, but if you do not have the second and third effect and be able to take the roll on down, then that will limit us, I think, in our ability to be able to continue to expand internationally.

Senator SHELBY. It will hurt our trade overall, will it not?

General SEMONITE. It will certainly have an impact, sir.

Senator SHELBY. If a port is say 45 feet or 46 feet, 45 feet, and some of the ships need 50 feet or close to it, if they cannot put a full load in there, it is not efficient, is it?

General SEMONITE. Certainly not, Senator.

Senator SHELBY. It is like flying a freighter airplane and because of the runway or the distance and so forth, you cannot deal with it?

General SEMONITE. That is correct.

Senator SHELBY. It is a game changer, is it not?

General SEMONITE. It definitely is, and if a port is not of the right size, that means that particular part of the Country that cannot receive that boat or ship, industry is going to go where they can find the best investment.

Senator SHELBY. Mr. Lyons, the Port of Mobile, as I understand it, is 45 feet, is that right?

Mr. LYONS. That is correct, it is 45 now.

Senator SHELBY. It has been authorized to go to 55 feet by law?

Mr. LYONS. Yes. It was authorized in 1986 water bill.

Senator SHELBY. It also needs to be widened, is that right, where two ships can move and move around?

Mr. LYONS. Yes. Our current channel is only 400 feet wide. When we have ships that exceed 140 foot beam, we are restricted to one-way traffic. As I mentioned in my remarks, we have a lot of wide-bodied tankers coming in that are 150 or 160 feet wide. We have post-Panamax container ships in, so we are one-way traffic there.

Ships have to wait. Ships are expensive and that is costing money. That eventually affects the cost structure of these ships when they have to build in delays. They occur multiple times every week.

Senator SHELBY. You mentioned your container freight has gone up tremendously, has it not, your business?

Mr. LYONS. Yes, Senator. We are a relatively new container port. We only opened our container terminal in 2008. Prior to that, we had been a bulk port and handled forest products, coal, steel and products like that.

Manufacturing in the southeast has significantly changed. Retail distribution is beginning to realize they cannot be totally reliant upon the West and East Coasts to efficiently move at all times, so they are looking for alternate gateways.

This is why Wal-Mart selected Mobile for this 2.6 million square foot international distribution center, one of six big ones that Wal-Mart has in the Country. There are alternate gateways where we have the bigger ships coming and it is important.

Senator SHELBY. A lot more container freight?

Mr. LYONS. A lot more, our container terminal grew 19 percent last year.

Senator SHELBY. I wish you had a big map to share with the committee and the people of where Mobile is located geographically, where the Panama Canal is and the proximity, as the crow flies. Going through the Panama Canal, you look right up the Gulf. You have a straight shot just about to the Port of Mobile, do you not?

Mr. LYONS. It is a straight shot and we have grown. Like I said, we are an infant, if you will, container port but we now have three ships a week every week, a fixed day, that come through the Panama Canal. One of those shipping lines is going to the larger post-Panamax ships this year.

Next year, the other two lines will go to post-Panamax. I feel confident that next year, we will add a fourth line coming from Asia. The Asian trade and Panama is very important to our port and our Country.

Senator SHELBY. General, since you know a lot about Panama and all the Corps and the ports, can you share with us your vision of where the Panama Canal is, where it comes through the Nation of Panama, and where it lines up as far as the Port of Mobile is concerned, as the crow flies, a direct line?

General SEMONITE. Senator, there is clearly a proximity issue that Mobile has that some other places do not have the advantage of. Just so you know, that GRR you mentioned, we are right on schedule now to have that done by November 2019. We are putting about \$8 million into that. We do not see any significant problems with getting that done.

If the Congress decides to have that on priority, that will be well postured to be able to be deepened.

Senator SHELBY. A 50 to 55 foot channel or wider channel would be a game changer for the Port Mobile too, would it not?

General SEMONITE. It would, sir. Again, the actual depth, we do not know that. That will be the result of the study so I will not commit on what the depth would be.

Senator SHELBY. We know. Thank you very much.

Thank you, Mr. Chairman.

Senator INHOFE. Thank you, Senator Shelby.

Senator DUCKWORTH.

Senator DUCKWORTH. Thank you, Mr. Chairman, for convening today's hearing.

I want to thank our witnesses for participating in this very important conversation.

General Semonite, as you know, our inland waterway system is a critically important component of our network, as we have been discussing and a barometer for gauging the health of the Midwest region's environmental and native species.

The rivers surrounding and traversing Illinois provide enormous economic and recreational benefits. I believe Congress must prioritize the effective management and protection of these resources, the river system. Would you agree?

General SEMONITE. Yes, Senator, I would.

Senator DUCKWORTH. As you know, the McCook Reservoir is approximately 91 percent complete. It prevents over \$114 million in annual damages to the Chicago land area and carries a benefit to cost ratio of 2.96, a very high score for an Army Corps project.

Will you pledge that the Corps will work closely with my office, Senator Durbin and the Illinois delegation to complete the project on schedule, including Fiscal Year 2017 funding, so we can avoid the type of damages we have suffered over the last three disaster declarations?

General SEMONITE. Senator, we seek great merit in this. This is a life safety issue. This is a flood risk management project. Clearly, the majority of that first half is all done and works very, very well. We will continue to champion that reservoir and whatever we can to get appropriate funding.

Senator DUCKWORTH. Thank you.

I recognize there may be other agencies pressuring the Corps to abandon this critical project as it approaches the finish line. I just want to make it clear that it is unacceptable to leave my constituents at risk, especially when we are so close to finishing. Stage II of the reservoir started securing funding over 10 years ago and we are just asking to finish the job.

General SEMONITE. Senator, we do not see any significant challenges with other agencies. We feel very firm that is a very smart project to finish.

Senator DUCKWORTH. That is wonderful. Good news. Thank you.

General, when it comes to combating invasive species threatening the Great Lakes, Illinois may face the most daunting challenge in the need to effectively stop and control the Asian Carp without significantly disrupting inland waterway operations and harming our economy. It is a real balancing act.

I believe we can achieve these two objectives. I was very interested in reviewing the findings of the Brandon Road Lock and Dam

Study, along with the subsequent public comments and alternatives to inform our efforts to develop an effective solution.

It is why I and many other Great Lakes stakeholders are deeply disappointed and surprised by the Army Corps' decision to indefinitely delay the release of this critical plan, a reversal with not much transparency or explanation.

It was widely reported, in fact, that this decision was the result of outside pressure from the White House. Will you explain why the report was delayed and provide us with an updated timeline for its release?

General SEMONITE. Senator, you know that report was completed by us, was prepared to go out for public comment. I do not know the details of the cause of our being put on hold for that report. We are hold until we are advised to go ahead and release that report. That is something where we are following guidance.

Senator DUCKWORTH. Where is that guidance coming from?

General SEMONITE. All I know is it is coming from my higher headquarters which is the Assistant Secretary of the Army for Civil Works out of the Department of Army. I cannot elaborate as to where it would be above that. I just do not know.

Senator DUCKWORTH. OK. I need to reach out to the Assistant Secretary for the Army.

General SEMONITE. I would think that would be the best answer, ma'am.

Senator DUCKWORTH. I do think it is very important to move this forward so we can have some sort of plan in place.

Earlier this year, I joined several of my Great Lakes colleagues in both the House and Senate to highlight our concerns about the Corps' economic re-evaluation of the Soo Locks Project.

Rather than calculating the transportation rate savings for this project based on traditional methods used by the Corps for other lock projects, it was our understanding that the Corps decided to use unique alternative modes of transportation never before used by the Corps on which to base its conclusions.

I ask unanimous consent that the February 21 letter be entered in the record, Mr. Chairman.

Senator INHOFE. Without objection.

[The referenced information follows:]

Congress of the United States
Washington, DC 20515

February 21, 2017

Mr. Douglas Lamont
Performing the duties of Assistant Secretary of the Army (Civil Works)
108 Army Pentagon
Washington, DC 20310-0108

Lieutenant General Todd T. Semonite
Headquarters
U.S. Army Corps of Engineers
441 G Street NW
Washington, DC 20314-1000

Dear Mr. Lamont and General Semonite:

The U.S. Army Corps of Engineers (USACE) is currently undertaking an economic reevaluation of a project to build a new navigation lock at the Sault Ste. Marie Locks complex in Michigan, which was authorized by Congress in 1986 and 2007. This reevaluation is necessary due to erroneous assumptions later acknowledged by USACE in its original economic analysis. We write to ensure that USACE engages stakeholders and considers appropriate transportation alternatives to ensure an accurate benefit-cost ratio (BCR) analysis for the project, which is critically important to our states and the entire country.

In October 2015, the Department of Homeland Security conducted an analysis of the economic impacts of a 6-month closure of the 49-year old Poe Lock at the Soo Locks complex. DHS concluded that the Poe Lock is the Achilles' heel of the North American industrial economy and that such an outage would send the United States' economy into a recession. Later that year, in December 2015, USACE agreed to reevaluate the BCR of upgrading the Soo Locks after acknowledging inaccuracies in its original BCR determination that left the project unable to compete for federal funding.

It is our understanding that USACE is reevaluating the BCR for this project by calculating the transportation rate savings based on an alternative mode of transporting commodities around the falls at the Soo Lock using a conveyor belt system. It has come to our attention that this alternative has never been considered for other lock and dam projects, and that transportation via rail or truck have historically been the alternative methods considered in a BCR analysis. We therefore encourage USACE to ensure that the BCR reevaluation of the Soo Locks project is conducted in a manner that is consistent with other navigation lock and dam project evaluations regarding alternate transportation modes, and that every step is taken to expedite the completion of this critically important analysis.

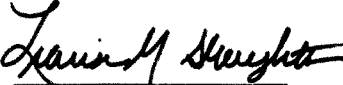
Thank you for your consideration of our request, and we look forward to your prompt response.

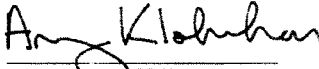
Sincerely,

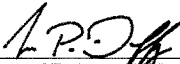

 DEBBIE STABENOW
 United States Senator
 Co-Chair, Senate Great Lakes Task Force


 BILL HUIZENGA
 Member of Congress
 Co-Chair, House Great Lakes Task Force


 ROB PORTMAN
 United States Senator
 Co-Chair, Senate Great Lakes Task Force


 LOUISE M. SLAUGHTER
 Member of Congress
 Co-Chair, House Great Lakes Task Force

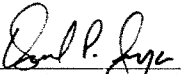

 AMY KLOBUCHAR
 United States Senator
 Vice-Chair, Senate Great Lakes Task Force


 SEAN DUFFY
 Member of Congress
 Co-Chair, House Great Lakes Task Force


 TODD YOUNG
 United States Senator
 Vice-Chair, Senate Great Lakes Task Force


 MARY KAPTUR
 Member of Congress
 Co-Chair, House Great Lakes Task Force


 GARY C. PETERS
 United States Senator


 DAVID P. JOYCE
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 TAMMY BALDWIN
 United States Senator


 DEBBIE DINGELL
 Member of Congress



AL FRANKEN
United States Senator



DANIEL T. KILDEE
Member of Congress



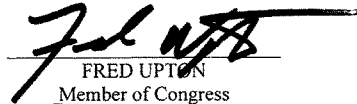
ROBERT P. CASEY, JR.
United States Senator



MIKE QUIGLEY
Member of Congress



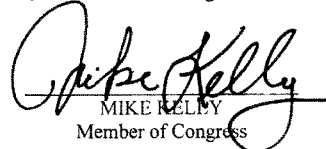
RON JOHNSON
United States Senator



FRED UPTON
Member of Congress



JOE DONNELLY
United States Senator



MIKE KELLY
Member of Congress



TAMMY DUCKWORTH
United States Senator



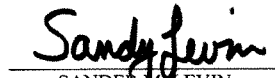
MIKE TURNER
Member of Congress



BRENDA LAWRENCE
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BOB GIBBS
Member of Congress



SANDER M. LEVIN
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DANIEL LIPINSKI
Member of Congress



PAUL MITCHELL
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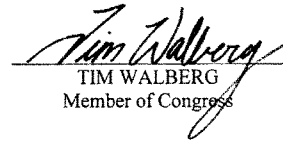
MARK POCAN
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 JACK BERGMAN
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 BRIAN HIGGINS
 Member of Congress


 MARCIA L. FUDGE
 Member of Congress

Senator DUCKWORTH. The February 21 letter asked the Corps to calculate the Soo Locks Project's economic benefits in a manner consistent with other Corps lock project evaluations. Will you commit to us today that the Corps will do that and you will finish the re-evaluation within the Corps' 2-year schedule?

General SEMONITE. Senator, I do not know exactly the particulars of that one and I am not prepared to answer that today. Soo Locks is very important to this Nation. We see national security issues in there. It is an old lock. We have to get Soo Lock prepared.

I do not know exactly the details you are talking about. I have to get back with you.

Senator DUCKWORTH. OK, we will follow with you on that. Thank you.

I yield back, Mr. Chairman.

Senator INHOFE. Thank you, Senator Duckworth.

Senator SULLIVAN.

Senator SULLIVAN. Thank you, Mr. Chairman.

I really appreciate the testimony today, gentlemen. It is very important.

Commissioner Goche, as a Senator who represents thousands and thousands of fishermen and communities with small ports, I really appreciate your particularly compelling testimony.

I want to shift the focus a little bit more north to where I am from. General, we have a lot of interest in the Arctic right now. I think a lot of people are waking up to that. As a matter of fact, the Arctic Council is having a ministerial in Fairbanks, Alaska starting tomorrow, 2 days in Alaska. All foreign ministers of the Arctic nations are going to be up there.

You may have seen in the NDAA a requirement for the Secretary of Defense and the Secretary of Homeland Security to designate a strategic Arctic court given our increasing interest in the Arctic in shipping traffic, natural resources, search and rescue and protecting the environment. There is a lot going on up there.

I want to talk to you about two ports. I know we are looking at all kinds of ports. First is the Port of Nome. As you probably know, the Corps has over a 100-year history in Nome, Alaska.

There is a focus on the deepwater port draft study and there has been some back and forth after Shell left Alaska and the oil and gas exploration. There were two additional WRDA provisions just this past bill, the WIIN Act, that came into law in December. Those were actually designed to help get the Corps focused again on Nome.

Can you commit to having Nome as part of your work plan moving forward again on the deep draft port study and work that was ongoing until we had the hiccup of some of those oil and gas issues?

General SEMONITE. Senator Sullivan, thanks for the question.

We are actively working Nome right now. The study was put on hold pending coordination with DOD and Homeland Security based on WRDA 16. The benefit cost ratio is below 1 percent. I think that is why there was a request.

Senator SULLIVAN. But there are also provisions in the WRDA bill that essentially said, you have entire other areas to look at. Particularly, for example, in the law now, Nome services 54 dif-

ferent communities throughout western Alaska and the Nome area. That gives you authority to kind of take a hard look?

General SEMONITE. Yes, sir. We have sent out letters to both the Department of DoD, Navy and Homeland Security to be able to make sure that we understand where their potential use might be. We are waiting for those responses.

I can certainly get with you offline and tell you what we hear from them to be able to see if, in fact, there is an additional reason from both of them to be able to expand the Port of Nome.

Senator SULLIVAN. I would like to get offline with you because there are two specific provisions in the WRDA bill, just signed into law, that are very focused on that and are intended. I know we worked with your staff on the language to get the Corps moving again.

If there are delays, I need to understand why there are delays when the law has been changed to actually get the Corps to move out on this issue.

General SEMONITE. We are working implementation guidance to be able to see. I think the best thing is I come and see you, Senator, and I will lay this out. I am not exactly aware of the two extra provisions you are talking about right now.

The information I have is that we are waiting for responses from the two departments as to what would be a strategic rationale to be able to have Nome not necessarily what you are talking about.

Senator SULLIVAN. The NDAA is a different issue?

General SEMONITE. Yes, sir. Let me come back and I will get with you. We will lay this out and walk our way through this.

Senator SULLIVAN. Good. Thank you.

Let me ask about another potential port in the area. What is the Corps' view of the effectiveness of possibly using public-private partnerships for the development of Port Spencer which is actually also in the area?

General SEMONITE. Senator, I do not know on Spencer. We are, again, very interested in anything with a P-3. The challenge is, how do we put together the right package to be able to continue to make it through the system. If we get together, I will certainly lay out Spencer for you as well.

Senator SULLIVAN. Great. Section 119 of the WIIN Act amends the law related to the territorial partial cost share waiver to add federally recognized Indian tribes as entities eligible for a limited waiver of local cost sharing for Army Corps studies and projects.

Can you give me a sense of the Corps' timing on that new provision and how you are looking at it? The Alaska District has a lot of interest, as you know, on that provision. We would welcome your engagement.

General SEMONITE. Senator, we support this as well. This is for a cost share of the first \$450,000, mainly for Native American tribes. This is something we will do. We are writing through exactly what the implementation guidance is to be able to say here is how you would qualify for that.

However, those tribes that do not have enough money to be able to come into a study, we do not think they should be disadvantaged. We support that, we just have to get the details together so we can put it on the street and people know how to apply for that.

Senator SULLIVAN. Great. Thank you.

Thank you, Mr. Chairman.

Senator INHOFE. Thank you, Senator Sullivan.

Senator Cardin and I would like to make a few more comments and maybe even have another round in case some members come who have not yet been here.

First of all, General Semonite, one of the reasons that I brought this up and wanted to get it in the record in terms of the lake development is to make sure everyone understands this is legitimate. In fact, I remember the first one I think was in Oklahoma and Georgia immediately followed that. The Corps actually got into that business. That has been a long time ago.

I wanted to mention another thing too that really has concerned me for so long. That is the Montgomery Lock and Dam. As you come down the Mississippi River, you are familiar with it and I am sure some of the others are not, you actually have two rivers. Well, it actually was called the Three River Project.

If you take the distance from the Mississippi all the way across Arkansas and through Oklahoma, that is 445 miles that would be completely done away with and useless if we cannot ultimately find a solution to Montgomery. Are we waiting now for what they refer to as the Three River study?

General SEMONITE. Senator, I am going to have to get back with you on that. There are several projects that we are looking to continue to champion, but I do not know exactly where we are on that particular one.

Senator INHOFE. Senator Boozman and I do not need to take the time of the entire panel but we are very much interested in that. That has been a problem, Montgomery buoy to lock and dam and the depth issue, for a long, long time.

Why don't we set up something and get the two of us together with you to see if we cannot come to some determination? Does that sound reasonable?

General SEMONITE. It sounds great, sir.

Senator INHOFE. Mr. Humphreys, in the opening statement, we talked about development like your development and what it means to surrounding communities, what it means to the economy, what benefits are there that people might not think about, because I know there are great benefits. Will you share your thoughts on that?

Mr. HUMPHREYS. I would be happy to.

When we look at a project like Carlton Landing, we are in a rural area of Oklahoma that has seen economy shift to the urban areas. You have great natural beauty but you do not have a lot of drivers.

First and foremost, we provide jobs in the construction industry. Construction activity alone will typically add about 125 to 150 trades onsite in Carlton Landing, with the same number at any given time working offsite in sales, logistics and support.

In terms of economic impact over the longer term, we expect to see over \$2 billion of private investment in Carlton Landing as the master plan is built out. We expect Carlton Landing to be one of the more important economic development projects for Lake

Eufaula, for southeast Oklahoma and also the growth of the Oklahoma tourism industry.

I am happy to serve on our State's tourism commission. We think that long term, Carlton Landing could help bring dollars from outside Oklahoma, across State lines back into the Oklahoma tourism business.

Since our project is a new community, it is not just a subdivision, we also enhance the quality of life of people who live in that area. We have the State's first rural charter school. About 80 percent of the kids attending our charter school in Carlton Landing come from outside of Carlton Landing, some driving as far as 30 minutes away.

These are kids who, some come from strong families but some come from situations where their parents are incarcerated or they are in the foster care system. We are bringing them in and giving them a new opportunity to look and see life with new options. We are excited about that.

All this together, we see development activity and community building as something that has tangible and intangible benefits, monetary and a lot of benefit to folks' quality of life that you just cannot put a number to.

Senator INHOFE. Would you say a very similar situation in terms of benefits is true up there with your neighboring development up in Sky Tube that has really done some great things?

Mr. HUMPHREYS. You see the growth of the property values from the beginning of the public-private partnership to what they have realized currently. You have seen great growth where private investment is coming in.

As I said in my earlier comments, we just need to set the table. There are some policy procedures that need to take place that help developers understand the regulatory landscape. I had an opportunity to speak with General Semonite. We will give our recommendations on things they can do with the existing regulations in educating and laying out a game plan so that people understand what the process looks like to work with the Corps.

Senator INHOFE. You have a successful operation there. You have spread a lot of goodwill and helped a lot of people.

Mr. HUMPHREYS. Thank you, sir.

Senator INHOFE. I notice we stalled just long enough to keep us open until Senator Markey got here. We will recognize him at this time.

Senator MARKEY. Thank you, Mr. Chairman.

I arrive, first, to praise Caesar. I thank you for the WRDA bill from 2014 because in that bill there was \$216 million for the Boston Harbor deepening project so that we could accommodate the new super ships coming through the Panama Canal.

I thank you for last year's WRDA bill because then we added another \$16 million to deal with additional complicating, but necessary, features that had to be built in. We thank you for both of those. That is a perfect example of the way the committee operated under your leadership on all of those issues. There is no construction yet, though, because there is no actual money yet up there.

General, can I get your commitment that you will work with us to try to telescope the timeframe that it is going to take in order

for us to get the funding for that critically, essential project for Boston because without it, we are going to be a port that is not able to fully benefit from this change?

General SEMONITE. Senator Markey, thanks for the question.

I was the Division Commander in New York when we started that project back in 2007. There is a lot of value in that project.

Clearly, the 2017 budget is on the street but the 2017 work plan is not. The 2018 budget will come out in a couple of weeks so it is premature for me to talk about where that is. Congress has given us new starts that we can allocate that. I think as soon as we see where that plays out in the next couple weeks, we will certainly be able to advise you on Boston Harbor.

It is one of those projects that we certainly see merit in doing. The question is going to be where does it fall on the actual prioritized list of what is allocated money.

Senator MARKEY. You know it well, though, that project?

General SEMONITE. I know that project well, sir.

Senator MARKEY. I think that is going to be very helpful going online so I thank you for that.

Secretary Rahn, do we need more direct Federal spending to ensure America's ports can remain competitive in this new era?

Mr. RAHN. The answer is obviously yes. We have to. We have neglected infrastructure across the board for decades. The answer is that yes, we have to invest more. Frankly, I am confused as to why we have not since infrastructure has always seemed to have been one of those things that both parties could agree to and that was always critical to our national well being.

The answer is yes, we need additional Federal funds. Even just in Maryland, we have substantial needs that go well beyond the Mid Bay Project. As a Country that is so integrated into the global economy, we need all of these assets that allow us to link in.

In Maryland, we are very much linked into that global economy. We have needs for the next phase of construction at our Poplar Island project; we have needs at our C&D Canal. There is so much there that we as a State do not have the capacity to address and frankly, require Federal investment to make that happen.

Senator MARKEY. Thank you.

I thank everyone for all their great work in this area.

It is the obligation of the members of the Senate to assist the communities which we represent who are adversely affected by sea level rise and climate change to adapt to the new reality.

That is why I have supported environmentally responsible shoreline protection projects where sand is pumped onto beaches to protect against storm surge and coastal erosion. In fact, the Army Corps was so great on Revere Beach and Winthrop in helping us to solve those problems after the hurricane snowstorm.

The Town of Sandwich, Massachusetts attempted to use sand from the Federal Cape Code Canal that otherwise would be dumped into the ocean to protect their town. Federal requirements became a major obstacle.

The Army Corps required the homeowners to provide easements ceding away their coastal property line forever, even though the sand from this beneficial use project would only remain on the

beach for 5 years. Ultimately, the town was unable to use Federal funding for this essential shoreline protection project.

Can I ask, General, do you believe it is reasonable for the Army Corps to require property owners to provide easements in perpetuity for beneficial use projects if the sand is only going to last for a few years?

Wouldn't it be more appropriate for the easement to last as long as that sand remains on the beach just as kind of a practical way of dealing with the issue?

General SEMONITE. Senator, two things. I do not know the details of Sandwich. I am very aware of the sand easement issue. All throughout Sandy and in about seven different States, I am not sure I have ever been asked the question of how long should an easement last and it should be correlated back to the sand. We can certainly have that dialog.

I think we are currently following the policy on which we have been very consistent that, if in fact, Federal dollars are going to put sand on a beach, normally those landowners have to be able to provide access for the local people to be able to get to the beach.

Senator MARKEY. I would like to be able to work with the Army Corps on striking a balance, especially if that sand is, once again, just going to be washed away.

General SEMONITE. We are always looking at options, sir.

Senator MARKEY. Thank you, General.

Thank you, Mr. Chairman.

Senator INHOFE. Thank you, Senator Markey.

Senator BOOZMAN.

Senator BOOZMAN. Thank you, Mr. Chairman. Thank you and the Ranking Member for holding this hearing. This is really an important thing as we go forward in trying to figure out some of our infrastructure problems.

General, I was just visiting with Senator Inhofe and heard the comment about the Three Rivers situation that we have in Arkansas where the White River hits the Mississippi. I just want to re-emphasize how important that project is.

That is one of those things that it is not an "if," it is "when" it is going to fail, probably up to a year as far as shutting down the Arkansas River which would be a real problem for Arkansas and Oklahoma and really, the whole Nation in the sense of being able to move goods and services.

General SEMONITE. Can I give you a quick update there? I was not fast enough when Senator Inhofe asked me, but basically, on the Three Rivers Study, we did complete the alternatives milestone meeting in December 2015. The definitive plan was completed in 2017.

Right now, we have released the draft report for policy, public and agency technical review. That was last April. Right now, we are looking at a milestone decision schedule for July 2017.

We are working our way through this. We think a Civil Works Review Board is scheduled right now for March 2018 and a Chief's report in June 2018. That is the current milestone. That is pretty aggressive but we do think there is great merit. We want to continue to stay on timeline.

This has continued to get funding in 2015, 2016 and 2017. Obviously, it is premature to talk about 2018 but we continue to see a lot of value in that.

Senator BOOZMAN. Good. We appreciate that and you pushing forward. Like I said, that is a matter of if and not when. In Oklahoma and Arkansas, we are experiencing these 500-year floods about every 2 years. They really are playing havoc.

The waterways have held up fairly well. This last one has really caused a lot of damage but we are in the process of working through that with you.

Apart from that, there is a lot of concern with taxpayers and Congress about the inefficiency in the delivery of our infrastructure investments. Projects that should reasonably be completed in a few years typically last decades, delaying public benefits and exponentially increasing cost.

How, if at all, can public-private partnerships help accelerate the delivery and create better value as far as the infrastructure? Do you have any ideas in the sense would public-private partnerships help with that situation?

General SEMONITE. Senator, it definitely would. I will just give you a quick data point here.

It really allows all of the funding upfront as opposed to dragging it over whatever time we would be able to afford it through the Federal Government; we are able to see that upfront investment.

I will just give you the numbers I use, these are very simple numbers. The one Federal P-3 study that we have been able to push through, which is Fargo-Moorehead, if you do it the regular way, it would take us 16 years. The way we are doing it up there is 6-1/2 years.

Senator BOOZMAN. Since you say that, it is probably 20.

General SEMONITE. It could be but I just want to give you a data point.

Senator BOOZMAN. Sixteen years?

General SEMONITE. Sixteen versus 6-1/2. The Federal share, the regular way, would have been \$850 million. The P-3 way is \$450 million. The other big thing, the regular way would have been up to probably 28 contracts. The P-3 way is 11. Just remember those numbers. You are probably half of what the normal process is.

The challenge we have is we have to get the whole team able to be synchronized as to how can we then enable P-3? There are a lot of people who do big hand waves to say P-3 has got merit but we have to be able to make sure, through all the different maize of the approval process, a P-3 is able to see the light of day. We are having some challenges in how we can synchronize that better.

Senator BOOZMAN. That would be great news. I know Senator Inhofe and Senator Cardin on this subcommittee are going to be working hard in that regard. We will do the same thing on the Water Subcommittee really looking forward to seeing how we can make that example happen all over the Country versus what we are experiencing right now.

Thank you, Mr. Chairman.

Senator INHOFE. Thank you, Senator Boozman.

Senator CARDIN.

Senator CARDIN. Again, let me thank our witnesses.

I think this hearing points out the importance for us, General, to take a look earlier in the process on the next WRDA bill. Senator Markey is correct, in 2014, we passed the Water Resources Development bill which I think it was 7 years earlier before we passed the last one. We made a commitment to pass these bills every 2 years. We are barely able to do that in 2016. It was one of the last bills passed by the Congress.

It was a challenge because we had to deal with the rules on how we direct spending and it was not as easy to figure out all the different nuances. One thing was clear. We are going to see some different rules coming down from this Administration.

I think it is going to be important for us, Mr. Chairman, to try to figure this out as a Congress earlier rather than later which may require some legislative authorization in order to make sure projects like Mid Bay are not inadvertently jeopardized because of the budgetary scheduling that is being followed on these projects.

I would just urge us to take an earlier look at the way we are going to authorize the next WRDA bill so that we can make sure we get it done next year. I expect it will be the next year; it is not going to be this year, but if we could pay a little earlier attention.

Secretary Rahn, I think you were correct to point out that although in Maryland, we concentrated on Mid Bay, there are many other projects in Maryland and many other projects around the Nation. I am glad you mentioned the C&O, the C&D and we also have other projects. Poplar Island is still not finished. We still need resources there.

General, I could mention our efforts to make sure we protect our coastlines and beach re-nourishments and hurricane protection. These are all programs that will require our attention as we look at ways to make sure we can modernize our infrastructure and meet the current challenges.

We know, under the best of circumstances, the resources are going to be very, very difficult on the public side. We know that. Even if we do well, it is going to be a challenge. It is right to look for ways we can leverage and create more opportunities that we all agree are needed.

I think this hearing has been very helpful. I want to thank all the witnesses for your testimony.

Senator INHOFE. I do too. I thank you, Senator Cardin, for your contribution here and your partnership in these efforts. We have been together doing this for a long time with some success.

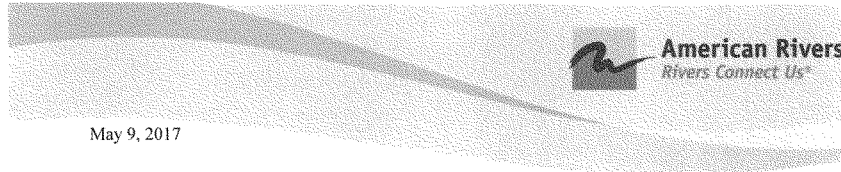
I thank all of the witnesses for coming, particularly Grant Humphreys. I have followed this development. I use this as kind of a model of what can happen elsewhere. I commented a minute ago about a rarely known fact that we have more miles of freshwater shoreline in our State of Oklahoma than any of the 50 States. We have a lot of beauty that goes with that. You have made a great contribution there.

I thank all of the witnesses very much.

We are adjourned.

[Whereupon, at 4:19 p.m., the subcommittee was adjourned.]

[Additional material submitted for the record follows.]



May 9, 2017

The Honorable Ben Cardin
 Committee on Environment and Public Works
 Subcommittee on Transportation and Infrastructure
 U.S. Senate
 509 Hart Senate Office Building
 Washington, DC 20510

RE: Hearing in the Senate Committee on Environment and Public Works Subcommittee on Transportation and Infrastructure entitled, "Water Resources: The Role of the Public and Private Sectors"

Dear Senator Cardin:

American Rivers protects wild rivers, restores damaged rivers, and conserves clean water for people and nature. Since 1973, American Rivers has protected and restored more than 150,000 miles of rivers through advocacy efforts, on-the-ground projects, and an annual America's Most Endangered Rivers® Campaign. Headquartered in Washington, DC, American Rivers has offices across the country and more than 250,000 members, supporters, and volunteers. As the nation's leading river advocate, American Rivers seeks to ensure the quality and quantity of our nation's rivers and floodplains are protected as we rehabilitate our nation's water infrastructure and protect our iconic waters.

Arguably, no other agency has more impact on our nation's rivers than the U.S. Army Corps of Engineers (USACE). Decades of constructing dams, levees, and navigation infrastructure has fundamentally changed our rivers and communities. Today, we realize that this infrastructure can have unintended consequences, do irreparable harm to our natural resources, and poses public safety and liability concerns when it no longer serves its intended purpose. American Rivers' funding requests for the USACE reflect the agency's efforts to use less costly and more effective non-structural approaches to reduced flood risk, to begin addressing their growing list of outdated infrastructure, and to repair some of the environmental damage caused by our infrastructure investments of the past.

Restoration of Floodplains

Communities that rely on dams and levees often assume that their structures will protect them against all major floods. This false sense of security can lead to development in floodplains and areas that would be inundated if a dam or levee were to fail. Dams can eliminate the natural seasonal flood cycle, which leads people to assume that developing in floodplains is safe. Levees constrict a river's flow, sending water downstream faster, and exacerbating flooding for

neighboring communities. While these structures are usually effective at reducing flood damage, levees and dams are only designed to withstand a specific level of flooding. When that level is exceeded, these structures can fail with disastrous effects for the communities they are supposed to protect.

Rivers are meant to have a natural flood cycle and the best way to manage a river's peak flows is to allow the river to naturally flood over its banks into its floodplains. Floodplains act as natural sponges, storing and slowly releasing floodwaters after high waters have passed. Restoring floodplains to give rivers more room to accommodate large floods is the best way to keep communities safe. Giving rivers more room provides a number of other benefits including: improving water quality, safeguarding people and property, creating fertile soil for crops, nurturing life, providing recreation, and recharging groundwater.

Natural and Nature Based Infrastructure

Natural and nature-based solutions should be implemented where possible as they are often the most resilient way to manage floodplains and they work with the environment to protect the surrounding community. These non-structural approaches can also be more cost effective than the use of hardened infrastructure. Natural and nature-based solutions enhance ecosystem services, require less maintenance and repairs over the long term, and can improve the overall safety of a system, factors that are not always incorporated in the USACE's benefit cost analysis. It has been calculated that nonstructural activities such as acquisitions and relocation of structures in the floodplain have a 5 to 1 return on investment.¹ When the nation is facing a tough budget situation every dollar counts. The USACE's should consider every option, including natural and nature-based solutions which are proven to be more cost-effective than traditional hardened infrastructure.

The USACE, the agency charged with reducing the nation's flood risk, has made some progress increasing the use of natural and nature based flood management approaches, but much more can be done. The USACE can be more effective in implementing natural and nature based solutions by improving its budgeting process to better accommodate funding for multi-benefit projects that achieve both ecosystem restoration and flood risk management. This more holistic and integrated approach to implementing nature based solutions will provide multiple benefits and fulfill two of the agency's missions.

In Section 1184, *Consideration of Measures*, of S.612, the Water Infrastructure Improvements for the Nation Act (WIIN Act), the USACE is authorized to consider natural, nature-based, and nonstructural ways to address flood risk management, hurricane and storm damage, and ecosystem restoration. This provision will allow natural ecosystems like floodplains to be replicated, restored, or preserved in order to improve our river systems. In addition, Congress clarified that restoration techniques, such as levee setbacks, may be implemented when repairing

¹Rose, A., K. Porter, N. Dash, J. Bouabid, C. Huyck, J.C. Whitehead, D. Shaw, R. Eguchi, C. Taylor, T. McLane, L.T. Tobin, P.T. Ganderton, D. Godschalk, A.S. Kiremidjian, K Tierney, and C.T. West. 2007. Benefit-cost analysis of FEMA hazard mitigation grants. *Natural Hazards Review* 8: 97-111
http://research.create.usc.edu/cgi/viewcontent.cgi?article=1014&context=published_papers

flood-damaged levees. Projects like this provide increased capacity to convey flood water and provide opportunity to restore floodplain wetlands.

The USACE Engineering Circular for the Proposed Implementation of Executive Order (E.O.) 11988, as amended by E.O. 13690, indicated that guidance would be developed on the implementation of natural and nature-based approaches when applying the Federal Flood Risk Management Standard. We strongly agree with the need for that guidance as well as additional guidance on the application of natural and nature-based approaches in riverine systems. While the USACE has made progress on the use of and guidance on, these approaches in coastal systems particularly during implementation of the North Atlantic Coastal Study, we have been disappointed that the same level of attention and guidance has not been provided for the use of natural processes and nature-based approaches in riverine systems. In order to implement both the WHIN Act requirement and fully implement E.O. 13690, we recommend the USACE develop guidance on the use of natural and nature-based approaches to water management including flood risk reduction.

Outdated USACE Infrastructure

As the nation's infrastructure ages and the purposes for which we utilize that infrastructure change, it becomes necessary to assess our ability to continue to make the repairs and investments necessary to keep it both operational and safe. While much of this infrastructure will remain critical for some time, other structures are no longer necessary and should be removed from our nation's rivers and waterways to eliminate the need for taxpayer funded maintenance and to ensure public safety. Many dams which once served useful functions are no longer serving those purposes due to changes in technology or the economy, and have become public safety hazards and in some cases are damaging natural resources. Dams are not monuments; when they have reached the end of their useful life, they need to either be rehabilitated or removed. We urge the USACE to remove infrastructure, such as dams, that are no longer necessary or cannot be repaired. This will assist in restoring a river and its floodplain back to their natural state as well as save money and time on unnecessary repairs.

Thank you for your consideration of American Rivers' comments.

Sincerely,



Meghan Boian
Associate Director, Policy & Government Relations

American Rivers submitted the following funding requests for the USACE FY18:

Investigations

U.S. Army Corps of Engineers Headquarters

Planning Assistance to States, \$5.5 Million

This program allows the USACE to assist states, local governments and tribes to engage in comprehensive water resources planning; including floodplain management, dam safety, environmental restoration, water supply, and more.

Flood Plain Management Services, \$15 Million

The USACE's Flood Plain Management Services Program provides critical assistance to communities to reduce damage and prevent the loss of life from flooding. These programs allow communities to be proactive about addressing their flood risk and to utilize non-structural approaches to flood risk management. The program supports the Silver Jackets initiative, which has been particularly successful at coordinating on the ground activities various federal, state, and local entities take to reduce flood risk and respond during floods.

National Flood Risk Management Program, \$6 Million

The Flood Risk Management Program under the Institute for Water Resources seeks to ensure that USACE activities across the agency are reducing overall flood risk and promotes the use of non-structural alternatives that will reduce the risk of flooding while reducing long-term economic damages, and can improve natural systems.

Disposition of Completed Projects

In the decades since the USACE was founded, the agency has constructed thousands of pieces of infrastructure designed with an intended lifetime- but no plan for what to do with the infrastructure once it is no longer of use. We applaud the USACE for initiating disposition studies for some of these structures to determine whether the infrastructure should be maintained, transferred to another entity, or removed. In FY18, we support funding for all disposition studies being considered, particularly:

- *St. Paul District \$350,000:* The St. Paul District has requested between \$250,000 and \$350,000 to conduct a disposition study at Upper St. Anthony Falls Lock on the Mississippi River, which has been closed by Congress. However additional funding should also be allocated for disposition studies at Lower St. Anthony Falls Lock and Dam 1. Traffic at these locks will drop due to the closure of Upper St. Anthony making these structures unnecessary for commercial navigation. There is also a great need to ensure invasive carp do not become established in Minnesota and reduce the USACE operations and maintenance budget.

Construction

Rock Island District

Upper Mississippi River Restoration- Environmental Management Program, \$33.17 million

The Upper Mississippi River is one of the most complex ecosystems on earth. It provides habitat for 50 species of mammals, 45 species of reptiles and amphibians, 37 species of mussels, and 241 species of fish. Unfortunately, the USACE correctly stated in its study of navigation expansion, this ecosystem is "significantly altered, is currently degraded, and is expected to get

worse.” As habitat vanishes, many species will decline and some will disappear. The Upper Mississippi River Restoration (subaccount for the Environmental Management Program) has received more than \$30 million in each of the past two fiscal years and fully executed the funding to promote science and monitoring and construct habitat rehabilitation and enhancement projects.

We also believe that the Navigation and Ecosystem Sustainability Program should not receive any appropriation in FY2018. The large-scale navigation modifications included in the Recommended Plan for the Upper Mississippi Navigation and Ecosystem Sustainability Program (NESP), as authorized by the Water Resources Development Act of 2007, have not been justified by the USACE and should not be pursued. Previous reviews by the National Academy of Sciences and the Assistant Secretary of the Army, Civil Works found that the navigation construction component of NESP was not economically justifiable.² A report released in 2010 by the Nicollet Island Coalition provides additional evidence that proposed locks and dams in this region are not a good investment.³

Seattle District

Mud Mountain Dam Fish Passage Project and the Buckley Dam Fish trap facility on the White River in Washington FY18: \$27,300,000

Mud Mountain Dam was built by the USACE for flood control in the 1940's and blocks passage of anadromous fish. In order to comply with endangered species requirements, a “trap and haul” system was instituted to trap fish at downstream Buckley Dam and transport them around both dams by truck. Poor conditions of the dam and fish collection facilities result in the deaths of thousands of salmon and steelhead every year. Under a 2014 Biological Opinion, the USACE is required to construct a new fish barrier and collection facility to provide safe, timely and effective upstream passage for ESA listed species. In order to advance and remain on schedule to complete the project by 2020 and avoid litigation, it is essential that adequate funding be provided for in FY18.

² U.S. Army Corps of Engineers, “Final Re-Evaluation of the Recommended Plan: UMR-IWW System Navigation Study” March 2008.

³ Nicollet Island Coalition, “Big Price-Little Benefit: Proposed Locks on the Upper Mississippi and Illinois Rivers Are Not Economically Justified” February 2010. <http://dev-nicollet-island-coalition.pantheonsite.io/wp-content/uploads/2017/02/BigPriceLittleBenefit.pdf>

