DONOR PORT MONEY GRAB

Congress asked to authorize trust fund dollars for alternative uses

During the last decade ports, vessel operators, labor unions, shippers, mayors, governors and others have lobbied Congress to increase federal spending on harbor maintenance. These efforts have begun to show results with U.S. Army Corps of Engineers Great Lakes and coastal operation and maintenance spending, now 62 percent higher than in 2006. Our legislators are pushing for more—demanding full use of the $1.7 billion annual revenue generated by the Harbor Maintenance Tax. Unfortunately, money attracts mischief. A powerful group of large coastal ports are pushing for a special pork-barrel set-aside for themselves. This diversion of funds should concern us all.

As a reminder, maintenance dredging of federal navigation channels is the responsibility of the Army Corps of Engineers. The Corps' operation and maintenance budget for Great Lakes and coastal navigation is funded by transfers from the Harbor Maintenance Trust Fund (HMTF), which is financed by the Harbor Maintenance Tax (HMT), a levy on the value of cargo moving through the nation's ports. This funding scheme was enacted in the Water Resources Development Act of 1986. Unfortunately, the legislation contained a critical flaw. Congress failed to establish a statutory link between the inflow of tax revenue and the outflow of harbor maintenance spending. Growing budget deficits have fueled fiscal constraint in most every area of government. Appropriations for harbor maintenance have failed to keep up with need—even as the trust fund's balance has ballooned to more than $9 billion today.

Constrained funding has had a very real and negative impact on maritime commerce in the Great Lakes region. Over the last 10 years, vessel light-loading was common, small ports were not being dredged and several were forced to close. Today, the region suffers from a $200 million dredging backlog, a $250 million backlog of breakwater and jetty repairs and a need for $115 million in repairs to the Soo Locks. All of these are funded through the Corps' operation and maintenance budget.

Navigation interests have championed several initiatives to rally Congressional support for increased spending. In 2008 the so-called "RAMP" Coalition was formed and included a broad cross section of stakeholders. This lobbying effort made a tremendous push to educate policymakers. As an outcome, in 2014 Congress enacted the Water Resources Reform and Development Act (WRRDA) which laid out a series of funding targets between 2015 and 2025 to incrementally achieve full use of Harbor Maintenance Tax revenue. To date, Congress has generally followed this scheme and appropriated the necessary funds.

Since enactment of the Harbor Maintenance Tax in 1986, a handful of large West Coast ports have complained that the harbor maintenance funding scheme is inequitable. These ports, which include Los Angeles, Long Beach and Seattle, refer to themselves as "donor ports" because their shippers pay into the Harbor Maintenance Trust Fund, but their channels require little or no dredging.

As Congress spends more on harbor maintenance, donor ports want a slice of the pie. Because they don't have dredging needs, they have asked Congress to authorize new expanded uses for trust fund dollars. In response, Section 2106 of the 2014 WRRDA legislation establishes a $50 million/year program for donor and energy transfer ports. This program provides special funds to a select group of 18 ports. Interestingly, only six of the 18 ports meet the definition of a donor port. The rest are so-called energy transfer ports.

The term "energy transfer port" did not exist prior to 2014. It was an invention of clever congressional staff who sought a way to steer money to their home state ports. As West Coast donor ports lobbied for special funds, their legislators needed allies. They turned to Gulf state legislators whose ports frequently handle energy cargoes. Forming an alliance, West Coast and Gulf legislators crafted the donor and energy transfer port program. While donor ports may have an argument for funding fairness, energy transfer ports do not. Energy transfer ports in the Gulf include Houston, New Orleans, Mobile, Baton Rouge and Lake Charles—all of which receive regular dredging and benefit from the Harbor Maintenance Trust Fund.

Some have argued that the new donor-energy transfer program is only $50 million a year. With current harbor maintenance spending at $1.26 billion, why complain about this small diversion? We should all be worried. Donor and energy transfer ports are now lobbying to expand their footprint and create a 20 percent set-aside within the harbor maintenance program. At current spending levels, that would mean a $252 million diversion of funds, resulting in less for the rest of us.

We have long supported a consensus position among the nation's ports that Harbor Maintenance Tax revenue should first be used for its originally authorized purposes. We oppose diversions from the Harbor Maintenance Trust Fund that might diminish the amounts available to maintain our harbors. There will be a point in time when federal spending matches the national need for full maintenance. At that point, it will be appropriate for Congress to divert trust fund dollars to alternative uses. ■

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