



**WRITTEN TESTIMONY**

**OF**

**EUGENE D. SEROKA**

**EXECUTIVE DIRECTOR**

**PORT OF LOS ANGELES**

**ON**

***“IMPLEMENTATION OF THE WATER RESOURCES DEVELOPMENT  
ACT OF 2020”***

**BEFORE THE**

**UNITED STATES HOUSE OF REPRESENTATIVES**

**SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT**

**TRANSPORTATION AND INFRASTRUCTURE COMMITTEE**

**MARCH 23, 2021**

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[Introduction](#)

Chairwoman Napolitano, Ranking Member Rouzer, Members of the House Subcommittee on Water Resources and Environment, and other distinguished Members of Congress, thank you for your ongoing leadership and commitment to enacting reforms to Harbor Maintenance Trust Fund (HMTF) expenditures in the Water Resources Development Act (WRDA) of 2020. Your continued support sends an important message that maintaining our Nation's ports, harbors, and waterway infrastructure is a high priority.

WRDA 2020 represents landmark legislation that unlocks over \$9.3 billion in unspent HMTF revenues, establishes a fair and equitable funding allocation framework, and promotes competitiveness for U.S. ports. I would also take a moment to thank the staff for their public service. Ryan Seiger and Camille Touton of the committee staff, and Joe Sheehy of Chairwoman Napolitano's personal staff, were instrumental in addressing the port industry's concerns and striking the balance required for such a legislative achievement. I realize that no bill of this size, scope, and significance gets done without very dedicated staff and I hope they know how much they are appreciated. I understand Ms. Touton has moved to the administration and we look forward to working with Alexa Williams in her new role on the committee staff.

Thank you for inviting me to testify today on the implementation of WRDA 2020. I am Eugene D. Seroka, Executive Director of the Port of Los Angeles. With more than 33 years of experience in the maritime shipping industry, the last seven as a port executive director, I have first-hand

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knowledge of the maintenance needs of our Nation's ports, and I understand the port industry's desire to see the HMTF better serve our ports. While the well-worn saying, "If you've seen one port, you've seen one port," continues to ring true, and each port will have a unique set of challenges and needs, the port community has been unified in their push to put HMTF dollars to good use. The HMTF is needed for ports to maintain their infrastructure, stay competitive, and continue to serve as economic enablers for the American economy.

### [The Case of the Port of Los Angeles](#)

The reforms you included in WRDA 2020 will benefit the Port of Los Angeles – and by extension, the entire national supply chain. Together with our neighboring port in Long Beach, we constitute the San Pedro Bay Port Complex and handle nearly 40 percent of all containerized imports and 30 percent of all containerized exports for the Nation. Last year, our combined cargo volume totaled more than 17.3 million Twenty-Foot Equivalent Units (or TEUs, the standard measure of container cargo), accounting for nearly \$300 billion worth of trade. This cargo touches every one of the 435 Congressional districts across the country, connecting them with 160 countries across the globe.

Container throughput at the Port of Los Angeles alone topped 9.2 million TEUs in 2020. We estimate that this cargo supports more than 144,000 jobs (about one in 13 jobs) in the City of Los Angeles, 517,000 jobs (or one in 17 jobs) in the five-county Southern California region, and 1.6 million jobs nationally. These estimates include direct, indirect, and port-related jobs.

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Our local, regional, and national impact are all enabled by our world-class infrastructure. The operational scale of the Port of Los Angeles is immense: 27 terminals, 270 berths, roughly 200,000 unique shippers, 1,654 annual ship calls, 100 daily trains, and 60,000 daily truck moves. Maintaining the infrastructure at our port is critical to maintaining our competitiveness and role as an economic engine. However, the historic defined uses of HMTF expenditure prevented the Port of Los Angeles from accessing this important funding source, even as we served as the largest single collection point for HMTF revenue among U.S. seaports. This is how we came to be known as an HMTF “donor port.” By way of example, in 2018 and 2019, the Port of Los Angeles accounted for \$224.5 million and \$206.6 million of HMTF revenue respectively but received less than 3 percent in return per year (via Section 2106 funding for limited expanded uses).

This changed with the reforms approved in WRDA 2020. For donor ports, like the Port of Los Angeles, HMTF dollars and Section 2106 funds can now be used for “expanded uses”, such as dredging of channels, in-water infrastructure improvements, berth maintenance, and building seismic resiliency. These funds will be used:

- To repair damaged concrete wharfs at our seven container terminals;
- To replace deteriorated berthing structures at our five marine oil terminals;

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- To replace and seismically upgrade dry bulk terminals, our cruise ship, and ferry ship facilities; and
- For environmental remediation of legacy sites, while also maintaining the authorized depth of the entire Port of Los Angeles complex to support safe and efficient operations.

The benefits of these expanded uses will extend to the national, state, regional, and local economy supported by our Port Complex. Expanded uses for donor ports serves as one example of how the reforms included in WRDA 2020 will benefit the Nation's ports. As referenced earlier, the entire port industry coalesced around comprehensive HMTF reform, including full use of HMTF revenues, fair and equitable allocation of funds, and expanded uses. The significance of each of these reforms is important to understand.

#### Full Utilization and Spend Down of the HMTF

Approximately \$1.7 billion is collected annually and deposited into the HMTF. Historically, these revenues are not fully expended. While the Water Resources Reform and Development Act (WRRDA) of 2014 did establish expenditure targets, which resulted in a steady increase in the percentage of HMTF annual revenues expended, full use of the HMTF revenue has remained elusive. As a result, the HMTF has a balance of approximately \$9.3 billion in collected tax revenues, with estimates it will reach \$14 billion in 10 years, according to the Congressional Budget Office.

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This all changed last year. Without a doubt, 2020 will be remembered for the pandemic and unprecedented economic disruption. For the port industry, it will also be remembered as a historic, breakthrough year for HMTF reform. In March 2020, the passage of the Coronavirus Aid, Relief, and Economic Security Act – or CARES Act – was critical because it included a key provision from Chairman Defazio’s Full Utilization of the Harbor Maintenance Trust Fund Act (H.R. 2440) – the creation of a discretionary cap adjustment up to the levels of funds deposited into the HMTF in the previous year (collections plus interest) to be used for Army Corps of Engineers operations and maintenance activities. Under the CARES Act, appropriators can only exclude the prior year’s deposits from the discretionary budget caps, or approximately \$1.7 billion.

Additionally, WRDA 2020 unlocked the unspent HMTF balance by establishing a schedule for releasing the \$9.3 billion in HMTF collections (Section 101), beginning with \$600 million for Fiscal Year 2022, and increasing by \$100 million per year, capping at \$1.5 billion per year in 2030. A distribution approach (Section 102) outlines the allocation for these funds: 15 percent for emerging harbors, 12 percent for donor and energy transfer port programs, 13 percent for Great Lakes projects, and 17 percent for strategic commercial ports.

Combined, full utilization of annual HMTF revenues and spend down of the HMTF balance will inject much needed funding into the maintenance of America’s ports and harbors. Importantly,

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as I have testified in the past, full use of HMTF revenues is needed to create a virtuous circle wherein investment in port infrastructure supports additional growth in trade volumes which, in turn, supports more investment in our ports and harbors.

### Fair and Equitable Allocation

A fair and equitable allocation framework ensures every port region of the country – including traditional dredge ports, emerging harbors, and donor ports alike – receive a fair share of HMTF expenditures each year.

I believe the donor port issue is both a fundamental issue of fairness and critical to the long-term health of the HMTF. The HMTF has its origins in the Water Resources Development Act of 1986 and was originally established as a way for users of federal channels to share in the associated costs of channel maintenance. It is directly levied on importers and domestic shippers using coastal or inland ports as a 0.125 percent ad valorem tax on the value of imported cargo (e.g., \$1.25 per \$1,000 value).<sup>1</sup> Funds can be used to pay for maintenance of federal channels, and certain in-water infrastructure, such as jetties, breakwaters, and groins.

Ports that handle a large volume of imports, like the Port of Los Angeles, Port of Long Beach, Port Authority of New York and New Jersey, and Northwest Seaport Alliance, account for a

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<sup>1</sup> Originally, it was paid by importers and exporters; however, a 1998 Supreme Court decision exempted exporters [United States v. United States Shoe Corp., 523 U.S. 360 (1998)].

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large portion of total HMTF revenue. The original six “donor ports”<sup>2</sup> accounted for 50 percent of the annual HMTF revenues, but have received very little of those revenues for maintenance because their corresponding needs were not captured within the defined uses of HMTF funds.

As a donor port, we are grateful that you have recognized our needs. WRRDA of 2014 directly addressed the donor issue by recognizing donor ports, allowing them a limited expansion of uses (including maintenance berth dredging), and making them eligible for additional funding (along with “energy transfer ports”) via the Section 2106 program. In WRDA 2020, we were encouraged to see a comprehensive framework established, creating minimum percentages of revenue being returned to donor, energy transfer, Great Lakes, and emerging harbors, while continuing to support traditional dredge ports.

### Expanded Uses

Until the 2020 reforms, HMTF expenditures were limited to the maintenance of the authorized depths and widths of federal navigation channels. For ports that require frequent dredging to maintain their dimensions this has been critical; however, this excludes other in-water maintenance needs. Los Angeles does not require frequent dredging, but it does have a major backlog of wharf repairs and seismic upgrades. As described earlier in my testimony, WRDA

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<sup>2</sup> As defined in WRRDA 2014, these included ports of LA, Long Beach, New York/New Jersey, Seattle, Tacoma, and Miami.



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2020's "expanded uses" assists donor ports like the Port of Los Angeles by funding the maintenance projects we need most.

### Key Issues for Consideration

The goods movement industry underpins our economy and supports our standard of living. We know that this committee is keenly aware of the need to invest in and sustain the freight infrastructure that makes our work possible. The importance of our work was on full display throughout the COVID-19 pandemic as Americans sought personal protective equipment (PPE) and essential goods.

A reliable, sustainable source of funding to support the competitiveness of our ports and harbors is essential to our recovery and long-term economic growth. Clearly, annual HMTF revenue and the HMTF balance is one such funding source. It is a unique and important revenue source that can keep our nation's ports and harbors operating at their maximum potential. Committee members, as you and our federal agencies move forward with implementing WRDA 2020, I would like to focus on a few areas for your consideration. Specifically, there are three areas that need to be addressed for implementation of these essential reforms:

1. Congress needs to assure the HMTF budget cap adjustment initially enacted in the CARES Act and expanded in WRDA 2020 is implemented as intended – with the Army Corps of

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Engineers receiving the full prior years HMTF revenues and the scheduled amount of unspent tax collections. This needs to be accomplished without adversely impacting other Corps Civil Works programs. Ideally, these funds would be included in the President's budget.

2. The HMTF distribution approach authorized in WRDA 2020 takes effect on October 1, 2022. It is imperative that Congress develop the fiscal year 2023 appropriations to include direction to implement the WRDA 2020 HMTF distribution approach. Without this directive language, I am concerned that the implementation could be delayed until fiscal year 2024, resulting in postponement of planned port maintenance repairs.
  
3. For donor ports, model the new funding distribution mechanism for HMTF collections after the one used in the Section 2106 program. It works. The Corps and the Port of Los Angeles have a system in place that handles disbursement of funds effectively and efficiently. Creating an entire new delivery system has the potential to burden both the Corps and recipient ports, further delaying funding disbursements.

These three requests will ensure that the decade worth of work that you, the port industry, and our other industry partners put into HMTF reform will not have been done in vain. With your continued leadership and perseverance, we will have an HMTF framework in place that will ensure we have a well-maintained maritime transportation industry. This industry is vital to the

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manufacturers, exporters, and farmers who count on U.S. ports to move their products to market. It supports more than \$5.4 trillion in commerce and employs more than 31 million people.

For an industry that continues to deliver for the American people, we ask that Congress and the federal government deliver a fully enacted HMTF reform package.

Thank you for your consideration.