

## **State and Local Responsibility In Port Maintenance and Development**

(November 30, 1993)

### **PR-24-93**

WHEREAS, commercial and recreational interests in port facilities can pose serious problems in maintaining certain ports throughout the region; and

WHEREAS, the commercial vitality of a port insures that it can survive as a recreational port also; and

WHEREAS, traditionally, the Federal government has had a strong interest in port maintenance and development undermining the contribution of state and local efforts to maintain and develop ports; and

WHEREAS, more local interests can provide creative input to problems unique to ports in their communities;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the American Association of State Highway and Transportation Officials supports efforts by state and local agencies to actively engage in maintaining and developing ports in their regions; and

BE IT FURTHER RESOLVED that AASHTO recognize the importance of commercial interests in port facilities; and

BE IT FURTHER RESOLVED that AASHTO member departments encourage their governors, state legislatures, and local officials to balance the recreational and commercial usage of ports in their states.

**GENERAL**

Waterways have served as major transportation facilities since the first settlement of this country. Most of our large cities are located on navigable waterways and industrial expansion has traditionally followed the waterways of the Nation. The waterways are a major element in the American transportation system and the national defense. They provide a long proven benefit in transporting persons and goods and have established an excellent safety record as a freight transportation system.

Water transportation is dynamic, continually improving its methods, equipment and capacity. Its importance to the national welfare is emphasized by the facts that inland waterways serve the majority of the nation's states and there are numerous ports on our four seacoasts, including the Great Lakes. Technological advances in vessels and material-handling equipment permit direct international shipments between remote inland ports and the ports of the world. In this era of energy shortages, they also provide safe energy-efficient transportation for the Nation's coal and other mineral resources. The movement of container cargo, agricultural products and other commodities by water is an important element of the total transportation system.

**PROPOSED NATIONAL TRANSPORTATION PROGRAM**

1.  
Encourage use of energy-efficient water transportation systems through improved facility and service management and expanded intermodal coordination and cooperation. Encourage the development of projects that prove to be beneficial after careful analysis of alternatives and their social, environmental, energy and economic factors.
2.  
Encourage the federal government to develop a comprehensive approach including regional and state efforts, to the planning of waterway systems which will aid in developing water transportation systems and terminals where warranted.
3.  
Recognize the importance of waterways as a functional part of the nation's defense transportation network. To that end, designate a national interstate and defense freight and passenger waterway network.
4.  
Emphasize the need for regulatory modification and support regulations that encourage optimum use of the water transportation system in coordination with other modes.
5.  
Support efforts to ensure that existing federal obligations, such as dredging and maintenance of existing facilities, are carried out as originally planned, taking into account economic, social and environmental considerations.
6.  
Evaluate new sources of public funding for all elements of the system and ensure that any energy-related transportation system funding programs recognize the energy effectiveness of waterways.
7.  
Promote programs to replace or rehabilitate waterway structures, equipment, terminal facilities and deficient bridges and eliminate or control hazards and unsafe conditions.
- 8.

Encourage compatibility of waterway regulations adopted by all levels of government, including rules and regulations pertaining to pilotage requirements and states' rules and regulations governing the use of pleasure and recreational vessels on the nation's waterways.

9.

Encourage a federal funding program for states who provide waterway cleanup units for use during pollution accidents that endanger the environment.

Diking Requirements for Dredged-Material Disposal Areas  
(November 16, 1980)

W2

AASHTO recommends that the Corps of Engineers continue to bear the responsibility and the cost for the construction of diked dredged-material disposal areas.

AASHTO further recommends that the Congress provide necessary additional funds to the Operations and Maintenance Budget of the Corps of Engineers for construction of suitable diked disposal areas for dredged materials.

## **BACKGROUND INFORMATION**

The U.S. Army Corps of Engineers has been authorized by the Congress to engage in the construction, maintenance and operations of the tidewater ports, the Great Lakes ports and navigation channels and the inland river navigation system. As part of these responsibilities, the Corps of Engineers maintains the depth of navigation channels at controlling levels by various means, including dredging. Without the conduct of maintenance dredging operations at periodic intervals, some waterways experience shoaling, sedimentation and other accumulations of materials which would stop commercial navigation.

For those tidewater deep-draft ports and inland waterway segments with bottom materials classified as being polluted, the cost of the dredging operation has in the past included the cost of constructing diked disposal areas and a local sponsor has been responsible for furnishing all lands, easements and rights-of-way necessary for the construction, operation and maintenance of the facility.

The Corps of Engineers has promulgated new diking requirements for disposal areas to confine dredged materials. These requirements called for the local sponsor for a diked disposal area to provide, at local expense, suitable areas, defined as:

1)

having adequate capacity;

2)

located within a reasonable distance from dredging areas;

3)

capable of being utilized without adversely affecting the environment of the surrounding waterway.

The cost of constructing a diked disposal area would, in many instances, be beyond the financial capability of a local sponsor. Thus, there is the possibility that many necessary maintenance dredging projects would be deferred under these requirements, leading to the cessation of commercial navigation in those tidewater ports and segments of the inland waterway system.

The Corps of Engineers later distributed a policy letter (number 79-19) stating that except where Congress in authorizing a project had specified that a local sponsor would pay for diked disposal areas, the Corps would pay those portions of the costs.

Deep-Draft User Charges

(July 8, 1982, Revised September, 1982)

W3

Improved deep-draft ports and port facilities are essential components of this nation's efforts to increase foreign trade and, hence, important for stimulating the national economy. Each year, U.S. deep-draft ports handle the shipment of about one billion tons of foreign cargoes and one-half billion tons of domestic cargoes. By providing an effective interchange between deep-draft vessels and inland transport modes, the ports contribute to the economy of the country and the national defense. Primary overseas commodities handled at the ports include exports of coal, grain and manufactured goods and imports of petroleum, iron and steel, autos and specialty goods.

AASHTO supports the concept of cost recovery to assist in funding deep-draft improvements. Existing customs fees now provide revenues from deep-draft ports of approximately \$5.5 billion per year. A portion of these fees could be used to offset the costs of operation and maintenance of these vital facilities. However, if Congress determines that additional user charges are necessary, then AASHTO believes that the following points must be considered.

1.

The national port system is comprised of many discrete and distinct ports and waterways.

2.

The national port system is a vital component in the overall national defense needs of the United States.

3.

Many industries and ports have made substantial investments in port landside facilities.

4.

An evaluation of economic factors should be conducted to determine the impacts of user charges on the national port system as well as individual ports and waterways within the system.

5.

If new user charges are instituted, the maximum cost recovery level should not exceed 25 percent of the costs of operation and maintenance of the existing system.

6.

If new federal uniform user charges are collected, these should be deposited in a distinct trust fund and used only for expenditures on the deep-draft system.

7.

Fast-tracking (speeding up the project approval and implementation process) should be an essential part of any legislation related to user charges. U.S. Corps of Engineers and other agency requirements, as well as the Congressional authorization and funding of projects, should be addressed. Significant reform in this area should be one of the primary goals of new federal legislation.

8.

All funds attendant to both the operations and maintenance and construction efforts in the deep-draft system should be audited. Audits should be conducted on an annual basis.

#### Shallow-Draft User Charges

(July 8, 1982, Revised September, 1982)

W4

The effective utilization of the inland waterway system is crucial to the economic health and well being of this country. The barge and towing industry, which operates on the inland waterway system, consists of some 750 companies operating on 25,543 miles of inland and intracoastal waterways, transporting about 650 million tons of freight annually, with petroleum products accounting for 40 percent of the cargoes and coal making up 20 percent. In addition to energy products, other important commodities transported on inland waterways include construction materials (13 percent), grain (9 percent) and chemicals (6 percent).

AASHTO supports the concept of partial cost recovery for operations, maintenance and construction on the shallow-draft navigation system. User charges already authorized under the Inland Waterways Revenue Act of 1978 will produce revenues of \$67.7 million per year in 1985. If any new user charges should be levied, the user charges should be equitable relative to the benefits derived. It is important to develop a cost recovery system which will have the least disruptive impact on the inland waterway transportation system. For these reasons, AASHTO believes the following points must be considered.

1.  
The shallow-draft navigation system is comprised of many discrete and distinct waterways.
2.  
The inland waterway system is a vital component in the overall national defense needs of the United States.
3.  
Many industries and port authorities have made substantial investments in port landside facilities.
4.  
If new user charges are instituted, the maximum cost recovery level should not exceed 25 percent of the costs of operation and maintenance attributable to commercial navigation on the existing inland waterway system.
5.  
User charge collections should flow into the already established Inland Waterways Trust Fund to ensure that these funds are used to improve water transportation. The charges should be applied to the users of those waterways described in Section 206 of the Inland Waterways Revenue Act of 1978 (PL 95-502).
6.  
Fast-tracking (speeding up the project approval and implementation process) should be an essential part of any legislation related to user charges. U.S. Army Corps of Engineers and other agency requirements, as well as the Congressional authorization and funding of projects, should be addressed. Significant reform in this area should be one of the primary goals of new federal legislation.
7.  
All funds attendant to both the operations and maintenance and construction efforts in the shallow-draft system should be audited. Audits should be conducted on an annual basis.

#### Transfer of Surplus Federal Property to Public Ports (October, 1981)

W5

At present, there is a bill pending in the Senate (S. 134), to amend the Federal Property and Administrative Service Act of 1949. This bill would facilitate the transfer of real and personal property surplus to the needs of the United States Government at no cost to public port agencies for the development, improvement, operation and maintenance of public ports.

There are port installations constructed and operated by the military and other Federal agencies adjacent to public ports which have or will be declared surplus. Such installations should be devoted to productive public port activities since there is a national scarcity of sites for potential new marine terminals.

The transfer of surplus Federal property will enable public ports to redevelop or expand existing facilities with a minimum of adverse environmental impacts.

Further, the enactment of S. 134 would permit public port agencies to acquire and develop surplus Federal properties economically in a manner now enjoyed by the air transportation industry.

The dedications of such areas for public ports will benefit the Nation's trade and commerce and the economy of the regions where they are located.

AASHTO recommends that Congress enact the necessary legislation to permit the transfer of surplus United States real and personal property at no cost to public port agencies for development, improvement, operation and maintenance of public ports.

#### Development of National Maritime Policy (August, 1985)

W6

The presence of a strong U.S. merchant marine fleet is vital to the economy and national defense, to our domestic and international transportation systems, and to maintaining the shipment of exports from and imports to all states □ those located inland as well as those having ports on the oceans and Great Lakes. Despite the vitality of the national economy and the growth of exports and imports since 1950, the U.S. merchant marine fleet has been declining in size and capacity, which is threatening our capability to maintain a competitive fleet of vessels for waterborne commerce and defense purposes. The health of the American maritime/port industry is dependent upon the resolution of a wide range of complex issues. These issues encompass diverse areas such as the huge task of maintaining and improving the inland and deep-water port complexes, user charges, intermodalism and related issues, shipbuilding and repair, subsidy for construction and operation of the U.S. merchant fleet, cargo reservation policies, federal regulation of oceanborne commerce, commercial trading relationships with other countries, implementation of international trade agreements, the UNCTAD Code and cross-border movements.

Contributing to the decline of the U.S. position in world trade has been the lack of a comprehensive and consistent national maritime policy.

AASHTO urges the Administration to direct immediate attention to the development of a national maritime policy. The President has addressed other critical national issues by creating special task forces to define the problems and recommend solutions. Because of the acceptance of this approach, AASHTO recommends that the President create a special task force to study the problems facing our maritime industry, both the government and the private sector, and prepare a final report which recommends a national maritime policy. The composition of this task force should include representatives of all levels of government and the maritime and port industries, both coastal and inland.

#### Tax-Exempt Bonds for Port and Waterway Development (June 30, 1986)

W7

The effective utilization of the port and waterway system is crucial to the economic health and well-being of this country. An important element in this system is represented by the many publicly owned ports which operate along our nation's waterways. Through these ports move vast quantities of important commodities such as grain, coal, petroleum products, fertilizer, chemicals and construction materials. These commodities are handled at ports over facilities which are frequently constructed with funds generated by the sale of industrial revenue or general obligation bonds.

The importance of this type of funding in providing the facilities to handle the movement of these commodities in an efficient manner cannot be over-emphasized. Our survey of the methods used most frequently by the states to finance port development during the period 1977□1984 indicates that more than \$694,100,000 of general obligation and revenue bonds were issued by the states to finance development at public ports and terminals. During the period, this figure represented more than 62 percent of the total funds that were used by the states for port development.

The importance of tax-exempt bonds for financing necessary port developments cannot be overstated. Ports should be allowed to continue issuing tax-exempt bonds for transportation related public port facilities, which include the following:

- 1.

Facilities, structures and equipment used or related to the docking of vessels.

2.

Facilities and equipment for handling, receiving, or storing cargo or passengers.

3.

Related facilities, such as office or passenger areas, which are utilized in the transportation of passengers or the handling and storing of cargo.

AASHTO encourages the Congress and the Administration to retain tax-exempt status for the issuance of industrial revenue and general obligation bonds used by public agencies for the purposes outlined above.

#### Disposal of Dredged Material (February 23, 1990)

W8

Waterways have served as major transportation facilities since the first settlement of this country. Most of our large cities are located on navigable waterways, and industrial expansion has traditionally followed the waterways of the Nation. Waterways today are still a major element in the American transportation network and the national defense system. Over 1.8 billion tons of cargo vital to the Nation's economy are carried on our waterways. Water transport provides a long proven benefit in moving people and goods.

In order to maintain the Nation's ability to trade in world markets, billions of dollars have been invested by Federal, state and local Governments and private industry for marine terminals and harbor and channel improvements. These investments in public and private facilities have helped maintain a healthy trade position for the United States. In order to preserve this trade position, the Nation's waterways must be maintained.

With the enactment of the Water Resources Development Act of 1986 (PL 99-662), the historic division of responsibility for development of the water transportation system has been significantly altered. The Federal Government is no longer assuming 100 percent of the cost for maintenance, operation and new projects on all segments of the Nation's waterway system. Local sponsor contributions are being required to provide a percentage of a project's cost or a suitable dredged-material disposal area. The lack of environmentally acceptable and economically feasible dredged-material disposal sites could jeopardize the viability of the Nation's water transportation system.

Dredged-material disposal is becoming a critical economic factor in port and waterway deepening and/or maintenance projects. The shippers and operators using our ports and waterways do not create many of the pollutants they are forced to remove during dredging. The effort to manage dredged-material disposal must be a national effort and not a local issue. There is a need for national guidelines to follow in determining whether dredged material is clean or contaminated. Closer cooperation is needed between the Federal Government and commercial navigation interests in dealing with the removal of contaminated materials. Government support is also needed to help develop dredging equipment and techniques which safely handle contaminated materials.

AASHTO urges the Army Corps of Engineers, in close cooperation with ports and waterway users and operators, to establish regional guidelines based on nationally established scientific criteria for disposal of dredged material. The criteria used must include a reasonable margin of safety and should give consideration to the economics of dredged-material disposal.

AASHTO urges the Army Corps of Engineers acting jointly with state and local interests to establish a system of prioritization for dredging harbors, inlets and other federally maintained waterways. This system should consider the economic impacts of the harbor or waterway on the local community and Nation.

AASHTO also urges that the Federal Government develop a program to educate the public about the economic necessity of dredging and the fact that much of the material dredged is clean material with beneficial uses in beach replenishment, construction and marine development, among other uses. The

public's lack of hard information about dredged material increases the likelihood that all dredged material will be lumped with sludge or toxic materials and viewed as contaminated. Such lack of information will make future