

**CALENDAR ITEM
C01**

A Federal

05/23/13

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**CONSIDER SUPPORTING FEDERAL LEGISLATION THAT WOULD ENACT THE
REALIZE AMERICA'S MARITIME PROMISE ACT AND THE HARBOR
MAINTENANCE ACT OF 2013**

PROPOSED LEGISLATION

INTRODUCTION:

State Lands Commission (Commission) staff has been reviewing various legislative proposals introduced in the 113th Congress that involve lands under the Commission's jurisdiction. This report describes the Realize America's Maritime Promise Act (RAMP) and the Harbor Maintenance Act of 2013, requiring that the amounts credited to the Harbor Maintenance Trust Fund (HMTF) are used for harbor maintenance (H.R. 335 – Boustany and S. 218 - Levin) and proposes a Resolution for the Commission to consider adopting in support of these bills.

LEGISLATIVE PROPOSAL:

H.R. 335 (Boustany) Realize America's Maritime Promise Act/RAMP Act and S. 218 (Levin) Harbor Maintenance Act of 2013:

SUMMARY:

The HMTF provides funds for the United States Army Corps of Engineers (Corps) to carry out the dredging of navigation channels to their authorized depths and widths. The HMTF was established by the Water Resources Development Act of 1986 to fund the harbor operation and maintenance activities of the Corps. The HMTF is funded through a fee on the value of cargo imported through coastal and Great Lakes ports.

H.R. 335, the RAMP Act, requires that the total budget resources made available from the HMTF each fiscal year shall be equal to the level of receipts plus interest credited to the HMTF for that fiscal year. Such amounts may be used only for specified harbor maintenance programs. As such, H.R. 335 would require funds in the HMTF be spent for their intended purpose of maintenance and operations of federal and state ports,

CALENDAR ITEM NO. **C01** (CONT'D)

instead of being redirected to other uses. S. 218, the Senate version of H.R. 335, requires that the total budget resources made available from the HMTF each year are used only for harbor maintenance programs.

BACKGROUND:

Appropriations from the HMTF are primarily used by the Corps for maintenance dredging, dredged material disposal areas, jetties, and breakwaters. For several years, appropriations have been substantially lower than revenues collected into the HMTF. Consequently, the HMTF has generated a surplus of approximately \$7 billion, while the maintenance and improvement of California harbors, ports and navigation projects has declined.

The HMTF is a critical source of funding for California's ports and harbors, and necessary to keep our nation competitive. However, much of its revenue is redirected to other uses. For example, in 2011, California ports accounted for 32% (\$431 million) of all HMTF receipts (\$1.35 billion), but received an average return of only 8% (\$54 million). According to a January 10, 2011 report by the Congressional Research Service entitled "Harbor Maintenance Trust Fund Expenditures," the Port of Los Angeles alone generated 13.7% of all HMTF revenues in 2005, yet received virtually none of these funds in return.

Another consequence of inadequate appropriations from the HMTF is that navigation channels are becoming narrower and shallower due to sediment accumulation. For example, the Corps recently reported that almost 30% of commercial vessel calls at ports in the United States are constrained due to inadequate channel depths. This means that vessels may be unable to carry all the cargo they are capable of holding because they cannot get through channels. According to the American Society of Civil Engineers, if funding continues at current levels, by 2040 the United States will face a shortfall of nearly \$28 billion to meet the dredging needs of the nation's ports.

It is expected that the average size of cargo ships will increase significantly with the scheduled expansion of the Panama Canal by 2015, creating even more of a need to invest in the operations and maintenance of state and national harbors and ports. For this and other reasons, fully using the HMTF for its intended purpose of maintaining harbor operations and maintenance will be critical for California and the nation to remain economically competitive.

The full application of HMTF revenue for operation and maintenance purposes would facilitate maintenance dredging and associated sediment disposal. This would result in wider, deeper and safer channels that improve commerce, navigation and fishing,

CALENDAR ITEM NO. **C01** (CONT'D)

traditional public trust uses that the Commission is responsible for protecting and promoting.

OTHER PERTINENT INFORMATION:

H.R. 335 has 102 cosponsors and has been referred to the Subcommittee on Coast Guard & Maritime Transportation and the House Subcommittee on Water Resources and Environment. S. 218 has 28 cosponsors and has been referred to the Senate Committee on Environment and Public Works.

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

1. Adopt the Resolution in support of H.R. 335 and S. 218 attached hereto as Exhibit A.

EXHIBIT A

RESOLUTION BY THE CALIFORNIA STATE LANDS COMMISSION SUPPORTING H.R. 335 BY REPRESENTATIVE BOUSTANY (R-SOUTH LOUISIANA) AND S. 218 BY SENATOR LEVIN (D-MICHIGAN) WHICH WOULD REQUIRE THAT THE TOTAL BUDGET RESOURCES MADE AVAILABLE FROM THE HARBOR MAINTENANCE TRUST FUND SHALL BE EQUAL TO THE LEVEL OF RECEIPTS PLUS INTEREST CREDITED TO THE HARBOR MAINTENANCE TRUST FUND FOR EACH FISCAL YEAR

WHEREAS, the five major ports of California can all trace their origins back to a statutory trust grant of State-owned public trust lands, thus ensuring that these public trust lands would be developed for traditional public trust purposes of water-dependent commerce, navigation, and fishing for the benefit of all the people of the State; and,

WHEREAS, beginning in 1911, the California Legislature placed the lands comprising the five major ports in California: Los Angeles, Long Beach, Oakland, San Francisco and San Diego, in an express statutory trust to ensure these lands and assets are managed solely for trust purposes for the benefit of all Californians, pursuant to the common law Public Trust Doctrine and the respective statutory trust grants; and,

WHEREAS, California ports are a significant public trust asset and a vital and vibrant component to our local, state and national economic well-being, acting as a catalyst for economic growth; and,

WHEREAS, California ports are the largest trading entity in the United States, and the ports of Los Angeles, Long Beach, and Oakland, which are three of the largest volume container ports in the United States, manage approximately forty-five percent of all waterborne containerized cargo arriving in the United States, totaling \$375 billion annually; and,

WHEREAS, the Port of Los Angeles is the number one port container by volume and cargo value in the United States and supports approximately 900,000 regional jobs and nearly \$40 billion in annual wages and tax revenues; and,

WHEREAS, the Port of Long Beach is the second busiest container port in the United States, generating approximately \$4.9 billion a year in local, state and federal taxes and creates, through Port generated trade, approximately 30,000 jobs in the city of Long Beach, 316,000 jobs in the southern California region, and 1.4 million jobs throughout the United States; and,

EXHIBIT A

WHEREAS, the Port of Oakland's cargo volume makes it the fifth busiest container port in the United States, supporting approximately 70,000 jobs in northern California and impacting over 800,000 jobs nationwide; and,

WHEREAS, the Port of San Diego is one of the largest break bulk ports on the west coast, supports more than 42,000 jobs, and as one of the nation's leading importers of windmill components, has imported enough equipment to supply the power needs of 1.5 million people, or 500,000 households a year; and,

WHEREAS, the Port of San Francisco has the largest floating dry dock on the west coast of the Americas, and the cruise ship industry in San Francisco supports approximately \$31.2 million in annual economic activity and generates 300 jobs within the San Francisco Bay area; and,

WHEREAS, the Harbor Maintenance Trust Fund, established in 1986, provides funds for the United States Army Corps of Engineers to carry out the dredging of navigation channels to their authorized depths and widths, and although this Fund has a balance of approximately \$7 billion, much of it is not being used to maintain ports and harbors and has been spent by the federal government for purposes unrelated to ports and harbors; and,

WHEREAS, navigation channels in California and throughout the United States are becoming narrower and shallower due to sediment accumulation and other factors, and the United States Army Corps of Engineers recently reported that approximately thirty percent of commercial vessel calls at United States ports are constrained due to inadequate channel depths; and,

WHEREAS, inadequately maintained harbors and ports increase greenhouse gas emissions, reduce competitiveness of United States exports in the global marketplace, and compromise a vessel's ability to enter ports; inadequately maintained ports are also dangerous, as vessels in unmaintained channels are more likely to collide or contribute to a devastating cargo or oil spill; and,

WHEREAS, the benefits to California and the nation from increased dredging include wider, deeper and safer channels; more consistent channel availability; and the ability to accommodate larger vessels, all of which protect and expand the economic base of our state and national system of ports; and,

WHEREAS, H.R. 335 and S. 218 would ensure that the total budget resources made available from the Harbor Maintenance Trust Fund are used for maintaining ports and

EXHIBIT A

harbors, including for purposes of dredging navigational channels at their authorized and depths and widths; and,

WHEREAS, as stewards of the State's public trust lands and assets and as part of their fiduciary duty, California's major ports are required, as a matter of law, to manage and preserve port property in a manner that is consistent with the common law Public Trust Doctrine, and the maintenance and vitality of these ports, which H.R. 335 and S. 218 would further, is integral to the ports' and Commission's public trust stewardship responsibilities; and,

WHEREAS, California ports are faced with an ongoing need to demonstrate ingenuity, increase cargo throughput, and accommodate growth, particularly with the Expansion of the Panama Canal Project, which is expected to double the capacity of the Panama Canal by 2015; therefore, be it

RESOLVED BY THE CALIFORNIA STATE LANDS COMMISSION that it supports H.R. 335 and S. 218 that would ensure that the entire Harbor Maintenance and Trust Fund receipts and interest is for the intended purpose of maintaining navigation channels, thereby improving our environment and economy, and contributing to our state and national economic vitality; and,

RESOLVED, that the Commission's Executive Officer transmit copies of this resolution to the President and Vice President of the United States, to the Governor of California, to the Majority and Minority Leaders of the United States Senate, to the Speaker and Minority Leader of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.