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Transportation and Infrastructure Committee
Subcommittee on Water Resources and Environment**

**Hearing: "*Foundations for a New
Water Resources Development Act*"**

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Chairman Gibbs, Ranking Member Representative Bishop and Members, I want to thank you for the opportunity to provide testimony to the Committee on Transportation and Infrastructure's Subcommittee on Water Resources and Environment on the *Foundations for a New Water Resources Development Act (WRDA)*. I am Adolph Ojard, Executive Director of the Duluth Seaway Port Authority.

I appear today as the U.S. delegation chairman of the American Association of Port Authorities, which represents the interests of the leading U.S. public port authorities as well as public port authorities throughout the western hemisphere from Canada to Argentina, including the Caribbean. My testimony today is on behalf of AAPA's U.S. public port members.

Since the WRDA bills are of critical importance to the health of the port industry, we appreciate the Committee's leadership in addressing the need to pass a Water Resources Development Act.

I believe WRDA 2013 will be landmark legislation, setting the course for 21st century maritime infrastructure by addressing navigation channel maintenance, streamlining processes and authorizing projects for efficient maritime freight movement. AAPA believes that WRDA should address three key areas that would result in real benefits for the nation. First is fixing the harbor maintenance tax to ensure that these revenues are fully used each year; second, the need to make the Corps of Engineers study and construction processes more efficient so we can meet demands for channel modernization in the future; and third, to get projects authorized and constructed to maintain the nation's competitive advantage in transportation cost savings resulting in jobs and economic vitality here at home.

International trade accounts for more than a quarter of the nation's GDP, and WRDA is essential to U.S. competitiveness in global trade. Over 95 percent of US overseas trade moves through America's seaports providing more than 13 million high-paying, family-wage jobs. The historic partnership between seaports and the Federal government finds its roots in the Commerce Clause of the U.S. Constitution and is the oldest and largest of all the Corps of Engineers' missions. That partnership has built much of the water-side infrastructure used today.

WRDA established the Harbor Maintenance Tax in 1986 to fund Federal deep-draft channel navigation operation and maintenance. The HMT is an ad valorem tax paid on the value of imports entering the U.S. and domestic cargo. Through the early 1990's the revenues were roughly equal to expenses, but there has been a growing imbalance between revenues and appropriations, with just over half currently being spent for its intended purposes. More than \$1.6 billion in revenue was collected in fiscal year 2012, and the surplus in the Harbor Maintenance Trust Fund has grown to more than \$7 billion dollars. The low appropriations have resulted in an undermaintained system in which channels are not being maintained to their constructed depths and widths despite adequate taxes being collected. Eight of the top 10 U.S. ports presently have depth or width restrictions resulting in safety risks of groundings and cargo spills and economic risks of light-loading ships which increases transportation costs, impacting the competitiveness of U.S. exports in the global marketplace and the cost of imported goods to U.S. consumers and manufacturers.

Ports and the Federal government must maintain existing infrastructure while preparing for the reality of larger ships. U.S. public ports and their private sector partners are doing their part, funding the lion's share of port-related infrastructure improvements. According to AAPA's most recent survey, ports and their partners will invest more than \$46 billion over the next five years. However, increasingly we find that the Federal partner is not upholding its part of the bargain in funding channel maintenance/improvement projects. As a result, this negatively impacts jobs, economic growth and U.S. competitiveness.

This problem was highlighted in the American Society of Civil Engineers (ASCE) report issued last fall entitled "*Failure To Act: The Economic Impact of Current Investment Trends in Airport, Inland Waterways and Marine Ports Infrastructure.*" This report concluded that aging infrastructure for marine ports, inland waterways, and airports threatens more than one million U.S. jobs. We cannot let that forecast become a reality.

ASCE's 2013 recent report card for America's Infrastructure rated Port Infrastructure a 'C', which is essentially an averaging of the relatively good state of infrastructure at port facilities with the inadequate condition of navigation channels and freight connections due to Federal underinvestment.

AAPA has been actively preparing for the next WRDA bill to address the investment and process changes needed to keep U.S. maritime infrastructure world class. AAPA has worked with the Assistant Secretary of the Army and the Army Corps of Engineers through a Quality Partnership Initiative to address issues slowing the project planning and construction processes. Those issues needing legislation have been identified by AAPA and our recommendations are described below.

It has been 26 years since enactment of the landmark WRDA '86 legislation which laid out a sustainable, self-funded plan to maintain our deep-draft navigation system based on revenues from port users. The vision and plan outlined in WRDA'86, however, has not been achieved due to the underspending of the HMT Trust Fund. Concerns have also been raised about the need to provide more equity to donors, as well as ensure that the U.S. tax policy does not disadvantage U.S. ports.

To address these concerns, AAPA recently convened a task force to develop a set of guiding principles in regard to the Harbor Maintenance Tax and waterside port modernization. We urge the Committee to consider these principles when drafting legislation.

- **Principle 1** – AAPA advocates for full use of all HMT revenues.
- **Principle 2** – Funding from HMT revenues first should be used for historical intended purposes, ensuring: 1) all Federal navigation channels are brought up to and maintained at their constructed depths and widths; 2) needs are met for disposal of maintenance dredged material and construction and maintenance of confined disposal facilities; 3) jetties and breakwaters are properly maintained, and 4) related studies and surveys are funded.
- **Principle 3** – AAPA is supportive of providing more equity for HMT donors.
- **Principle 4** – U.S. tax policy should not disadvantage U.S. ports and maritime cargo.
- **Principle 5** – The U.S. must have a process to efficiently study and construct deep draft navigation projects.
- **Principle 6** – The cost-share formula for maintenance and deepening should be reflective of the current cargo fleet.

MAP-21 included some full-use language to address Principle 1 above, but as we saw in last week's release of the President's budget, the Administration did not follow that recommendation and did not include full use of the HMT revenues. WRDA is the next avenue to resolve this problem and ensure full use permanently.

WRDA also is an opportunity to speed up the planning and project development processes to allow our nation to move quickly to address the needs of the future. The Corps needs to have flexible authorities available. We can no longer take decades to respond to economic opportunities that occur. The nation loses jobs and economic opportunities in the process of waiting. AAPA has developed a specific list of policy and efficiency measures we believe need to be enacted to enhance the Nation's international competitiveness.

Among the needed policy changes are: process streamlining/updating to save years in the project study/authorization process and increase flexibility for greater sponsor participation in up-front project financing when desired or needed; regulatory streamlining to make permanent section 214 - acceptance of contributed funds for dedicated regulatory support; proper resourcing of the Navigation Center of Expertise to improve the method of delivery and report progress to Congress; and updating the 26-year-old cost-share formula to reflect the current world shipping fleet. Additional specifics on these recommendations are provided as an attachment to this written testimony. In terms of streamlining, AAPA is also opposed to a continuation of the outside peer review process established in WRDA 2007. The pilot program has shown no evidence of bringing new information to light, but did result in increased costs.

WRDA legislation establishes critical milestones for projects to proceed to authorization and construction, with three gatekeeping actions – Initial Resolution, Start Feasibility and Project Authorization for construction. The length of time between WRDA laws -- 2000, 2007 and now 2013 -- negatively impacts timely processing of these investment decisions. The earmarks moratorium is further complicating this process, as other pieces of legislation such as appropriations bills can no longer be used in years where there is no WRDA. We urge the Committee to find solutions to enable the water resources planning and authorization process to proceed in a timely manner.

Finally, we commend the Committee leadership for recognizing the nexus between water resources development and economic prosperity. Especially in these challenging fiscal times, Federal investments in port-related infrastructure are an essential, effective utilization of limited resources, paying dividends through increased trade and international competitiveness, sustainable job creation and more than \$200 billion annually in local, state and Federal tax revenues. We urge you to develop and pass a Water Resources Development Act at the earliest possible time.