

THE NORTHWEST SEAPORT ALLIANCE
MEMORANDUM

MANAGING MEMBERS
STAFF BRIEFING

DATE: August 23, 2018
TO: NWSA Managing Members
CC: John Wolfe
FROM: Ryan McFarland, NWSA Federal Government Relations
SUBJECT: Review of progress on federal priorities in 2017 and 2018

A. ACTION REQUESTED

This memo is intended to brief the Managing Members on progress achieved on NWSA federal legislative agenda items in 2017 and 2018. No action is requested of the Managing Members at this time. If you have questions, comments or concerns, please call Ryan at 206-787-3014.

B. NWSA PRIORITIES - 2017

1. Harbor Maintenance Tax (HMT) Reform – made substantial progress

In 2016, NWSA staff collaborated with other donor ports to oppose HMT reform provisions in the WRDA bill that would have achieved full use of the HMT while ignoring the priorities of donor ports. NWSA and Signal Group were lead players in this nationwide advocacy. The work of NWSA and other donor ports had two positive outcomes: 1) The harmful HMT reform provisions were removed from the WRDA bill, which passed in December 2016; and 2) our unified opposition demonstrated to other dredging ports that their interests could be served better by collaborating with donor ports.

By January 2017 US ports already were looking ahead to the 2018 WRDA bill. The Association of American Port Authorities had formed a HMT task force to develop a compromise HMT reform solution that would address the needs of all US ports. The key challenge for the task force was to negotiate a compromise to balance the principle of full use of the HMT for harbors that depend on dredging with HMT donor ports' desire for greater equity, as well as NWSA's concerns about international competitiveness.

These discussions proved extremely difficult. Many dredging ports sympathized with donor ports and expressed willingness to compromise, but when it came down to negotiating details, some were intransigent. Dredging ports also had advocates in Congress. In April House Transportation and Infrastructure Committee Ranking Member Peter DeFazio (D-OR) introduced another HMT reform proposal that would guarantee full use of the HMT but ignore the needs of HMT donors. John Wolfe, other West Coast port CEOs and AAPA have met with DeFazio to encourage him to work with us on a broader solution, and NWSA staff and Signal Group have engaged in ongoing discussions with DeFazio's staff and committee staff to encourage a compromise.

In June 2017, Senator Patty Murray and Congressman Dave Reichert introduced the Harbor Maintenance Trust Fund Reform Act of 2017. The entire Puget Sound delegation and several other donor ports' members of Congress signed on as co-sponsors. This bill represents the first time bipartisan, bicameral HMT reform legislation has been introduced that addresses NWSA's concerns about the HMT. NWSA staff and Signal Group worked with our congressional delegation to develop the legislation and bring about its introduction.

AAPA HMT task force negotiations continued through the summer with little progress. The Gulf region joined donor ports in supporting a compromise based on the HMTF Reform Act, but several other ports could not support it, including many in the Pacific Northwest and the Great Lakes region. In late summer NWSA staff developed a new funding distribution proposal and directly engaged Great Lakes ports. The proposal would guarantee a minimum of 8% of HMT funds for donor ports each year. The Great Lakes eventually accepted the idea. The NWSA's funding distribution proposal serves as the framework that AAPA eventually would adopt (in January 2018) as the US port industry's unified position on HMT reform.

2. WRDA Section 2106 – partially achieved goal

NWSA and Signal Group's efforts to obtain increased funding for Section 2106 donor port funding were successful. This is the program we can use for HMT rebates to importers (we are trying to expand this program through the broader HMT reform proposal described above). The Section 2106 program was funded at \$28 million in FY17, up from \$25 million the previous year. Unfortunately, the rebates still have not been issued even though the Army Corps of Engineers (Corps) had committed to implementing rebates in 2017. NWSA staff continues to work on implementation, including engaging the Corps, Customs and Border Protection (CBP). The funding will remain available to us until the program is successfully implemented.

3. Seattle Harbor Deepening Project – achieved goal

The Seattle deepening project is a key element of our strategy to ensure NWSA is capable of handling the largest container vessels serving North America. By January 2017 the NWSA was about halfway through our three-year feasibility study on the deepening project. The NWSA federal team's main goal for 2017 was to secure funding for the study for the remainder of FY17 and FY18. We also sought to begin work to obtain laying the foundation for congressional authorization of design and construction in the 2018 WRDA bill. Efforts of NWSA staff and Signal Group in pursuit of these goals included advocating for the funding with the Corps of Engineers, the Office of Management and Budget, our congressional delegation, staff of the appropriations committees and the committees responsible for authorizing new projects.

NWSA also took advantage of its membership in Pacific Northwest Waterways Association (PNWA) to amplify our messaging on the deepening projects. PNWA takes six trips to Washington DC each year. Each trip includes meetings with the offices mentioned above, as well as with the Idaho and Oregon congressional delegations, and PNWA advocates for the Seattle and Tacoma projects in just about every meeting. In addition, Ryan McFarland is Chairman of AAPA's Harbors and Navigation Committee for 2017 and 2018. The Committee meets twice each year, and each meeting includes senior leadership from Corps headquarters and the Office of the Assistant Secretary of the Army for Civil Works. Ryan's role on the committee has provided additional opportunities for NWSA to engage with the Corps.

4. National Freight Policy – made progress

Our goals for this agenda item were to increase federal funding for freight programs and to implement improved transportation policies that better support multimodal freight infrastructure.

2017 was not expected to be a momentous year for freight policy because the last five-year transportation authorization bill, the FAST Act, passed in 2015. NWSA and other freight stakeholders planned to focus mainly on the implementation of funding programs like TIGER and Fastlane/INFRA (and their funding levels) and FAST Act freight policies. We pursued these ends by outlining our priorities in regular meetings with our congressional delegation as well as during fly-ins organized by our associations.

When the Trump Administration began to discuss the possibility of a new infrastructure initiative, NWSA and the associations with whom we work on freight policy (AAPA and the Coalition for America's Gateways and Trade Corridors) worked to encourage enactment of the initiative and to shape it to focus on freight and port projects. However, it was always considered a long shot to pass standalone infrastructure legislation. While NWSA and other freight stakeholders did weigh in frequently and tracked the discussion closely, we planned to defer full-throated advocacy until it appeared a bill was beginning to move.

In early 2017 the President proposed a budget that would eliminate the TIGER program and cut other transportation programs. NWSA, our associations and our congressional advocates communicated our opposition to the proposal. TIGER funding ultimately was maintained in congressional appropriations bills. We also sought to increase the amount of funding awarded to freight projects under the Fastlane/INFRA program—we believed too much funding in the 2016 funding round was awarded to non-freight projects. Later in 2017, USDOT improved its focus on freight projects in the FY17 Fastlane small projects funding round.

The Trump Administration infrastructure initiative did not materialize in 2017.

5. Safe and Efficient Cargo Screening – made progress

Our goals for this legislative agenda item were to support the deployment by CBP of radiation portal monitors (RPMs) capable of scanning containers at container terminals utilizing straddle carriers and to support adequate CBP staffing levels to ensure efficient movement of cargo through the Puget Sound gateway. The specific RPM issue referenced here was successfully managed by the NWSA commercial team and the RPMs were installed in late 2017. The federal team's role was to educate policymakers in DC about (and seek solutions to) CBP's efforts to make ports increasingly shoulder the burden of paying for CBP facilities, services and equipment that traditionally has been funded by the federal government. This is a nationwide issue and it will require ongoing advocacy in partnership with others in the port industry.

On staffing, in late 2016 NWSA began experiencing episodic challenges obtaining sufficient CBP staffing levels, especially during the peak season. Key factors contributing to the shortage of CBP staffing include insufficient overtime budgets and hiring standards that inhibit local CBP offices from filling their many vacancies. In 2017 the federal team stepped up its efforts on this issue. We met with the leaders of CBP's Seattle Area Port and Seattle Field Office (both of which also cover Tacoma). We engaged the congressional delegation, including Senator Cantwell, who raised about CBP staffing at ports during the confirmation hearing for the new CBP commissioner. We have encouraged our delegation to support CBP reform legislation currently before Congress. We worked with AAPA and other ports on coalition work, including group meetings and providing examples for joint letters and testimony. We also drafted and helped organize a letter to CBP and Department of Homeland

Security leadership signed by 34 NWSA Executive Advisory Council members and other supporters to request more staffing resources for our gateway. NWSA also joined Port of Seattle and Port of Tacoma in co-organizing a career workshop to encourage veterans to apply for CBP jobs. One of the obstacles to sufficient CBP staffing is the stringency of the hiring process. Veterans qualify for an expedited process and can choose their work location.

We did not see evidence that this activity produced results in 2017, but we had successful outcomes in 2018 that can be attributed to our work in 2017.

6. Trade Policy Advancement – no progress made

With the election of Donald Trump, the trade agreements for which we previously had been advocating were now off the table. Our messaging shifted to discussing the benefits of trade more generally as opposed to focusing on policies like specific trade agreements and tariffs. By the end of the year, the Trump Administration had withdrawn from Trans-Pacific Partnership talks and had begun the renegotiation of NAFTA. Our actions in 2017 were mostly limited to supporting members of our congressional delegation that were working to mitigate the negative consequences of the new trade policy.

7. Puget Sound Restoration – achieved goal

The outcome we wanted to see from a federal government relations perspective was to increase or at least maintain funding for federal programs to restore Puget Sound, specifically National Estuary Program, the Pacific Coastal Salmon Recovery Fund and the Puget Sound Geographic Program, and we also wanted to support funding for the Puget Sound Nearshore Ecosystem Restoration Project. Our strategy was to advocate for funding for these existing programs and follow the lead of other organizations in our region that are more experienced with and more directly engaged in federal Puget Sound programs.

NWSA included Puget Sound restoration programs in our annual appropriations requests to our congressional delegation. We expressed our support for the programs in our regular interactions with congressional staff and members. For those members who are championing the restoration effort, we check in with them regularly to see how the NWSA can support their work. We met with Puget Sound Partnership (PSP) staff to offer our support. NWSA managing members signed the coalition letter that the PSP organized in support of Puget Sound funding.

When the final FY17 appropriations package was passed, each of the programs received either increased or level funding compared to the previous year.

C. NWSA PRIORITIES - 2018¹

1. Harbor Maintenance Tax (HMT) Reform – made substantial progress/to be determined

On January 17 the US port industry has agreed to a unified industry position on HMT reform. The agreement was reached during a meeting at AAPA headquarters in Alexandria VA that

¹ With a full third of a year remaining, including final passage of federal appropriations bills, the fate of many items on the NWSA's legislative agenda remains "to be determined."

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included representatives from all US port regions. NWSA's leadership was essential in developing the framework for the proposal and negotiating the compromise with other ports. This agreement was a significant step. It is the first time since the creation of the HMT that ports have agreed to a common HMT reform proposal and it has allowed the industry to advocate collectively on this year's Water Resources Development Act bill (WRDA).

The proposal would guarantee full use of the HMT and provide a minimum of 8% of HMT revenues to donor ports, and possibly as much as 10%. Under the 8% scenario, based on 2017 cargo numbers, NWSA's share would be around \$24 million, compared with \$3.1 million under the current Section 2106 funding level. These funds can be used for HMT rebates to shippers or for a limited number of in-water uses, such as maintenance dredging in berths.

AAPA asked NWSA staff and Signal Group to take on the lead role in drafting legislation around the unified port industry position (AAPA agreement). NWSA's DC representative, Jeff Markey at Signal Group, was the lead author of the legislation on behalf of the coalition. The AAPA agreement represented a consensus on a set of policies. Yet the act of drafting the legislation unearthed several details that required several months of additional negotiation among the ports. Signal Group is the one to whom fell the tasks of identifying the missing details and, along with NWSA staff and AAPA, of developing solutions. The draft legislative text was completed in late June.

To help enact the legislation, AAPA's Legislative Policy Council (LCP) approved funding to hire an outside firm for additional lobbying and communications support. AAPA selected Signal Group in recognition of Jeff Markey's expertise on HMT and port funding issues.

Our goal is to incorporate the legislative language into the 2018 Water Resources Development Act bill (WRDA). Congress will resume negotiations on WRDA this fall; final passage might not occur until after the November elections. Led by AAPA and Jeff Markey, the US port coalition has engaged in extensive advocacy with members of the committees of jurisdiction for WRDA, and this proposal already has a good foundation of support. Yet passing our legislation will still be a challenge. The main obstacle we need to overcome is reluctance to ensure full use of the HMT, which some members of Congress (including Speaker Ryan and some Budget Committee members) view as a spending increase.

Some highlights of our advocacy campaign include testimony on behalf of the port industry proposal from Port of Grays Harbor Executive Director Gary Nelson at a House Transportation and Infrastructure Committee round table in Coos Bay, OR on April 20. Nelson's remarks included mention of the priorities of donor ports. In addition, Commissioner Calkins had an opportunity to talk about NWSA's concerns with the HMT before the Democratic members of the House Ways and Means Committee at a retreat in Seattle. Commissioner Calkins was invited by Rep. Suzan DelBene to share Port of Seattle's perspective on trade issues, and he incorporated the HMT into his remarks.

For the Section 2106 program, Congress increased appropriations for the program for FY18 to \$40 million from \$28 million the previous year. The House and Senate appropriations committees proposals for FY19 would further increase funding for the program to \$50 million. Work continues to implement the program. NWSA staff, including John Wolfe, and Signal Group have had two face-to-face meetings with leaders at CBP headquarters this year to

encourage them to expedite implementation. CBP and the Corps finally seem to be making substantive progress. We are optimistic the HMT rebates will be issued this year.

2. Seattle Harbor Deepening Project – achieved goal

Our goal for 2018 was to complete the feasibility study and obtain authorization for design and construction in the 2018 WRDA bill, which we expected to be passed at the end of 2018. The NWSA federal team continued the same advocacy strategy as we did in 2017 in pursuit of these goals.

On June 7, the Chief of Engineers of the Army Corps of Engineers signed the chief's report for the Seattle Harbor Navigation Improvement Project. This marked the completion of the feasibility study. Language authorizing design and construction of the project has been added to the latest draft of the Senate's WRDA bill. With WRDA expected to pass this year, the next step is to pursue congressional appropriations to begin project engineering and design.

Corps personnel have told us they view the Seattle deepening study as a prime example of successful collaboration between the Corps and a non-federal project sponsor in terms of project management for our deliverables for the study, our ability to navigate the Corps process, and our advocacy work in the federal sphere.

3. Tacoma Harbor Deepening Project – achieved goal

Our goal for 2018 was to receive congressional authorization to begin a new feasibility study on Tacoma Harbor deepening. The standard process is to receive authorization in a WRDA bill, which would have meant the project could not begin until spring 2019 at the soonest because Congress did not intend to pass a WRDA bill until late 2018. Instead, in coordination with the Corps, we opted to pursue authorization through the FY18 Corps work plan. Under this option, in its appropriations bill Congress gives the Corps authority to select a certain number of new projects for authorization.

Our work toward our goal began in 2017. NWSA staff submitted the request for the new study and coordinated with Seattle District on technical issues and preliminary scope. NWSA staff met with Corps headquarters staff, who indicated support for the Tacoma new start. Because we heard the Trump Administration is trying to avoid initiating new study starts to reduce federal spending, NWSA staff and Signal Group met with OMB to argue the merits of a deepening project in Tacoma. We engaged our delegation staff, who also weighed in with the Corps and OMB. We met with staff of appropriations committees (as did delegation staff), and the FY18 appropriations bill included forceful language that would require the Corps to pursue new starts in FY18.

The Corps released their FY18 work plan in June. The work plan included a new start for the Tacoma deepening study, meaning the study is now authorized by Congress and can begin this calendar year. The next key step was for Port of Tacoma to sign an agreement with the Corps ("feasibility cost share agreement") that commits the port to a 50-50 cost share of the feasibility study. The Managing Members authorized staff to proceed at the August 14 meeting, and the agreement with the Corps was signed on August 21. By the end of the year the Corps will have developed the alternatives, conducted NEPA scoping and held public meetings on the project.

4. Terminal 5 Modernization Project – to be determined

The role of the NWSA federal team on the T5 project was to support the development of grant applications and advocate for grant awards with the federal government.

In November 2017 NWSA staff submitted an application for an Infrastructure for Rebuilding America (INFRA) grant for the Terminal 5 Improvements project. NWSA requested a \$70 million grant. We expected the T5 application should score well under the INFRA scoring criteria because of its high non-federal cost share of 75%, the incorporation of substantial private sector funding, and, most importantly, we could demonstrate the project would result in significant national economic benefits. Potential weaknesses in our application included the lack of a tenant and the delays we experienced in spending federal funds for our TIGER grant at T46. Yet the biggest challenge was the stiff competition we faced. A total of \$1.5 billion was available, but only about \$275 million remained for non-highway projects for the next three funding rounds combined. The T5 project had to compete for these limited “multimodal” funds.

NWSA staff’s advocacy efforts included:

- Letters of support for the project were obtained from numerous commercial and government stakeholders. Several members of the Washington State Congressional Delegation provided support letters, including Republicans Dave Reichert and Dan Newhouse.
- Staff advocated for the project and arranged tours of the T5 site with House Transportation and Infrastructure Committee Chairman Bill Shuster (R-PA) and the new Administrator of the Maritime Administration, Mark Buzby—MARAD has a say in the selection process and is the modal agency that would administer the grant if T5 receives the award.
- Meeting at MARAD headquarters with other officials involved in the grant award process and administration.
- Ongoing engagement with congressional offices to encourage their support for the project and to communicate that support to the Trump Administration.
- Following the grant award announcements, for the sake of setting us up for success in the next INFRA round, we also provided T5 site tours to officials from key offices at the US Department of Commerce and Federal Highway Administration.

In May NWSA received questions from the Secretary of Transportation’s office about the T5 proposal, meaning that our project was on the short list of potential awardees under consideration by the Secretary. NWSA staff engaged our congressional delegation for additional support in this final stage of the selection process.

Unfortunately, the NWSA’s T5 project was not selected for an award when announcements were made in June. 46% of the projects are in rural areas, exceeding the 25% minimum for rural areas that is statutorily required. Politics might have been a factor to some degree too (see attachment 4). NWSA staff believes another reason our proposal could have been viewed as less competitive was the size of the award we requested given the limited funding available for multimodal projects.

NWSA staff arranged a debrief on our application with the US Department of Transportation (USDOT). USDOT told us our application scored well and confirmed that our proposal had

advanced to the Secretary of Transportation's office. The USDOT official with whom we spoke agreed that reducing the size of our request in the next round would make our project more competitive. \$200 million in multimodal funding is available for the next two INFRA rounds, and we will operate on the assumption that roughly \$100 million will be available each year.

NWSA staff are preparing to resubmit the application and will apply the lessons we have learned. USDOT officials have said they expect to issue a new notice of funding opportunity for the INFRA program soon, with applications due this fall. Awards would be released in early winter.

5. National Freight Policy – made progress

In 2018 our goals remained much the same as in 2017: to increase freight funding and increase the attention freight receives from the administration and Congress. Funding for the BUILD/TIGER program tripled from the previous year to \$1.5 billion. 56% of available funds went to projects with a strong freight component, setting a new record. The FY17/18 round of INFRA saw over 87 percent of funding go to freight projects or projects with a strong freight component—an improvement over the last round in 2016.

In February the Trump Administration released its infrastructure plan. The plan proposed \$200 billion in federal spending proposed over ten years. It was not limited to transportation infrastructure alone; it focused on all types of infrastructure. It was not written in legislative format and did not include any specific source for the \$200 billion investment, other than “cuts to other parts of the federal budget.” In short, it was not a proposal that could easily be put into action.

By March it was appearing less and less likely Congress would attempt to pass a standalone infrastructure package. Congress sought to address infrastructure through the appropriations process and separate authorization bills like WRDA and the FAA authorization. This is precisely what happened when Congress passed its omnibus appropriations legislation for FY18 in March. Most key infrastructure programs of interest to NWSA received strong funding increases, including the boost to TIGER described above.

6. Safe and Efficient Cargo Screening – achieved goal

Because the RPMs were successfully deployed in 2017, the federal team's focus shifted to CBP staffing and ensuring the federal government retains responsibility for funding CBP services, equipment and facility development.

In 2018 we have continued to use the advocacy methods employed last year. Some highlights include participating in a meeting organized by AAPA with Senate Homeland Security Committee staff (who are working on the next Homeland Security authorization bill) and John Wolfe's meeting in DC with John Wagner, CBP's Deputy Executive Assistant Commissioner for the Office of Field Operations. DEAC Wagner told our team 19 new officers would soon be arriving at Area Port of Seattle. Jeff Markey organized and staffed the meeting with DEAC Wagner. Local CBP representatives have told us they believe the additional officers are a result of the NWSA's advocacy over the past two years.

7. Trade Policy Advancement – to be determined

In March President Trump released his plan to levy 25% tariffs on imported steel and 10% tariffs on imported aluminum. Also in March, the administration announced about \$60 billion in tariffs on a wide range of Chinese imports using the President's authority under Section 301 of the Trade Act. This was followed by an announcement of new tariffs on imported vehicles and parts.

In response to these and other announcements, the federal team adopted a more active strategy to highlight our opposition to the tariff proposals and the damage we believe they could cause to the Washington state economy. For this issue we have benefited from the expertise and involvement of Eric Schinfeld from the Port of Seattle, who was previously the Executive Director of the Washington Council on International Trade.

Led by Eric, the federal team created a press release on the steel/aluminum tariffs and submitted comment letters on the Section 301 China tariffs and the auto tariffs. These products were referenced in multiple media outlets across the nation. At the invitation of Rep. Dave Reichert, in April John Wolfe testified at a House Ways and Means Committee hearing on the potential impacts of the Trump tariffs. The federal team drafted the testimony and staffed John during his trip. Many of our commissioners also have been outspoken on trade, giving interviews, providing quotes for articles and addressing community groups and national associations. The federal team have supported many of these engagements. Finally, we have supplied our congressional delegation with a steady stream of information on the impacts of various trade proposals so they could use our examples in their ongoing work to protect our state's economy.

The NWSA has arguably been the top leader among all US ports on trade policy in the Trump era.

8. Puget Sound Restoration – to be determined (awaiting final appropriations numbers)

Our goals and strategies for Puget Sound restoration remained the same in 2018 as in 2017, although there was greater urgency because this year the President proposed eliminating Puget Sound restoration funding from the FY19 budget. In addition to requesting funding for restoration programs in our appropriations request and signing the PSP coalition funding support letter, this year Jeff Markey from Signal Group attended Puget Sound Day on the Hill, organized by the PSP. About 60 people from our region traveled to Washington DC to participate in the fly-in. The goal of Puget Sound Day on the Hill is to advocate for funding and to educate policymakers and administration officials on the important work being done in the Puget Sound and the essential role it plays in the health of the region's environment and economy. Jeff participated in both days of the fly-in and joined small group meetings with Senator Cantwell, Representative Jayapal and Congressman Kilmer.