



Item No. 8A_Supp
Date of Meeting: January 11, 2022

Water Resources Reform and Development Act (WRRDA) Section 2106 and Harbor Maintenance Tax (HMT) Donor Port Overview and 2022 Section 2106 Funds Distribution

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Action Requested

- Request waiver of second reading and request adoption of Joint Resolution of the Port of Seattle (No. 3798) and Port of Tacoma (2022-01-PT) transferring the WRRDA Section 2106 funds received by the home ports in 2022 to the NWSA, authorizing the use of the Section 2106 funds by the NWSA for eligible projects within the specified home port harbors, continuing the use of a fund within the NWSA that does not impact the 50/50 split of membership interest based on the Section 2106 distributed to the NWSA, and authorizing the use of cash for eligible NWSA capitalized projects and the return of cash to the two home ports for expensed projects.



History

- In May 2021, the Managing Members authorized the two home ports to contribute the Section 2106 funds to be received in 2021 to the Northwest Seaport Alliance for use on eligible projects with the following stipulations
 - Staff estimated that 97% of the funds are generated by cargo activity
 - Funds transferred do not impact the 50/50 membership interest
 - Funds would be spent in the harbor where the funds were received
 - The use of HMT funds by the NWSA would reduce the amount of capital contributed or increase discretionary cash distributed to the home ports
- This was a one-time approval
- This presentation will request similar disposition of the 2022 Section 2106 funds to be received and propose a strategy for developing the policy for distribution of future Section 2106 and HMT funds

2021 Section 2106 spending update

- **HMT funds were provided to each home port in August and transferred in August to the NWSA**
- **POS**
 - Received \$2,782,000
 - Spent November YTD \$176,946 on T5 N. Berth Toewall
 - Expect all remaining funds to be spent on N. Berth Toewall. Toewall to be completed December 2021
- **POT**
 - Received 2,744,000
 - Spent November YTD \$1,871,931 on WUT and Blair dock fenders
 - Expect all remaining funds to be spent on Husky and WUT berth maintenance dredging ongoing now or completed.



HMT Reform and WRRDA Section 2106

- Payments to donor ports resulted from donor ports' efforts to reform the HMT to address the unequal distribution of the funds collected. The ports of Seattle and Tacoma specifically focused on the competitive disadvantage the HMT imposed on the NWSA and its cargo facilities compared with Canadian ports.
- Senator Murray led the creation of a program for donor ports under Section 2106 in the Water Resources Reform and Development Act (WRRDA) of 2014 to allow donor ports to receive some HMT funds for customer rebates or limited uses beyond the historical use of HMT funds
- The 2020 WRDA bill included additional HMT reform provisions that will significantly increase the amount of funds returned to donor ports starting Federal Fiscal Year 2023 (October 2022).



WRRDA 2106 & Harbor Maintenance Tax Overview

Allowable usage for donor ports:

1. Rebates (“to provide payments to importers entering cargo through that port, as calculated by the Secretary according to the value of discretionary cargo”) [Only for Sec. 2106 funds; not allowable for HMT funds] {process of rebates managed by CBP}
2. Maintenance dredging in berths
3. Dredging and disposal of legacy-contaminated sediment and sediment unsuitable for open water disposal. This applies to both federal channels and berths. Material must be associated with maintenance dredging (does not include deepening)
4. An in-water improvement, if the improvement—
 - is for the seismic reinforcement of a wharf or other berthing structure, or the repair or replacement of a deteriorating wharf or other berthing structure, at a port facility;
 - benefits commercial navigation at the harbor; and
 - is located in, or adjacent to, a berth that is accessible to a Federal navigation project
5. An activity to maintain slope stability at a berth in a harbor that is accessible to a Federal navigation project if such activity benefits commercial navigation at the harbor
6. Environmental remediation related to dredging berths and Federal navigation channels [Only for Sec. 2106 funds; not allowable for HMT funds]



2022 Section 2106 Funds

- The Ports of Seattle and Tacoma are expected to receive Section 2106 funds in 2022 like the 2021 amounts:
 - POS \$2.7 million
 - POT \$2.7 million
- Proposed uses of the 2022 Section 2106 funds include:
 - POS
 - \$2,205,000 for T5 south berth toe wall
 - Remainder for T18 and/or T30 berth maintenance dredge budgeted at \$13M in 2022/2023
 - POT
 - PCT berth maintenance dredge budgeted at \$7.7M in 2022/2023
 - PCT fender replacement budgeted at \$2.8M in 2022/2023
 - Pony dock repair of \$300k in 2022



Future HMT and Section 2106 Funds

- Section 2106 funds will continue through 2030
 - Total 2022 Sec. 2106 funds to be distributed is \$50M; donor share \$25M
 - 50% split evenly between donor ports
 - 50% split based on HMT generated the donor port
 - 2106 appropriation jumps to \$56M in FY23 then grows by \$2M/yr
 - Amount received will vary with changes in number of donor ports and HMT generated at each port
- HMT funds will start to be distributed in 2023
 - Uses the same “equation” as Sec. 2106 funds
 - Amount depends on
 - Amount in congressional appropriations bill
 - Number of donor ports
 - HMT generated by each donor port
- Estimated total Sec. 2106/HMT funds starting FY 2023 total \$30M between the two home ports.



Strategy for 2022 Section 2106 Funds

- **Consistent with funds received in 2021, all 2022 Section 2106 funds to be transferred to NWSA**
 - Projects have been identified and are in the 2022 Capital Investment Plan
 - Home port generated from Cruise or POT autos are small dollars
 - Home ports need to identify uses of any funds retained that meet the same criteria.



Strategy for 2023 and Beyond

- **Some Sec. 2106/HMT funds are generated by non- NWSA activity**
 - POS Cruise
 - POT Auto
 - Non-port customers within the gateway
- **The exact amounts are difficult to determine**
- **2022-2026 Capital Investment Plan identified major NWSA projects in 2024 and beyond that may be accelerated to utilize FY2023 HMT funds**
- **Recommend addressing funds received in 2023 and beyond to the 2023 budget process**
 - Identify projects that can be accelerated to utilize funds
 - Allow home ports to identify uses of HMT outside the scope of NWSA



Proposed Joint Resolution

(Seattle 3798, Tacoma 2022-01-PT)

- **Transfer 2022 Section 2106 funds from home ports to NWSA.**
- **Funds transferred do not impact the 50/50 Membership Interest**
- **Funds will be spent in the harbor from which the amounts were received on allowable projects.**
- **For capitalized projects, cash in the fund will be used to pay for those projects. No Capital Construction contribution from home ports will be required for those projects.**
- **For expensed projects, cash in the fund will be distributed back to the home ports in an amount equal to the expensed project in a 50/50 split.**
- **Can be used on projects in current and all future federal fiscal years**



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