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# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

March 24, 2016

CHRISTOPHER R. HIXON, STAFF DIRECTOR  
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Honorable Ashton B. Carter  
Secretary of Defense  
1400 Defense Pentagon  
Washington, D.C. 20301

Dear Secretary Carter:

Pursuant to its authority under Senate Resolution 73 (114th Congress), the U.S. Senate Permanent Subcommittee on Investigations is examining allegations that the U.S. Army Corps of Engineers (Corps) deliberately reduced the amount of its appropriated funds for the Cleveland Harbor project in order to render itself unable to dispose of dredged material in a safe manner.

The Ohio Environmental Protection Agency has determined that material dredged by the Corps from the Cuyahoga River is not safe for open lake placement. According to the Ohio EPA, disposing of the dredged material by dumping it in Lake Erie, as the Corps prefers, would pose a threat to both the City of Cleveland's water supply and Lake Erie's ecosystem.<sup>1</sup> Instead, Ohio environmental authorities and the Cleveland-Cuyahoga County Port Authority have determined that the material must be placed in a combined disposal facility.<sup>2</sup> The President's budget request for Fiscal Year 2016 included \$9.54 million for the Cleveland Harbor project—enough money to safely dispose of the material. The final appropriations bill, however, reduced that amount to \$5.94 million, which is less than the amount needed to dispose of the dredged material safely in a combined disposal facility. It should be noted that this cut to funds benefitting Ohio was only a reallocation; the Corps' overall Fiscal Year 2016 request remained unchanged.

Remarkably, the *Cleveland Plain Dealer* reported that the Corps lobbied the House and Senate Appropriations Committees to reduce its own funding for the Cleveland Harbor project.<sup>3</sup> At a Cuyahoga County Council meeting, Lt. Col. Karl Jansen of the U.S. Army Corps of Engineers confirmed that less money was in fact requested for the Cleveland Harbor project.<sup>4</sup> As a result of this apparently self-inflicted budget cut, the Cleveland-Cuyahoga County Port

<sup>1</sup> See Complaint for Declaratory Judgment and Injunctive Relief, *Ohio v. U.S. Army Corp. of Engineers* (N.D. Ohio filed Apr. 7, 2015) (No. 1:15-cv-00679).

<sup>2</sup> *Id.*

<sup>3</sup> Christopher Evans, *Call Out Army Corps on Cuyahoga River Dredge Deception*, CLEVELAND PLAIN DEALER, Feb. 3, 2016, [http://www.cleveland.com/opinion/index.ssf/2016/02/call\\_out\\_corps\\_on\\_cuyahoga\\_riv.html](http://www.cleveland.com/opinion/index.ssf/2016/02/call_out_corps_on_cuyahoga_riv.html).

<sup>4</sup> *Health, Economic and Environmental Issues Surrounding Dredging and Dumping of Dredged Materials from the Cuyahoga River*: Hearing Before the Cuyahoga County Council's Education, Environment & Sustainability Committee (Feb. 3, 2016) (testimony of Lt. Col. Karl Jansen).

Authority wrote to me “that this request was made as an attempt to circumvent” a federal judge’s order banning open-lake disposal.<sup>5</sup>

To assist the Subcommittee in its inquiry, please provide the following:

1. Any document concerning appropriations for the Cleveland Harbor project for Fiscal Year 2016, including any analyses or Justification Statements associated with the Corps’ appropriations request. *Do not include communications with any committee or subcommittee of the House of Representatives or the Senate.*
2. Any document concerning cost projections of dredging the navigation channel of the Cuyahoga River for the past five years. Include cost projections for any method of disposing of the dredged material, including but not limited to disposal in a combined disposal facility and disposal through open lake placement.
3. Any document concerning the Corps’ multi-year sediment evaluation, including but not limited to the sampling and results indicating that the sediment is safe for open lake placement.
4. Any document concerning tipping fees for the Cleveland Harbor project for both FY2015 and FY2016.
5. A list of other “Projects or Programs” in the 2016 Work Plan requesting less funding than allocated under the President’s budget and an explanation detailing the reason for requesting less funding.
6. A list of any other ports, harbors, or other Corps projects where tipping fees were paid as part of the Federal Standard.
7. The Corps’ revised budget estimate for Cleveland, Fairport and Lorain as reflected in the Consolidated Appropriations Act for FY2016.
8. Any work plans for any Ohio harbors.
9. Any documents concerning the Corps’ rationale and need to dredge Fairport and Lorain in 2016.

Please provide answers to the above questions as soon as possible, but in any event no later than April 7, 2016. In order to expedite the Subcommittee’s review, we ask that you submit the material responsive to this request as it becomes available, rather than waiting to provide it all at once. Also, please make available knowledgeable staff to brief Subcommittee staff on this matter.

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<sup>5</sup> Letter from William D. Friedman, President & CEO, Cleveland-Cuyahoga County Port Authority to Sen. Rob Portman (Jan.5, 2016) (on file with the Subcommittee).

Please send any official correspondence relating to this request to the Subcommittee Chief Clerk, Kelsey Stroud (Kelsey\_Stroud@hsgac.senate.gov). Thank you for your assistance with this matter.

Sincerely,

A handwritten signature in black ink that reads "Rob Portman". The signature is written in a cursive, slightly slanted style.

Rob Portman  
Chairman  
Permanent Subcommittee on Investigations

cc: Claire McCaskill  
Ranking Member  
Permanent Subcommittee on Investigations