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U.S. DEPARTMENT OF COMMERCE
Washington, D.C. 20230

Statement of Alan S. Boyd, Under Secretary of Commerce for Transportation, Before the Subcommittee on Flood Control - Rivers and Harbors of the Senate Public Works Committee on S. 3698, September 20, 1966

Mr. Chairman, Members of the Subcommittee:

I am Alan S. Boyd, Under Secretary of Commerce for Transportation. I am accompanied by Mr. Joseph H. McCann, Administrator of the St. Lawrence Seaway Development Corporation. We are here in response to the Committee's invitation to testify on S. 3698.

The Corporation is, by its incorporating statute, subject to the direction and supervision of the President, or the head of such agency as he may designate. This function is now filled by the Secretary of Commerce, a responsibility assigned by Executive Order 10771, dated June 20, 1958.

While we recognize in this legislation concern and interest in insuring the Seaway's continuing growth as a vital artery of domestic and international commerce, we do not believe that the bill reflects an appropriate method for accomplishing that end. Before dealing with the specific provisions of the bill, I believe it would be appropriate first to discuss the existing law by which the Seaway is governed and its financial obligations. The St. Lawrence Seaway Development Corporation is authorized by statute to issue revenue bonds to the Secretary of the Treasury in a face amount not exceeding $140 million. The maturity of the bonds cannot exceed fifty years, and the interest rate is based on the current average rate on marketable obligations of the United States of comparable maturities as of the last day of the month preceding the issuance of the bonds. Interest payments may be deferred but any such deferred payments bear interest after June 30, 1960.

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Existing law also requires that the tolls prescribed for the use of the St. Lawrence Seaway be calculated to cover as nearly as practicable all costs of operating and maintaining the works under the administration of the Corporation, including depreciation, payment of interest on the obligations of the Corporation, and payments in lieu of taxes. Any tolls are required to provide revenues sufficient to amortize the principal of the debts and obligations of the Corporation over a period not to exceed fifty years.

As of June 30, 1966, the Corporation under this authority has issued to the Secretary of the Treasury $124.8 million of revenue bonds. The amount of unpaid deferred interest and interest on such deferred interest amounted to $18.8 million as of June 30, 1966. This latter figure includes both deferred interest during construction (not charged to the Borrowing Authority) and deferred interest operations (not earned from tolls nor charged to the Borrowing Authority). The Corporation's total debt is approximately $143.6 million.

Turning now to S. 3698, it provides for the recapitalization of the Corporation by the conversion of the outstanding revenue bonds and the accrued interest thereon to capital stock with cumulative dividends of 3.45 percent, which is the weighted average of interest rates on outstanding borrowing. The bill would also revise the existing criteria for calculating toll charges to provide that the tolls prescribed shall not exceed those in effect on January 1, 1966, and shall be calculated to cover, as nearly as practicable, at full capacity operations, all costs of maintaining the works under the administration of the Corporation, payment of interest on obligations of the Corporation, payment of 3.45 percent per annum cumulative dividend on the capital stock of the Corporation, and payments in lieu of taxes. The existing requirement that tolls be sufficient to amortize the principal of the debts and obligations of the Corporation would be eliminated, as well as the requirement that depreciation be considered in setting toll charges. Finally, the bill also excludes from the newly prescribed basis for calculating tolls all costs of maintaining the works and provides instead that the costs of maintaining the works under the administration of the Corporation shall be paid from appropriations made from the Treasury and shall not be included in the toll calculations.

It is important to note that fundamental to the economic justification in 1954 for the Seaway project was the agreement that it could be self-supporting and non-subsidized. This recognition is entirely consistent with the position and policy of Congress that facilities provided at Government expense be paid for by those who directly benefit from their use, and that such charges improve efficiency in the use of resources; Title V of the Independent Offices Appropriations Act of 1952 states definitively the self-sustaining philosophy of Congress in this regard. However, while the bill states that the purpose of the conversion of the revenue bonds is "to protect the investment of the United States in the Corporation's assets," it fails to do so. Specifically, the new toll criteria no longer contain the existing requirement that the tolls shall provide sufficient revenue to amortize the principal of the obligations of the Corporation. In effect, the bill simply writes off well over $143 million in the debt of the Corporation.

There is also no indication that the establishment of tolls based on those in effect on January 1, 1966 or lower figures based on operations at full capacity--the tests specified in the bill--would yield sufficient revenues to permit the repayment of the Government's investment. During the Seaway's operations, traffic has reached only about 70 percent of full capacity at its highest point. Full capacity may not be achieved for some years and operating costs can be expected to rise as the project becomes less efficient with age. The exclusion of depreciation in calculating tolls would result in its exclusion as an operating cost as presently required. It should be pointed out, however, that only such machinery as is replaceable within fifty years is depreciated in calculating tolls. Generally, depreciation is not considered practicable of recovery through tolls, and a joint agreement between the two countries reflects this understanding. As to the Seaways' accounts, however, depreciation is calculated pursuant to GAO accounting procedure.

The bill would, as indicated, omit all costs of maintenance and pay such costs from the Treasury. If, by the term "maintenance," the bill means, in part, to exclude the construction deficiencies and deteriorations which have occurred in the Eisenhower lock over the years, we agree that such costs should not be attributable to the Corporation but rather to the Corps of Engineers or to the Treasury. We do not see the necessity for legislation in this regard, however, since we believe the Corps is required to complete a structurally sound project, a status not yet achieved. Otherwise, we see no reason whatsoever to exclude the recovery of maintenance costs through tolls.

We are convinced that full and complete disclosure of the true financial condition of the Corporation was, and should remain, Congressional intent. The legislation advanced clearly results in very substantial indirect government subsidies by eliminating losses through accounting adjustments. At this point, it is well to note that the Seaway Corporation has already been accorded a significant subsidy in that the joint costs involved in the overall multipurpose project (power and waterway development) are charged to the power element and not to the Corporation.

The Seaway's bright future should not be written off in the manner proposed. To do so would constitute an admission of failure as to its self-sustaining potential. We do not believe such action is either appropriate or necessary.

The bill is subject to other infirmities. We note, for example, that the proposed toll formula may cause some problems and still not accomplish the intention of the bill to freeze the toll rates at not higher than the January 1, 1966 levels. Initially, the rate ceiling could only apply to the works constructed, maintained, and operated by the United States, unless this result could be accomplished by international agreement with Canada to retain the present tolls on the entire Seaway system. However, our ownership represents about 29 percent of the invested cost in the St. Lawrence River Section of the Seaway, and since Canada has the major investment in the waterway, she could raise the tolls unilaterally on her portion of the Seaway, thereby raising the overall cost of transiting the Seaway by the users.

The proposed legislation would require that tolls cover certain specified costs, as well as provide for cumulative dividends, as nearly as practicable, at full capacity operations. As noted previously, we have not yet achieved full capacity. Moreover, the phrase "full capacity of operations" may be difficult to identify with any degree of accuracy. The capacity of the Seaway has been increasing in recent years from the 50 million tons originally estimated, and is dependent upon many factors; such as the length of the shipping season, size of the vessels transiting the Seaway, type of cargo tonnages carried, and the efficiency of the entire operation. Improvements in both shipping and operating technology will further affect the capacity of the existing facilities. On the other hand, if the existing rates are required to return, as nearly as practicable, the costs of operations, payments in lieu of taxes, interest on the obligations of the Corporation, and a 3.45 percent cumulative annual dividend, they could possibly constitute a burden in the present traffic developmental years that would be difficult to make up in future years.

We would also note that the toll sharing formula agreed to in a 1959 International Agreement between the Seaway entities provided for tolls to be divided based upon each country's respective annual charges for operation, maintenance, interest and retirement of debt on the Seaway. Any refinancing plan by one country and not the other would affect the results of applying this formula and would require appropriate adjustment acceptable to both countries. Therefore, any significant financial relief could redound to our disadvantage if Canada should refuse to amend that part of the original International Agreement pertaining to toll sharing.

In sum, we view this bill as inconsistent with the original intent of Congress and with long-established policy governing facilities and services provided at Federal expense to special beneficiaries. In addition, the bill is uncertain in a number of respects and requires substantial clarification. The Seaway's traffic and revenue have shown very significant upward trends over the years. We believe these trends can and will continue and that its debt can and will be repaid without the enactment of this proposal.