

U.S. Senate Committee on Commerce, Science, and Transportation

Nominations Hearing of Rear Admiral Ann Phillips (USN, Ret.)

December 16, 2021

Questions for the Record – Minority

Ranking Member Roger Wicker

Question 1: *The National Academy of Public Administration recently released a report showing that the U.S. Merchant Marine Academy has been under-resourced for far too long. Admiral Phillips, as the Maritime Administrator, you will have the primary responsibility for ensuring that the U.S. Merchant Marine Academy has the resources it needs to support a first class maritime education for the midshipmen who support the U.S. Strategic Sealift. Will you commit to working with me to ensure that the academy gets the resources and support it needs?*

Response: Should I have the honor to be confirmed, I look forward to working with you to ensure the Academy gets the resources and support it needs.

Question 2: *Our Midshipmen are the best and the brightest, and I want to work with you to support them. Recently, MARAD declined to work with my office on my Improving Protections for Midshipmen Act, which would improve the Academy's ability to prevent and respond to the issues of sexual assault and harassment. I am deeply disappointed by this action, particularly because it is a sharp departure from the strong, collaborative relationship my office has previously enjoyed with MARAD. Will you commit to working with me and my office, including by providing timely responses to our questions and requests for technical drafting assistance?*

Response: Should I have the honor of being confirmed, I will work collaboratively with the Committee, including on requested appearances before the Committee, and I will provide timely responses to requests for information.

Question 3: *Sea Year is an essential part of the education at the Merchant Marine Academy. In response to the Administration's Sea Year pause, the students at the Academy said, "we love USMMA, feel privileged to be here and that spending a year at sea training on commercial and military ships has made us fully prepared to serve the United States as officers in the merchant marine and military service." I have inserted the Midshipmen's letter into the record. My Improving Protections for Midshipmen Act makes changes that will ensure Sea Year can remain a part of the curriculum for students. I strongly support the Administration's plan to restart Sea Year by December 22. Will you work with me to get students back to sea safely and quickly?*

Response: It is my understanding that the Maritime Administration recently provided Congress with its plan to get the students back to sea safely and quickly. Should I have the honor to be confirmed, I look forward to working with you to ensure a safe and inclusive learning environment at the U.S. Merchant Marine Academy and on vessels where Cadets train.

Question 4: *The Center for Strategic and International Studies has raised serious concerns over China's control of the world shipping fleet. China controls over one-third of ships in the global fleet, while the U.S. controls just 0.4%. As the Maritime Administrator, your job will be to ensure that we have an adequate merchant marine to safeguard our economic and strategic security. What actions will you take to grow the size of our maritime fleet and to increase the number of mariners in the U.S. Merchant Marine*

Response: It is my understanding that MARAD maintains the organic sealift fleet according to requirements established by the Navy. Key programs supporting our commercial sealift today are the Cargo Preference program and the Maritime Security Program. New initiatives such as the Cable Security Fleet program and the recently authorized Tanker Security Program will also grow our commercial sealift capacity, support our economic and strategic security, and increase the number of jobs available to U.S. mariners. Should I have the honor of being confirmed, I will look to work with Congress and other stakeholders to identify and implement the best opportunities to grow the fleet, consistent with statutory authorities and appropriated funding.

Question 5: *One of the oldest marine highways, the Mississippi River, is a vital transportation hub for goods across the nation. Can you speak about the importance of America's marine highways and how you plan to support further use of marine highways to facilitate maritime transportation?*

Response: America's waterways are underused as cargo transport routes, and the benefits of using our marine waterways are significant. Such benefits include reducing road congestion and highway system wear and tear, providing shippers cost-effective alternatives for moving freight, and the potential to reduce pollution. Using our waterways more consistently would broaden public benefits and incentivize shippers to use these critical and available transportation routes. As you know, there is more investment opportunity as additional funding has been appropriated for the program, particularly in the recently passed Bipartisan Infrastructure Law. Should I have the honor of being confirmed, I look forward to using these additional resources to strengthen the Marine Highway Program.

Question 6: *What will you do to ensure that all cargo preference waivers are transparent and subject to both MARAD approval and public scrutiny, consistent with the President's recent Buy American Executive Order?*

Response: It is my understanding that MARAD does not issue waivers of the cargo preference laws. That authority rests with the President, the Secretary of Defense, and Congress. In practice, the agency responsible for the movement of goods seeks MARAD's input on the availability of suitable U.S. vessels to meet its transportation requirements and MARAD concurs or non-concurs with that agency's determination of availability. If confirmed, I will work to ensure transparency in MARAD's determinative process.

Senator Mike Lee

Question 1: *If confirmed, what will be your key priorities?*

Response: Should I have the honor to be confirmed, my priorities, consistent with my testimony, would be:

First, promoting a strong U.S. Merchant Marine, continuing the recapitalization of the strategic sealift fleet, and building support for a competitive, safe, and modern maritime industry, capable of meeting strategic sealift support requirements and prepared to succeed in a contested environment. This includes addressing the many challenges at the U.S. Merchant Marine Academy, including implementing measures to support a safe and inclusive learning and training environment - both on campus and at sea.

In addition, advancing the ongoing effort to address the Academy's many infrastructure challenges, strengthening MARAD's oversight of the Academy - supporting effective governance, and tackling the many other issues enumerated in the recently released National Academy of Public Administration study.

Finally, to support effective and speedy implementation of the grant programs authorized under the Bipartisan Infrastructure Law, including those that will support our supply chains and ensure our investments in maritime infrastructure are resilient.

Question 2: *In your hearing, you stated that even if Deepwater Port Applications were to meet "statutory requirements" there is no guarantee that you would approve them. Instead, you asserted that they would be subject to a "fair and equitable review." Can you define what "fair and equitable review" means? What other considerations will your review entail aside from statutory requirements? How will your own views on energy policy affect your decision making surrounding such licenses?*

Response: By "fair and equitable review" I mean that, if I am confirmed I will evaluate, in an unbiased and objective manner, the merits of each deepwater port license application based upon the nine decision criteria set forth in the Deepwater Port Act of 1974. MARAD's evaluation process does and will continue to include a comprehensive and robust technical, environmental, and financial analyses of all aspects of the proposed deepwater port project; and will rely upon the expert guidance and considerations of the cooperating Federal, State, and local partners, including the expressed concerns of the Governors of the Adjacent Coastal State consistent with law. My understanding is that the statutorily required process allows for input from citizens of the affected communities. I have no pre-decisional opinion on any project.

Question 3: *What is your view on the use of technology to automate our nation's ports? Has the lack of its adoption at U.S. ports had any effects on costs and efficiency? Should U.S. ports have the option to automate their ports and accept automated ships?*

Response: It is my understanding that the Maritime Administration (MARAD) and DOT's other operating administrations have collaborated in recent years to address the impacts of new technologies on maritime ports. Should I have the honor of being confirmed, I look forward to

working with you on the implementation of new technology in the maritime sector in ways that improve the throughput of goods, strengthen safety, and ensure employment opportunities for our Nation's maritime workforce.

Question 4: *The cost of U.S. domestic shipbuilding is astronomically high compared to other countries. Based on MARAD data, the Congressional Research Service has noted that U.S. built coastal size container ships are six to eight times greater than the cost of a similar ship of similar size in a foreign shipyard. In your view, why is the cost of U.S. domestic shipbuilding higher than comparative costs in foreign shipyards? The Congressional Research Service noted that one reason for the higher domestic shipbuilding costs is related "to the absence of foreign competition and the lack of economies of scale." Does the Jones Act, which forecloses foreign competition, contribute to the astronomical costs of U.S. shipbuilding? And if not, then how do you explain this finding by the Congressional Research Service?*

Response: It is my understanding that the primary contributor to the construction cost differential between U.S. built commercial vessels and comparable vessels built in other nations is the heavy subsidization of shipbuilding industries in the world's leading shipbuilding countries. These subsidies have allowed some nations to achieve economies of scale, effectively creating a barrier for other nations to enter the global market without introducing heavy subsidies of their own. In the case of China, one such estimate cites industry subsidies as having "reduced shipyard costs by 13-20%, corresponding to 1.5 to 4.5 billion US dollars, between 2006 and 2012." Accordingly, the Jones Act does not appear to be a significant contributor to higher cost in U.S. shipbuilding when the full cost (including state-funded construction and input subsidies) that leading shipbuilding countries provide are considered. In fact, we should advocate for parity with the leading shipbuilding countries in terms of U.S. support for shipbuilding.

American shipyards produce some of most innovative ships; for example, the first LNG-powered containerships in the world came from US shipyards. The National Security Multi-Mission Vessel (NSMV) is a model for cost-effective shipbuilding by the Federal government using commercial practices managed by a domestic shipbuilding operator. It is well appreciated that American shipyard workers have a higher standard of living than most of the world's shipyard workers and are paid for their skills. These are good jobs for hard-working Americans.

Question 5: *There are no Jones Act carriers for liquefied natural gas (LNG) or propane. Places without pipelines like Massachusetts or Puerto Rico have had to import LNG from Russia or Venezuela. Is importing LNG from Russia or Venezuela a national security risk? We don't have any Jones Act vessels that can do the job in this situation. In the absence of building more pipelines (which I wholeheartedly support) is it better to import LNG from Russia or is it better to issue a Jones Act waiver so that we can procure energy products from U.S. domestic sources?*

Response: If confirmed, I will discharge fairly MARAD's limited role in evaluating domestic capacity when the Department of Homeland Security is considering Jones Act waivers.

Question 6: *I believe dredging our ports is a key infrastructure project that must be prioritized.*

- 1. How important is dredging at our nation's ports for the economic vitality of the United States?*
- 2. Dredging can be expensive. In fact, the annual cost per cubic yard of dredged material, adjusted for inflation, has skyrocketed from \$1.74 in 1970 to \$5.77 in 2018 – an increase of 232%. There are multiple reasons for the cost increase, but the Government Accountability Office has noted that the lack of competition for dredge ships is among them. Does the Foreign Dredge Act of 1906 contribute to the lack of competition identified by GAO? If not, what contributes to the lack of competition?*
- 3. Would you support creating exemptions to the Foreign Dredge Act, including for the use of NATO affiliated dredge vessels, in order to help meet the demand of our dredging projects? If not, why not?*

Response: Dredging is a cornerstone of our Nation's maritime infrastructure, ensuring channel depths and widths can accommodate vessels delivering critical goods through our supply chain. Dredging is an important aspect of maintaining the viability and competitive nature of our seaports. I appreciate that there are many factors that impact the cost of dredging to include the size and scope of projects, placement of dredged materials, and the availability of dredge equipment.

It is my understanding that MARAD has seen increased interest in availability of financial assistance programs that would support building additional dredge vessels in the United States as a result of increased funding to the Army Corps of Engineers. If confirmed, I would defer to the U.S. Army Corps of Engineers on issues related to competition on dredging contracts. I would stand ready to work with Congress, the Administration and Federal agency partners to support our Nation's maritime infrastructure.

Senator Rick Scott

Question 1: *How would you use your position to solve the current port congestion and supply chain crisis?*

Response: Should I have the honor to be confirmed, I look forward to working closely with Port Envoy John Porcari, and the President's Supply Chain Disruption Task Force. I understand that Port Envoy Porcari and the Task Force have been making significant progress to identify near-term opportunities and measures to address port congestion and facilitating coordination among port stakeholders on these actions.

It is my understanding that the Administration is implementing funding flexibility for creative solutions to current supply chain disruptions by allowing for flexibility in port grants. Also, the Department of Transportation recently announced the award of over \$250 million in grants from the FY2021 Port Infrastructure Development Program (PIDP) and Marine Highway program, and the Bipartisan Infrastructure Law will authorize MARAD to open competition for a new round of port infrastructure grants in early 2022.

If confirmed, I will continue to urge MARAD to be flexible within the authorities provided in statute in administering these programs in order to address our Nation's urgent needs.

Question 2: *The Biden Administration has indicated that combatting climate change, as well as many aspects of the Green New Deal, will be a focus across several sectors. How do you plan on addressing this issue within MARAD? What impact do you believe your policies will have on the private sector and small businesses?*

Response:

Currently, MARAD supports several programs that contain components that address criteria pollutant and greenhouse gas emissions reductions. Since 2010, MARAD has supported the Maritime Environmental and Technical Assistance (META) program. META partners with other government agencies, industry, and academia to address major maritime environmental challenges, one of those challenges being sector greenhouse gas emission reductions. For many years, META has focused on research, technology innovation, and demonstration of alternative fuels and technologies that reduce greenhouse gas emissions from ships as well as port activities.

I note also that the expanded eligibilities in the Port Infrastructure Development (PIDP) Grant Program under the Bipartisan Infrastructure Law will enable funding to be awarded to projects that reduce or eliminate port-related criteria pollutant or greenhouse gas emissions, including projects for port electrification or electrification master planning, harbor craft or equipment replacements/retrofits, and the development of port or terminal micro-grids, among other projects.

These investments respond to emerging needs and demand from the maritime community to electrify terminal operations, reduce criteria pollutants, and modernize port infrastructure. These efforts to build cleaner and more resilient infrastructure will help the private sector, supply

chains and small businesses across our maritime industry implement cutting-edge technology, remain globally competitive, and improve efficiency at our ports. If I have the honor of being confirmed, I will work to ensure that the PIDP and other programs are implemented in a manner consistent with these expanded eligibilities.

Question 3: *Do you promise to fully follow and administer all federal laws under your jurisdiction?*

Response: Should I have the honor to be confirmed, I promise to fully follow and administer all federal laws under my jurisdiction.