



The State Senate

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SUMMARY OF FINDINGS OF THE JASPER PORT STUDY COMMITTEE

MEMBERS

**Honorable Eric Johnson
Senator, 1st District
Chairman**

**Honorable Regina Thomas
Senator, 2nd District**

**Honorable Jeff Chapman
Senator, 3rd District**

**Honorable Jon Burns
Representative, 157th District**

**Honorable Burke Day
Representative, 163rd District**

**Honorable Tommy Smith
Representative, 168th District**

**Mr. Steve Green
Citizen Member**

**Mr. Jerry Hogan, Sr.
Citizen Member**

**Mr. Leavon Shuman
Citizen Member**

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INTRODUCTION:

The General Assembly of Georgia via Senate Resolution 23 created the Jasper Port Study Committee during the 2005 Legislative Session. The Committee was charged with learning the economic and environmental impact of a possible future Jasper Port Project, located in South Carolina on the Savannah River.

The Senate Resolution provided that the Senate Committee on Assignments appoint three members from the Senate, the Speaker of the House of Representatives appoint three members from the House of Representatives, and the Governor appoint three citizens. Senator Eric Johnson was appointed Chairman. Senators included Senator Jeff Chapman and Senator Regina Thomas. Representatives included Representative Jon Burns, Representative Burke Day, and Representative Tommy Smith. The Governor appointed the following private citizens to the Committee: Mr. Steve Green, Mr. Jerry Hogan, Sr., and Mr. Leavon Shuman. Mr. Steve Green is the President and Chief Executive Officer of Stephen Green Properties, a commercial real estate investment and development corporation. Mr. Jerry Hogan, Sr. is the owner and President of Hogan's Marina, a dry rack, wet storage, and launching marina facility on Turner's Creek in Savannah. Mr. Leavon Shuman is the Chairman of the Committee on Political Education for the International Longshoremen's Association Local 1414.

BACKGROUND:

Both Georgia and South Carolina are dependent on the economic benefits of exporting and importing their products via their ports. These harbors must be maintained and, as ships increase in size, Georgia and South Carolina must be prepared to deepen the respective rivers that serve their ports. In an effort to create jobs, Jasper County, South Carolina is attempting to condemn land within its borders, but owned by the State of Georgia, to build a new port facility. Of the 11,092 acres the State of Georgia owns and uses for the purpose of maintaining the Savannah River, 10,741 of these acres are in South Carolina. Approximately 5,291 acres are within diked areas that allow for the disposal of dredged material from the Savannah River to be dumped and drained in these areas. The Georgia Department of Transportation pays over \$400,000 per year in property taxes to South Carolina on this property, including the portions of the property that are protected marshland and cannot be used.

COMMITTEE HEARING:

On November 16, 2005, the Committee heard testimony from a broad range of individuals. The Georgia Ports Authority (GPA), U.S. Army Corps of Engineers (USCOE), and the Georgia Department of Transportation (GDOT) all testified before the Committee. The Study Committee also heard from Mr. Rick Bybee, a Special Assistant Attorney General for the Georgia Department of Law and the Savannah Economic Development Authority. Officials from SSA Marine (the private port developer working with Jasper County), and the South Carolina Ports Authority were asked to participate, but declined.

Mr. John Phillips, from the Georgia Department of Transportation, discussed the dredging and disposal needs of the Savannah River. In 1999, GDOT became the local sponsor with the U.S.

Army Corps of Engineers. (Prior to this, Chatham County was the local sponsor.) The USCOE dredges the Savannah River and pumps the material (a mixture of water, sand and mud from the bottom of the river) within nine upland diked areas. (Two areas are to be combined in the near future for a total of eight diked areas.) Today, there are 42 miles of dikes encompassing 5,291 acres. Once the area has received all of its dredged material, it starts a two-year, drying-out process and becomes an environmental asset that harbors vegetation and wildlife. Over 250 species of birds make their home in the diked areas and on bird islands built within the diked areas to encourage bird habitats. A third idle year provides the opportunity to construct higher dikes if needed. The USCOE shifts the placement of the dredged material to another diked site and starts a new three-year cycle while the previous dike is either raised or the area starts out a two-year, drying-out (draining) phase. It is important to note that dikes can only be raised about six feet at a time in order to remain stable.

Mr. Phillips stated that the proposed port would take approximately 30 percent of the diked land and that no replacement land has yet been identified. There is no plan on how to maintain the Savannah River Harbor depth without these dredge material disposal areas.

Mr. Rick Bybee, a Special Assistant Attorney General, provided an overview of the litigation surrounding this proposed port. In December of 2000, Jasper County notified the Georgia Department of Transportation of its intent to condemn the land for a proposed port facility. Jasper County offered the GDOT \$8 million - a price based on the current value of the land as a disposal site and not on the future value of the land as a port. The GDOT challenged the condemnation as being an illegal "taking" and not on the low price offered. A South Carolina judge ruled in favor of Jasper County. The GDOT appealed that decision to the South Carolina Supreme Court. In September of 2003, the South Carolina Supreme Court ruled in favor of the GDOT, stating that for a taking to legally occur in South Carolina, it has to be for a "public use." The South Carolina Court found that the plan Jasper County had proposed did not meet this test because Jasper County would, in essence, be nothing but a landlord for a private port operator and would have no role in the port. In 2005, in response to the Court's decision, Jasper County developed another plan where it would take on a more active role and filed another condemnation suit. The GDOT again objected on much the same grounds. The GDOT also filed suit in federal court in Georgia arguing that because of the role of the U.S. Army Corps of Engineers, this land is a federal project which cannot be changed without more involvement and study by the federal government. In addition, the South Carolina Ports Authority also intervened in the South Carolina case arguing that Jasper County did not have the legal authority to condemn property for a port. This right was reserved only for the South Carolina Ports Authority. The current posture is that all cases have been stayed until the South Carolina Supreme Court decides who has the appropriate authority in South Carolina to build a port - the South Carolina Ports Authority or Jasper County.

Mr. Bybee also made it very clear that the USCOE is in charge of all waterways and that only the Secretary of the Army can grant exceptions to the federal easements that overlay the property. He testified that, if Jasper County condemns part of the diked areas to build a new Jasper Port, then the six-year rotation cycle performed by the USCOE would be interrupted. Mr. Bybee said that there are no alternative plans for storing materials dredged from the Savannah River. If a new port is proposed to be built, the federal government's easements would have to be changed.

The USCOE will have to present a plan of change for these easements to the Secretary of the Army and Congress would have to authorize and appropriate funds for the USCOE to change any project operations. Also, the USCOE would have to conduct an environmental study on the impact of a port being built on the diked areas. He stressed that, at this point in time, Jasper County has proceeded with its plans with no input or study from the USCOE. It is possible that South Carolina could win the right to condemn this land, but would be unable to construct a port facility due to the federal easement for harbor maintenance.

The Committee heard testimony from Mr. Dan Parrott from the U.S. Army Corps of Engineers. Mr. Parrot explained how the USCOE is involved with the Savannah Harbor Navigation Project. The Savannah Harbor has 12 areas where dredged material is placed (one of which is offshore) for maintenance of the Savannah River. There are approximately 6,000 acres of contained dredge material disposal sites consisting of eight upland diked areas. These diked areas are used on a rotating schedule - three years of active use, two additional years for drying, and one year to raise the dikes before the next cycle of dredged material is deposited. If a port were built on these dikes, the rotational cycle would have to be altered. Some of the dredged material could be taken out to the Atlantic Ocean, but it would be costly to do so. Currently, there are no plans to change the present schedule over the next 20-year rotation plan.

The federal government's Water Resources Development Act (WRDA) of 1996 provides a cost-sharing agreement for increasing the dike capacity; with the federal government providing 65 percent of the funds while the other 35 percent will come from state funds. Harbor maintenance is 100 percent federal responsibility. The new WRDA provides for the assumption of maintenance of the disposal areas by the USCOE. Currently, on the Savannah River, there are four disposal areas that are under federal maintenance. In 2008, there will be three more disposal areas under federal maintenance after their dikes are raised. An average cost for dike raising is \$5 million a year. The estimated average cost for maintaining the diked areas is \$500,000 to \$1,000,000 a year.

Mr. Parrott pointed out that an environmental study is always required before a USCOE plan is developed. The USCOE is currently in the process of performing an environmental study for the deepening of the Savannah Harbor. When asked if 30 percent of the diked land currently in use could be taken away, Mr. Parrott said it may be possible, but the whole disposal area plan would have to be reconfigured. They may have other options, but the impact of removing 30 percent of the diked areas has not been studied or addressed. He said that the current disposal area schedule is the most environmentally sound and the most economical. Under new federal guidelines, federal money for harbors is prioritized based on the most efficient projects. Thus, a change to a less efficient system such as transporting dredge material out to sea, could ultimately result in a decrease in federal money and the shifting of the added costs to the State of Georgia.

Former U.S. Senator Mack Mattingly, Chairman of the Georgia Ports Authority, testified that the Georgia Ports Authority's number one priority is the Savannah Harbor Expansion Project. This involves deepening the Savannah Harbor from 42 feet to 48 feet to accommodate newer and larger ships and increasing imports and exports through Georgia. The project is scheduled to begin in FY08 and be completed by FY13 to meet the expansion needs. Currently, the Port of Savannah is the fifth largest container port in the nation and Senator Mattingly stressed the

importance of not allowing anything to deter Georgia from completing the Savannah Harbor Expansion Project.

The Committee learned from Mr. Rick Winger, President of the Savannah Economic Development Authority, that a new port has benefits and drawbacks. Some benefits include improved economic activity to one of South Carolina's poorest counties and more jobs for the Savannah area. A new port would bring an estimated \$8.5 million a year to the Savannah area. Some of the drawbacks include the loss of dredged material disposal areas for the Savannah Harbor, increased ship traffic along the Savannah River that would result in more pollution, and, since the proposed Jasper Port is closer to the ocean, a potential loss of port revenue for Georgia and the Savannah area due to ships choosing the Jasper Port over the Garden City facilities. He also pointed out that the Georgia Ports Authority projects that are under construction could handle the expected growth in world trade to our region.

CONCLUSION:

The Committee concluded that Georgia's first priority must be to complete the environmental impact study and proceed with plans to deepen the Savannah River. Any disruption to this process would jeopardize our competitiveness.

Georgia's second priority is to maintain sufficient land area to maintain (and deepen) the Savannah Harbor. Any consideration of a Jasper port facility must include a plan for harbor maintenance by the United States Army Corps of Engineers.

Finally, if the harbor is deepened and dredged material can be handled in a cost effective manner that can accommodate a new port, the region would benefit economically and environmentally through cooperative planning and development of such a port.

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