



## **Mare Island Historic Park Foundation, Inc.**

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Senator Diane Feinstein  
331 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Feinstein,

I am seeking your assistance with our important Mare Island Historic Park Foundation (MIHPF) project to bring the historic ship OLYMPIA back to the San Francisco Bay Area to put it on display in Mare Island's Historic Dry Dock 1 in Vallejo, CA. Specifically, because the House has already marked up its defense appropriation bill I am requesting that you consider offering the Attachment A amendment during either the House-Senate conference mark-up or on the floor.

This amendment offers a unique opportunity to save one of the United States' greatest historical artifacts; a National Historical Landmark; a National Historic Mechanical Engineering Landmark; an American naval combat ship built in San Francisco; and the ship which is central to our national story for her leadership of the American fleet in one of the greatest naval battles in history. This ship's importance to the people of San Francisco is symbolized by the great monument in Union Square erected by the people of San Francisco in 1903 and dedicated by President Theodore Roosevelt.

The 117-year old USS OLYMPIA (C-6), which led Admiral George Dewey at the Battle of Manila Bay in the opening salvo of the Spanish-American War, participated in World War I, and brought the American Unknown Soldier back from European battlefields, is one of those ships in danger of being lost. The U.S. Navy currently transfers its excess ships to states, municipalities, and non-profit organizations, assigning full responsibilities to those transferees for all maintenance and operations as museums and heritage centers. Despite the assumption of these responsibilities, it has become difficult for many of those entities to support a full and timely restoration of those historic assets for future preservation on behalf of the American public.

All military services maintain museums and history centers to preserve their heritage. They fully fund the cost of maintaining large collections of artifacts and equipment. Because of the size and costs of its primary assets—ships, submarines, support vessels, and other major equipments—the U.S. Navy has elected to preserve only a few such assets under its own management, instead outsourcing many of these most important of these assets to state, municipal and nonprofit entities. In doing so, the Navy has basically abrogated its responsibility to the American citizen to properly preserve their heritage.

To ensure we preserve many of our most important national assets, we ask for your support in establishing a major restoration program for a few select U.S. naval ships of national historic significance, using leftover funds from the same account that finances active duty ships and aircraft maintenance. The Attachment B analysis of the Navy's Operation and Maintenance appropriation (account) reveals this account has expired with an average of \$167 million a year in residual funds for the past four years, and that even after payment of late contract claims and foreign currency exchange adjustments, this residual has grown even larger.

At no additional cost to the taxpayer, the Congress can reappropriate a small portion of these excess funds to create an "automatically financed" \$20 million a year "Restoration of U.S. Naval Ships of National Historical Significance," reinstating the U.S. Navy's proper relationship with its most important historical assets. Basically part two of the Navy's current ship donation program, the proposed legislation Attachment A (notionally numbered Sec. 7317) bridges that fiduciary responsibility when a transferee cannot meet their obligation. The concept for this program is described in Attachment C.

An unconventional method of financing, when the Task Force Olympia asked the Chief of Naval Operations (CNO), Admiral Jon Greenert for his support, he responded that he could not object to reusing some leftover

funds as long as it does not impede the Navy's ability to pay late contract adjustments and foreign currency exchange rate changes. The Task Force Olympia is a partnership between the Historic Naval Ships Association and the Naval Historical Foundation. As noted above and on Attachment C, an amount of residual funding to support this restoration is never at issue. Additionally, Senator Jim Webb, a member of the Senate Armed Services Committee, has already been queried for his support and has routed this proposal through the Navy's Office of Legislative Affairs (OLA) for a formal coordination. The Navy has officially responded that they do not consider themselves responsible for these national historic assets. However, in both its original 1957 transfer to the Cruiser Olympia Association and subsequent 2000 retransfer to the successor Independence Seaport Museum, while stating it had no financial responsibilities or interests, the Navy specified and reiterated that it retained certain long-term rights, including safety, towing, physical appearance, the payment of insurance and annual inspections. It cannot claim to have transferred title but retain specified interests. And while this may be the Navy's current position on ownership and financial responsibility, it abrogates their greater responsibility to the nation to protect an important part of our Nation's naval history, and should be revised.

We request your support and ask that you relay that support to members of the Armed Services Committees (who can permanently authorize this legislation) and the Appropriations Committees (who can ensure the funds are appropriated each year). The Attachment C information paper summarizes this issue as it applies to the USS OLYMPIA. Attachment D is a one-page history of the USS OLYMPIA.

To limit the number of claimants to only the most critical in need ships, this legislative remedy specifically designates the USS OLYMPIA, requiring any other ship needing major repair and renovation in the future to secure the approval from the Senate and House Armed Services Committees.

A major benefit of the draft legislation is that, rather than fall short of its responsibility to maintain its national heritage, the Navy, by creatively reapplying unused funding, will be able to use its extensive ship modernization and maintenance expertise to help their local and national partner organizations jointly participate in the preservation of that history. Properly resourcing those partnerships is critical to ensuring the preservation of these national historic assets.

I'd like to thank you, Senator Feinstein, for considering a remedy to this unacceptable historic national asset problem and for ensuring the Navy's enduring responsibility in this matter. Your aggressive action regarding the above request will aid in preserving our Navy history for future generations of American citizens.

Very Respectfully,



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Attachment A – Proposed Legislative Amendment  
Attachment B – Recent History of Expired Funds  
Attachment C – Congressional Information Paper  
Attachment D – USS OLYMPIA – Herald of the American Century

TITLE 10--ARMED FORCES

Subtitle C--Navy and Marine Corps

PART IV--GENERAL ADMINISTRATION

CHAPTER 633--NAVAL VESSELS

Sec. 7317. Recommissioning and restoration of United States Navy vessels transferred by gift or otherwise; declared ships of national historical significance.

(a) Sense of the Congress. - It is the sense of the Congress that too many vessels of national historical significance of the United States Navy have been lost to the nation. Many of these vessels were transferred to state, local and other nonprofit organizations under Sec 7306 of this chapter, under the condition that such vessels were to be maintained in condition satisfactory to the Secretary of the Navy. It has come to the attention of the Congress that certain such vessels, based on their advanced deteriorated state, may be permanently lost to the nation. This is not acceptable.

(b) Authority To Reclaim, Recommission, and Restore.- (1) The Secretary of the Navy is hereby authorized and directed to reclaim any vessel designated under paragraph (c) below as of national historical significance by terminating the agreement with such recipient, including -

- (i) any State, Commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof;
- (ii) the District of Columbia; or
- (iii) any not-for-profit or nonprofit entity.

(2) Authority To Temporarily Recommission. - In order to prevent vessels designated as of national historical significance from further deterioration, the Secretary of the Navy is hereby directed to recommission such vessels on a temporary basis. The period of that recommission shall not exceed the time required to fully restore it to a condition where it can be certified accessible to the American public as a museum.

(3) Authority To Restore. - The Secretary of the Navy is hereby directed to restore any such designated vessel using funds from the most recently expired Operation and Maintenance, Navy appropriation. Based on average historic trends, no less than \$30 million during peacetime and \$100 million during wartime have not been used for the purposes authorized by Congress within its period of availability. The same appropriation which funds ship depot maintenance of commissioned U.S. Navy ships, to ensure a robust restoration program for United States Navy vessels of national historical significance, effective with FY 2011, no less than \$20 million of each year's expired funds are hereby reappropriated into a new indefinite appropriation titled "Restoration of U.S. Navy Ships of National Historical Significance" and are only for the purposes designated in the section. Subsequent reappropriations from all succeeding fiscal year Operation and Maintenance, Navy appropriations, or any successor appropriation, shall be reappropriated into and merged with that indefinite appropriation only for the purposes designated in this section.

Restoration of any ship designated as of national historical significance may only be made in an American shipyard and only by craftsmen and engineers who are citizens of the United States.

(c) Designation as United States Navy Ship of National Historical Significance. - United States Navy ships scheduled for decommissioning and those previously transferred under Section 7306 are eligible for designation as of national historical significance by petition to the Committees of the Armed Services of the U.S. Senate and House of Representatives. Approval by such Armed Services Committees is to be in the form of an amendment to this section and paragraph, which shall include the following initially designated ship of national historical significance:

(1) USS Olympia. The only surviving cruiser that served in the Spanish American War; carried the body of an unknown American World War I soldier back from Europe, for subsequent interment in the Unknown Soldier Monument.

(d) Preservation of Restored Ships of National Significance for the Nation. - Once fully restored and certified available to the public, ships of national historical significance should be transferred to the original or any other entity as authorized under Sec 7306. If no organization is available, they may be retained by the Naval Sea Systems Command for storage, or the Naval History and Heritage Command and made available to the public. To ensure such ships of national historical significance are maintained to standards to be established by the Secretary of the Navy, any recipient organization is to provide a bond guaranteeing the proper maintenance of such vessel prior to any new transfer.

**RECENT HISTORY OF EXPIRED FUNDS IN THE  
OPERATION AND MAINTENANCE, NAVY (OMN) APPROPRIATION  
WHICH CAN BE REAPPROPRIATED TO SUPPORT A PROGRAM FOR THE  
RESTORATION OF U.S. NAVAL SHIPS OF NATIONAL HISTORICAL SIGNIFICANCE**

There is a long history of Department of Defense (DoD) accounts (appropriations) leaving money on the table at the end of the designated availability (called expiration). This is a natural result of the difficulty in managing many dozens of programs in each account to the last dollar each year.

The Navy's Operation and Maintenance appropriation finances the day-to-day costs of operating naval forces, including fuel, supplies, and maintenance of ships, Navy and Marine Corps aircraft, related weapon systems, and the support establishment ashore. Including over 60 major programs, this account also funds the majority of civilian personnel costs.

A look at the recent history of the Navy's Operation and Maintenance account highlights that although these residual amounts are between 0.2 percent and 0.4 percent of the initial amount, they represent substantial unobligated balances. Efforts by the Congress each year to substantially eliminate these balances has no real effect, primarily because the DoD cannot effectively manage every dollar by the end of each fiscal year. This is not a failure of proper fiscal management but rather an accounting reality reflecting the size, complexity and scheduling of such expenses.

Under current law, this account is available for new obligations for one year, followed by a five-year "expiration" period. During this period, expired funding can be used to make contract adjustments to awarded contracts (be can't be used to award new contracts), and fund foreign currency fluctuation adjustments. After that six-year life, the account is cancelled on the books of the U.S. Treasury.

As indicated below, even after contract and other adjustments were made during the two years after expiration, Navy still returned (or didn't draw down) an average of \$167 million to the U.S. Treasury. This clearly indicates Navy never uses those funds, and, in fact, increases the excess funding as it clears all its contracts and other transactions off the books.

<b>OMN: Unobligated Balance at Expiration</b>							
<b>Operation and Maintenance, Navy</b>		<b>(Dollars in Thousands)</b>					
<b>O&amp;MN</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>	
Appropriated	\$ 29,756,722	\$ 29,457,671	\$ 33,005,935	\$ 34,346,567	\$ 34,589,082	\$ 37,715,504	
Revised Program	\$ 35,598,394	\$ 37,405,299	\$ 40,012,739	\$ 39,987,197	\$ 49,233,062	\$ 47,101,315	
Obligations	\$ 35,444,268	\$ 37,336,435	\$ 39,921,505	\$ 39,845,557	\$ 49,084,098	\$ 46,964,342	
<b>1</b>	<b>End-of-Year Unobligated Balance</b>	<b>\$ 154,126</b>	<b>\$ 68,864</b>	<b>\$ 91,234</b>	<b>\$ 141,640</b>	<b>\$ 148,964</b>	<b>\$ 136,973</b>
	<b>End-of-Year Unobligated Balance (Percent)</b>	<b>0.4%</b>	<b>0.2%</b>	<b>0.2%</b>	<b>0.4%</b>	<b>0.3%</b>	<b>0.3%</b>
<b>2</b>	<b>Deobligations After 1-Year</b>	<b>\$ 138,762</b>	<b>\$ 188,531</b>	<b>\$ 11,948</b>	<b>\$ 90,743</b>	<b>\$ 134,453</b>	<b>\$ -</b>
<b>3</b>	<b>Deobligations After 2-Years</b>	<b>\$ 184,716</b>	<b>\$ 204,172</b>	<b>\$ 63,488</b>	<b>\$ 219,104</b>	<b>\$ -</b>	<b>\$ -</b>

Under the Constitution, using its power of the purse authority, and requiring no approval from the Department of Defense, Congress can use its legal prerogative to reappropriate this unused money to other purposes. Since establishing and funding a restoration of U.S. naval ships of national historical significance extends the responsibility of the U.S. Navy to ensure its history and heritage is properly preserved, the Congress can reappropriate \$20 million a year from those annual residuals without any negative impact to Navy, and is therefore not an issue.

# Creating a Permanent Fund for the Restoration of U.S. Naval Ships of National Historical Significance

## Congressional Information Paper

- Currently, 70 former U.S. Navy ships from various periods in American history are maintained and operated by states, municipalities and nonprofit organizations on behalf of the American people.
- About 46 of those excess ships were transferred by the U.S. Navy under its ship donation program (Title 10, United States Code, Section 7306), requiring those recipient organizations to maintain and operate the vessels as museums and historic displays.
- Many of those ships require extensive restoration, the cost of which, irrespective of the original transfer agreements, are currently beyond the financial capability of those recipient organizations.
- The Navy's uses \$5 billion a year from its \$38 billion a year Operation and Maintenance, Navy (OMN) appropriation to fund all current ship maintenance.
  - That account typically expires (closes out) each year with large residual amounts.
  - Traditionally averaging about \$30 million a year during peacetime, the residual has averaged over \$167 million a year over the last four years.
  - Reserved to pay late contract claims and foreign currency adjustments, those residuals continue to grow two years after expiration (as the Navy closes out its contract actions and recoups unused amounts).
- Aligning its current ship maintenance experience with its history, the attached proposed legislation (prospectively numbered Section 7317) reappropriates \$20 million a year from those unused funds, and establishes a permanent "Restoration of U.S. Naval Ships of National Historical Significance" account to address critical ship restoration needs.
- Using its substantial shipbuilding and ship maintenance experience, and this new authority, the U.S. Navy can temporarily reclaim any ship in jeopardy of permanent loss, restore it, and either make a new agreement with a state, municipality or nonprofit organization (which guarantees proper future ship maintenance) or retain the restored ship on behalf of the American public for future display the way tens of thousands of other (but smaller) historic artifacts are maintained for the nation.
- Based on its critical condition, the first ship to use this new restoration program is the USS OLYMPIA. At 117-years old, she led Admiral George Dewey at the Battle of Manila Bay in the opening salvo of the Spanish-American War, served in World War 1, carrying the American Unknown soldier back from France. To ensure her long-term survival, an extensive out-of-water dry-docking, is required to repair the hull plates and decks. Similar to Navy ship maintenance experience, a preliminary estimate of \$10 million may substantially increase once the ship is out of the water and engineers can properly assess the total work required. The new restoration fund will be sufficient to complete the initial critical repairs, and provide funds for proper engineering assessments of other U.S. naval ships in the nation's historic inventory.

- To limit the use of this restoration account to the most critically important ships, the proposed legislation places approval authority for any future ship with the Congress and its Armed Services Committees. (This is similar to the way those committees specifically approve proposed multiyear acquisition program procurements.)
- The proposed legislation needs to be approved by the Senate and House Armed Services Committees to ensure permanent authorization.
- The proposed legislation needs to be approved by the Senate and House Appropriations Committees to ensure the \$20 million a year is reappropriated into the new permanent restoration fund.
- Department of the Navy position:
  - On custody of donated ship: The Navy's Office of Legislative Affairs (OLA) has recently stated that a conditional donation loan contract does not exist, and that the Navy donated and title transferred ownership of the USS OLYMPIA to the Cruiser Olympia Association in 1957.
  - On retained interests:
    - In its 1957 transfer agreement, the Navy clearly stipulated the transfer was effective so long as (a) the OLYMPIA was maintained in a condition satisfactory to the Navy, and (b) indicated the agreement could be terminated if the association and its assigns terms failed to perform its obligations.
    - In the subsequent transfer in 2000 to the Independence Seaport Museum (ISM), the Navy added to the original contract a requirement that (a) the ship could not be altered without the express authority of the Secretary of the Navy, and (b) that the Navy had the right to conduct an inspection of the ship's condition.
  - On reuse of expired funding: When recently queried on the subject of reusing expired funding to restore the USS OLYMPIA, the Chief of Naval Operations, Admiral Jonathan Greenert, indicated he could not object as long as the Navy retained its right to use some of those residual funds to pay legitimate bills. As noted on Attachment A, even as such late bills are paid, there are always additional residual funds available for reuse.
- Despite its official position on transferring complete ownership, the Navy retained substantial legal interests in the USS OLYMPIA and cannot claim it has transferred title with no residual interests.
- Regardless of its official position, the passage of this legislation will rectify the financial gap left when the U.S. Navy decoupled and outsourced its responsibility to retain and maintain important parts of the nation's naval history.

## *USS Olympia* *Herald of the American Century*

A National Historic Landmark, *USS Olympia (C-6)* helped secure victory for the United States in the Spanish-American War in 1898, served extensively in the North Atlantic in WWI, and later carried the body of the Unknown Soldier from Le Havre, France to the Washington Navy Yard, in 1921. As a popular floating museum, *Olympia* has served as a privately operated public relations asset for the US Navy since she was first put on display in 1957 at Penn's Landing, Philadelphia on the Delaware River. Today the *Olympia* is in extremis and seeking a new home due to the lack of funds for maintaining the vessel.

### **HISTORICAL SIGNIFICANCE**

*Olympia* is the oldest steel warship afloat in the world. Commissioned in 1895, *Olympia* was built with innovative armor plating produced by Pennsylvania steel mills. *Olympia* was fitted out with triple expansion steam engines, as well as being the first warship to have electric lights and a refrigeration plant. She was one of the fastest ships of the era. Flagship of the Asiatic Squadron, she was crewed by over 400 officers and enlisted men and carried a contingent of 40 Marines.

On May 1, 1898, under the direction of Theodore Roosevelt, then undersecretary of the Navy, Commodore George Dewey led the Squadron to victory over the Spanish fleet at Manila Bay in the Philippines. This Spanish-American War battle was the first significant triumph for the United States of America over the old colonial empires of Europe and it began America's journey to become a dominant force on the globe.

*Olympia* is emblematic of this new era. With her luxuriously appointed officer's wardroom juxtaposed to her 24 bristling cannons, she truly represents Theodore Roosevelt's image of the New Steel Navy. She embodies the "walk softly and carry a big stick" gunboat diplomacy that dominated US foreign policy for decades during and after *Olympia's* time in service.

*Olympia* represents a significant turning point in the history of the United States. Her launching defines the moment of our ascension as a major power; her engagement in the Philippines marks her as a major fighting force of the United States, itself a former colony, in combat against the old European imperial dominations. In the aftermath of the Great War, *Olympia* became the symbol of the rise of the United States to the position of a great world power.

### **CRITICAL REPAIRS NECESSARY**

To ensure her long-term survival *Olympia* must be towed to a nearby dry-dock facility where she will undergo extensive hull repairs and deck replacements. *Olympia* was last dry-docked in 1945. Today her hull is seriously corroded and leaking, especially along the wind-and-water line, and she needs extensive hull-plate repairs. In addition, all of *Olympia's* exterior (now cement) walking decks need replacement to ensure the long-term preservation of the interior of the vessel, as well as to achieve its former stability afloat.