

**INLAND WATERWAYS USERS BOARD  
27<sup>th</sup> ANNUAL REPORT**

**To The SECRETARY OF THE ARMY  
and the UNITED STATES CONGRESS**

**DECEMBER 2014**



# **Inland Waterways Users Board Organization Membership**

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Mr. Martin T. Hettel  
Chesterfield, Missouri

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## Introduction

For more than ten years, and particularly for the past five years, the Inland Waterways Users Board (“Users Board” or “Board”) has worked to draw attention to the need to reform the broken business model that for too long has resulted in U.S. Army Corps of Engineers (“Corps”) lock and dam modernization projects that are seriously behind schedule and over budget. The Board is very encouraged by the significant progress that has been made in 2014 to address this unacceptable situation in the policy-making arena and with respect to Corps project execution and management performance. Examples of this year’s progress include:

- Enactment of the Water Resources Reform and Development Act of 2014 (Public Law 113-121, also referred to as “WRRDA”) with overwhelming bipartisan support. WRRDA contained many recommendations to improve the Corps inland waterway project construction delivery model developed by a team of Corps and industry inland navigation experts. That team’s report was endorsed unanimously by this Board;
- Overwhelming bipartisan approval of an industry-sought 9-cent increase in the current inland waterway diesel fuel user fee, as part of H.R. 647 (the ABLE Act of 2014), (ultimately signed into law as part of H.R. 5771 extending expired tax provisions, Public Law 113-295). This will provide significant additional funds to the Inland Waterways Trust Fund for inland waterway modernization construction funding;
- Necessary cost sharing amendment language and significantly increased Fiscal Year 2014 appropriations to fund much-needed additional construction of priority Corps of Engineers lock and dam modernization projects in the Continuing Appropriations Act, 2014 (Public Law 113-46);
- Continued strong lock and dam construction appropriations for Fiscal Year 2015 in the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113-235).
- Strong appropriations both in Fiscal Years 2014 and 2015 for the operation and maintenance of the Nation’s waterways; and
- Signs of real improvement in conducting and managing the construction of the Olmsted Locks and Dam project on the Ohio River.

While the Board notes and applauds this progress, it also believes that further progress is both needed and achievable. The Board is also concerned that the manner in which the administration is pursuing the update of the priority project list that was mandated in WRRDA 2014 is not in keeping with the spirit in which the original priority list was developed. The Board has great concern as to whether the result of this process will correctly reflect the capital expenditure priorities for the system. This 27<sup>th</sup> Annual Report contains the Board’s observations and recommendations for making that additional progress in Fiscal Years 2015 and 2016. This year’s report is the first to be submitted following Congress’ action in WRRDA to amend and strengthen the Inland Waterways Users Board’s duties to help guide the development and use of the Nation’s inland waterways system (See Appendix A).

### **Performance of Board Duties**

In light of the increase in Board duties, as included in the Water Resource Reform and Development Act of 2014, the Board feels it is imperative that the selection of membership to serve on the Board be approved in a much more timely manner, so as to avoid any future interruptions in the vital functions of this Federal advisory committee. All appointments to serve on the Board are due to expire on May 28, 2015. Board members should be reappointed for odd/even terms of years in order to stagger turnover of Board membership, thus providing continuity within Board membership. The 11<sup>th</sup> Board position should also be appointed as soon as possible.

It is the strong opinion of this Board that it should continue to meet at least four times a year due to the increase in Board duties and additional reports the Board will provide as directed in the Water Resource Reform and Development Act of 2014. With additional responsibilities, the Board must be more engaged, not less. The support provided by the Corps of Engineers as the sponsoring agency must be sufficient to allow the Board to meet these new responsibilities.

### **Priority Modernization Projects**

The Board continues to support the inland waterway priority modernization projects identified in the Inland Maritime Transportation System (IMTS) Capital Projects Business Model Report (“Capital Development Plan”) and discussed in detail in previous annual reports of the Board. Key themes of that plan included: 1) a strategy to finish the projects that have already started construction by allocating available resources to them in an efficient manner; 2) after completion of the highest priority projects, thereafter fully fund future projects and, for multiyear projects, efficiently fund their annual needs. This strategy will minimize the time it will take to complete all of the projects. Projects in the Capital Development Plan that were highest priority and recommended for earliest completion in the Capital Development Plan were arrayed in the report in two categories, “new construction” and “major rehabilitation,” as follows:

<u>New Construction</u>	<u>Major Rehabilitation</u>
Olmsted Locks and Dam, Ohio River	Emsworth Locks and Dam, Ohio River
Locks and Dams 2, 3 and 4, Monongahela River	Markland Locks and Dam, Ohio River
Chickamauga Lock, Tennessee River	Lockport Lock and Dam, Illinois River
Kentucky Lock Addition, Tennessee River	Lower Monumental Lock and Dam, Columbia River
Inner Harbor Navigation Canal (Industrial) Lock, GIWW East	
Lock and Dam 25, Mississippi River	



Much progress has been made since the Capital Development Plan (CDP) report's publication towards completion of the work on the priority projects, particularly for the major rehabilitation projects. As briefed by the Corps at the Board Meeting No. 73 in Baltimore, MD on November 18, 2014, and in previous Board meetings, the status of funding for the CDP-listed major rehabilitation projects is as follows.

- Emsworth. All of the necessary funding has been allocated to this \$160 million project, which is expected to be fiscally complete in Fiscal Year (FY) 2015.
- Markland. Work has been completed on this \$40 million project with the help of \$8.4 million in American Recovery and Reinvestment Act of 2009 (ARRA) (Public Law 111-5, dated February 17, 2009) funding.
- Lockport. With the allocation in FY 2014 of \$28.8 million to the project, half from the Inland Waterways Trust Fund, no additional funds are required for this \$149.2 million project, which is expected to be completed by the end of FY 2016.
- Lower Monumental. This project has been completed using \$15 million in ARRA Operation and Maintenance (O&M) account funding.
- Lock and Dam 27, Mississippi River. The L&D 27 project was not included among the CDP report's top priority major rehabilitation projects, but emerged as a priority need following the report's publication. Construction of the \$39.6 million project was completed in May of 2013 and was closed out for cost accounting purposes August 30, 2014.

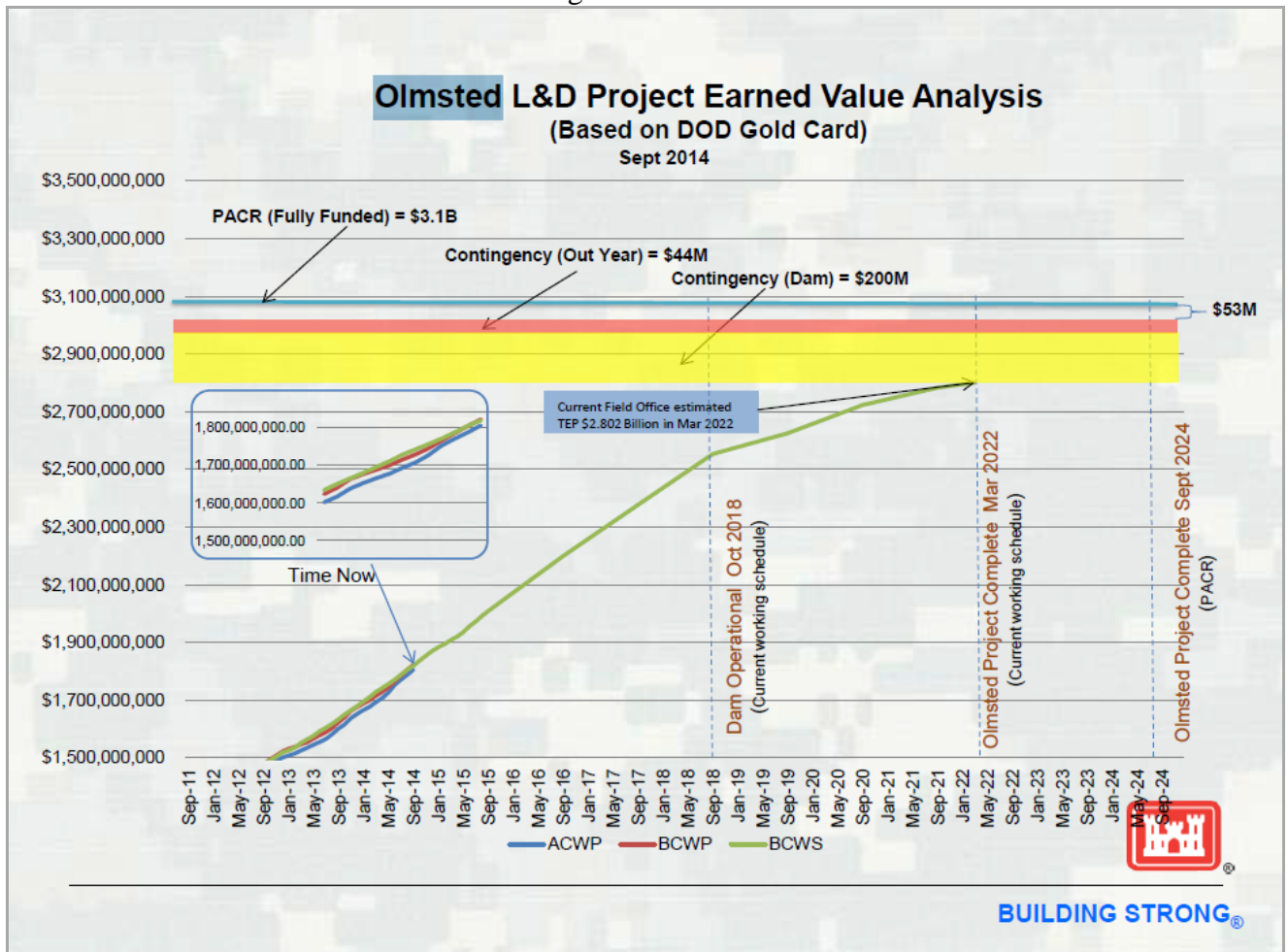
The "new construction" category is where the greatest spending challenge has been felt in the past and is projected to continue to be felt in the future. This has been covered in detail in previous Board reports. Recent Congressional action to mandate needed policy reform and provide significant additional appropriations will help address this challenge, as will continued focused attention by the Corps of Engineers to effectively manage completing construction of the below CDP-listed priority projects.

- **Olmsted Locks and Dam, Ohio River ("Olmsted")**. No inland waterway modernization project in recent years has been the subject of more critical attention by the Board and others than the Olmsted project. Despite receiving disproportionately large infusions of funding from Congress for many years, the story of Olmsted has been a story of constantly escalating project cost and ever-more-delayed projections of when the Olmsted project will be completed.

There are unmistakable signs emerging, however, that the final chapters of the Olmsted story may be written differently. All of the Corps-scheduled work for 2014 has proceeded on or ahead of schedule. All 18 of the tainter gate shells for the dam have now been set. The first tainter gate has been delivered and installed, the second is being fabricated, and three more have been released for fabrication and early delivery. Work on the navigable pass of the dam has begun and is underway, with the right boat abutment shells and the first navigational pass shell

completed and set and the first four paving blocks completed and set. Progress this year has proceeded so well that, if it continues, the Corps envisions a reduction in Olmsted's current \$3.1 billion cost estimate, with construction of the dam to be completed and operational in October 2018 and the entire project completed in March 2022, two and one-half years earlier than the Corps estimated in the 2012 Post Authorization Change Report (PACR) for the project. Figure 1, from a Corps presentation to the Board in November, summarizes the current Corps schedule projection for the Olmsted project.

Figure 1



To achieve the results reflected in Figure 1, and perhaps even improve upon them, the Corps believes \$180 million in appropriated funds will be needed in each of the Fiscal Years 2015, 2016, and 2017.

The Board is very encouraged by the progress the Corps is now making on Olmsted and applauds all of the efforts that have produced that progress.

- **Locks and Dams 2, 3 and 4, Monongahela River (“Lower Mon”)**. As a result of the FY 2014 Olmsted cost sharing change and the increased overall level of funding for inland navigation modernization projects provided by Congress in the Consolidated Appropriations Act (Public Law 113-76), the Lower Mon project received a FY 2014 allocation of \$74.7 million to advance construction of the river chamber at L&D 4 in Charleroi, Pennsylvania. The WRRDA cost sharing and other policy changes signed into law in June are estimated to allow construction of the Charleroi river chamber to be completed five years earlier, Pool 3 to be dredged six years earlier, and Lock and Dam 3 to be removed five years earlier than previously scheduled. Allocation of additional funds provided in the Consolidated and Further Continuing Appropriations Act, 2015 and appropriation of additional revenues flowing into the Inland Waterways Trust Fund as a result of the 9-cents-per-gallon barge diesel fuel tax increase for this project could further expedite completion of these and other project features.

Corps briefers at both the August and November Board meetings stated that approximately 90% of the entire project’s design benefits would be achieved and hundreds of millions of dollars preserved over the near term for construction of other priority inland navigation modernization projects throughout the Nation by completing construction of the Charleroi river chamber and deferring work on the land chamber. The Board was also told that up to an additional \$112 million also could be saved by not raising the height of the Port Perry Rail Bridge, which is currently a feature of this project.

Per the funding profile presented to the Board at the Board Meeting No. 73 held in Baltimore, MD on November 18, 2014, to achieve the expedited completion of the project features addressed above requires \$73 million in FY 2015, \$52 million in FY 2016, \$37 million in FY 2017, \$106 million in FY 2018, \$40 million in FY 2019, \$97 in FY 2020, \$68 million in FY 2021, \$6 million in FY 2022, and \$1 million in FY 2023.

- **Chickamauga Lock, Tennessee River (“Chickamauga”)**. Despite the fact that more than \$184 million has already been spent to modernize this outdated and crumbling Tennessee Valley Authority-owned project; significant work on the project has been suspended due to lack of funding availability. The existing lock is suffering from “concrete growth” due to a chemical reaction involving the lock’s rock aggregate and the river water. If the current badly deteriorated project should fail, as many believe is imminent, severe adverse regional and national consequences would be experienced by the Oak Ridge National Laboratory, nuclear weapons facilities, nuclear power plants, and manufacturing facilities, to name just a few.
- **Kentucky Lock Addition, Tennessee River (“Kentucky”)**. Since ground was broken in 1999 for the Kentucky project, more than \$380 million has been invested to add a new 110-foot-by-1200-foot lock to the existing 110-foot-by-600-foot lock. Approximately \$450 million in work remains to complete the project. Until enactment of WRRDA’s reforms and the ABLE Act’s increase in the fuel tax rate to allow increases in annual receipts going into the Inland

Waterways Trust Fund, additional future funding for the Kentucky project has been under severe constraints.

- **Inner Harbor Navigation Canal (Industrial) Lock, GIWW East (“Inner Harbor”)**. This project was held up by litigation and subsequently the local sponsor has withdrawn its request that this lock be designed to facilitate deep draft traffic. The Corps has allocated funds to commence/complete a General Re-evaluation Report that is the first step toward resuming construction.
- **Lock and Dam 25, Mississippi River (“Lock and Dam 25”)**. Along with six other lock projects on the Illinois and Mississippi Rivers, construction of a new 110-foot-by-1200-foot lock at Lock and Dam 25 was authorized by Congress as part of the Navigation Ecosystem Sustainability Program (NESP) in the Water Resources Development Act of 2007 (P.L. 110-114, also referred to as “WRDA 2007”). The Board understands that since WRDA 2007’s passage, more than \$17 million has been appropriated by Congress for engineering and design work on the NESP lock modernization projects, more than \$9 million of which has been for Lock 25. Pre-construction Engineering and Design (PED) work funded through the Corps’ Investigations appropriations account has begun, but additional PED must be completed before the project will be ready for a construction new start.

Strong support, both regionally and nationally, exists for construction of the Navigation and Ecosystem Sustainability Program (NESP) and its lock modernization features. The governors of five states - Illinois, Iowa, Minnesota, Missouri, and Wisconsin - recently wrote President Obama to support “continue planning for at least one of NESP’s seven authorized 1200-foot locks to be ready for construction at the earliest possible opportunity”. Similarly, 41 Members of the U.S. House of Representatives from 11 states wrote the President in November in support of funding for NESP. Copies of both letters are included at Appendix C.

### **Inland Waterways Trust Fund**

Prior to the legislative changes made during 2014 in the Continuing Appropriations Act, the Water Resources Reform and Development Act, and the ABLE Act, the 20-cents-per-gallon barge diesel fuel tax only generated enough revenue each year to support annual appropriations of approximately \$150 million for Olmsted and \$10-20 million for other priority inland navigation modernization projects. The signing into law during 2014 of these three new laws creates both additional flexibility and additional Trust Fund revenues to support FY 2015 and FY 2016 funding levels for priority inland projects at a total of approximately \$322 million in FY 2015 and \$358 million in FY 2016. If these total amounts are allocated to reflect current Corps projections of optimal funding levels for the Olmsted and Lower Mon projects, the priority project-specific funding profile for these two years would provide significant funding availability for other priority projects, as reflected in Table 1.

Table 1  
(millions of dollars)

Fiscal Year	Project	Inland Waterways Trust Fund	General Fund	Total
2015	Olmsted	\$27.0	\$153.0	\$180.0
	Lower Mon	\$36.5	\$36.5	\$73.0
	Other	\$34.5	\$34.5	\$69.0
2016	Olmsted	\$27.0	\$153.0	\$180.0
	Lower Mon	\$26.0	\$26.0	\$52.0
	Other	\$63.0	\$63.0	\$126.0

As Table 1 indicates, due to these Congressional actions in 2014, there now should be adequate Inland Waterways Trust Fund revenues to support FY 2015 and FY 2016 continued investments in the partially complete Chickamauga and Kentucky projects, and other priority modernization projects in the Capital Development Plan. Even if spending during FY 2015 were to be limited under the Consolidated and Continuing Further Appropriations Act, at least \$28 million will be available during FY 2015 for allocation to Chickamauga, Kentucky, or other priority lock and dam modernization projects in the Capital Development Plan.

### **Capital Investment Twenty Year Program**

A foundation of the inland waterways reforms that were included in the WRRDA 2014 legislation was the groundbreaking work of a joint Corps-industry team that resulted in the Capital Development Plan, an investment strategy unanimously endorsed by this Board and discussed in our prior reports. The prioritized list of projects was developed based on information available at the time and was always envisioned as a living document. The Capital Development Plan recommended periodic updates to ensure proper project prioritization based on currently available information. Congress referenced the Capital Development Plan in the WRRDA legislation in directing the Secretary of the Army, in coordination with the Users Board, to develop a report describing a 20 year program of making capital investments on the inland and intracoastal waterways based on the application of objective, national project selection prioritization criteria.

This Board takes that legislative direction as an endorsement of the process that led to the Capital Development Plan and envisioned another joint Corps-industry process to thoughtfully develop a consensus based update to the recommendations contained in the Capital Development Plan. However, that is not the way the Board sees this provision is being implemented by the Administration. Instead, the Administration seems to be developing its own prioritization list applying a new and unproven methodology of its choosing, with periodic briefings to industry. While industry is appreciative of being afforded these periodic glimpses into the process being undertaken by the Administration, this falls far short of the level of coordination that resulted in the

Capital Development Plan. The Board is concerned that the result will not be a similar consensus view founded on objective criteria and developed through the expert judgment of Corps and industry leaders.

### **Inland Navigation System Operation and Maintenance**

The Board is aware that its charter is to address the needs for capital investment in our inland waterways system, with operations and maintenance being a government responsibility. However, the manner in which the government discharges this responsibility can greatly impact the need for major rehabilitation and new construction, hence the Board feels it important to comments on these issues. In previous annual reports, the Board has discussed the deteriorating condition of the inland waterways system and the need for adequate Operation and Maintenance (O&M) funding for the system. The Board continues to believe that it is imperative that adequate O&M funding be provided to the Corps of Engineers to keep the system functioning in an efficient and reliable manner. As the system continues to age, this need for adequate O&M funding can only be expected to increase. The Board is pleased to see the record levels of Congressional appropriations for O&M in 2014 and 2015 and suggests that continuing this trend is necessary to ensure continued reliability of the system.

Loss of minimum river navigation depths and major closures at locks and dams have multiple harmful impacts on our Nation's economy, including unexpected costs to conduct repairs and re-open the affected features to commercial traffic as well as higher costs and lower reliability for shippers and receivers, causing them to be competitively disadvantaged in the global marketplace. During 2014, there were 73 lock facilities that experienced closures for a total of 2,380 days, more than 52-thousand hours, of additional costs to shippers and carriers, as well as to the federal government. Just a few examples included:

- Mel Price Lock main chamber (mile 200.8, Upper Mississippi River) was unexpectedly closed for 227 days, beginning in late-December and continuing through Mid-August of 2014;
- Robert C. Byrd Lock main chamber (mile 279.2, Ohio River) experienced two closures totaling 150 days, from May through August of 2014 and from September through November of 2014;
- Dashields Lock main chamber (mile 13.3, Ohio River) and Montgomery Lock main chamber (mile 31.7, Ohio River) were closed for a combined 112 days during 2014; and
- Lock 52 (mile 938.9, Ohio River), the inland waterways system's busiest lock, experienced 67 days of closure.

During the coming 2015 year, the Corps already has scheduled 40 lock facilities for closure amounting to 1,433 days or almost 31-thousand hours of lost commercial availability. And this projection only applies to scheduled closures and does not account for unscheduled closures.

Industry has followed with great interest the Corps initiative to survey 166,000 components of lock and dam structures and develop a Risk Exposure Reduction program to optimize nationwide O&M funding on the inland waterways system. While still

unproven, this Risk Exposure Reduction program has the potential of analytically demonstrating the need for and economic efficiency of increasing O&M expenditures for the inland navigation system.

It is very important to note that the Risk Exposure Reduction program is still in the process of being designed. Its effectiveness has not been established yet, even for managing O&M funding decisions, the purpose for which navigation industry representatives were told this program was originally intended, much less for making capital investment decisions as some have suggested. The Board believes the utility of using this Risk Exposure Reduction methodology for making O&M funding decisions must be proven by seeing its results over time before consideration should be given to expanding its use to other decision making needs.

### Users Board Recommendations

- **In allocating construction funding for inland waterway modernization projects during Fiscal Years 2015 and 2016, the Administration and Congress should use the project priority list contained in the existing Capital Development Plan.** The existing Capital Development Plan, with its emphasis on concentrating first on finishing the projects we have already started, should continue to govern project-specific funding allocations until well after the Secretary of the Army has completed work on its priority list being developed in response to Section 2002 of the Water Resources Reform and Development Act. Congress and the Board must have a full opportunity to evaluate and react to the revised priority list before it can be considered as a sound guide for future investment. Because of the amount of time it will take to develop and appropriately vet the revised priority list, and given the long lead times that are required to properly plan and implement construction schedules for large infrastructure projects like locks and dams, the Board believes at this time that the revised priority list should not be used for making project-specific funding allocations before Fiscal Year 2017.
- **For Fiscal Year 2015, the Administration should obligate the maximum amount of funding supportable by expected FY 2015 revenues into the Inland Waterways Trust Fund and by Congressional appropriations from the Trust Fund for FY 2015, including \$180 million for Olmsted Locks and Dam, \$73 million for Lower Mon, and the remainder toward other priority modernization projects identified in the Capital Development Plan.** Based on past diesel tax revenue experience and on Congressional action during 2014 to increase future Trust Fund revenues and expenditure flexibility for modernization projects, the Board estimates that a total of approximately \$322 million in inland waterway modernization projects can be funded during Fiscal Year 2015.
- **For Fiscal Year 2016, the Administration should request and Congress should provide for inland waterway modernization projects the maximum amount of appropriated funding supportable by expected revenues into the Inland Waterways Trust Fund during FY 2016, including \$180 million for Olmsted, \$52 million for Lower Mon, and the remainder toward other**

**priority modernization projects identified in the Capital Development Plan.**

As indicated earlier in this report, the Board estimates that a total of approximately \$358 million in modernization project funding allocations can be supported by expected Inland Waterways Trust Fund diesel fuel tax revenues collected during Fiscal Year 2016.

- **For purposes of scheduling and carrying out construction of the Lower Mon project, the Corps should defer work on the land chamber at Charleroi and not raise the height of the Port Perry Rail Bridge.** Consideration of whether and, if so, when to construct the land chamber should be deferred until completion of the other features of the Lower Mon project, with those other features to be constructed as quickly as possible from an engineering and financing perspective. This recommendation is consistent with views expressed by Corps officials at the Board Meeting No. 73 in Baltimore in November 2014.
- **The Corps should continue to efficiently fund the General Re-evaluation Report for the Inner Harbor Navigation Canal Lock Replacement so that construction can be resumed on this priority project at the earliest opportunity.**
- **Funding should be allocated during Fiscal Years 2015 and 2016 from the Corps Investigations appropriation account for Preconstruction Engineering and Design (PED) of one or two lock modernization projects on the Upper Mississippi River and Illinois Waterway system authorized in title VIII of the Water Resources Development Act of 2007 (Public Law 110-114).** Lock and dam projects are long term, long lead projects. To ensure that projects are “shovel ready” when funds become available, including if funds become available earlier than planned due to unforeseen events, prudence calls for performing PED work on priority projects not yet under construction. As envisioned in the Capital Development Plan, the first two NESP lock modernization projects to receive additional PED funding should be Lock and Dam 25 on the Mississippi River and LaGrange Lock and Dam on the Illinois Waterway, both of which have received previously appropriated funds for necessary PED work. Moving forward in this fashion will position these projects to proceed to construction as soon as construction funding becomes available for them.
- **For Fiscal Year 2016, the Administration and Congress should continue and, if possible, increase the robust levels of funding provided during Fiscal Years 2014 and 2015 for the Operation and Maintenance activities of the Corps affecting inland and coastal navigation throughout the nation.** Additional funding will help address the Corps deferred O&M and will be completely consistent with the broadly-supported objective of improving our national standard of living, growing the nation’s economy, and increasing exports.
- **The Administration should appoint the eleventh member of the Inland Waterways Users Board without further delay.** Only ten members of the Board have been appointed, causing the Board to be forced to function for the entirety of 2014 without its full complement. One additional appointment should be made as



soon as possible to bring the Board to its full Congressional authorization of eleven members.

- **The Administration should support appointment and reappointment of Board members on a staggered basis to prevent the expiration of all Board members' terms occurring at the same time.** The terms of no more than six Board members should expire in any single fiscal year.

### **Acknowledgements**

The Inland Waterways Users Board wishes to express its sincere appreciation to Major General John W. Peabody, the U.S. Army Corps of Engineers Deputy Commanding General for Civil and Emergency Operations and Executive Director to the Board, Ms. Mindy Simmons, the Designated Federal Office for the Board, and Messrs. Mark R. Pointon and Kenneth E. Lichtman from the Corps Institute for Water Resources for all the support they provide. The Board would like to particularly recognize Mr. James Hannon, the Chief of the Corps Civil Works Operations & Regulatory Division, upon his retirement for his wise counsel, support to the Board and his exemplary career of service to our nation. Also, the Corps' division and district staffs and the staffs at Corps Headquarters and the Institute for Water Resources have provided thorough and timely information for the Board's use. The Board would also like to recognize the professionalism and service of Mr. David Dale from the Great Lakes and Ohio River Division, for his involvement with the Board the past few years concerning the Olmsted Locks and Dam project.



## Appendix A

### History

The Inland Waterways Fuel Tax was established to support inland waterways infrastructure development and rehabilitation. Commercial users are required to pay this tax on fuel consumed in inland waterways transportation. Revenues from the tax are deposited in the Inland Waterways Trust Fund and generally fund 50% of the cost of inland navigation projects each year as authorized. Since 1995, the amount of tax paid by commercial users has been \$.20 per gallon of fuel. This tax rate currently generates approximately \$80 to \$85 million in contributions annually to the Inland Waterways Trust Fund. The diesel fuel tax rate will increase to \$.29 per gallon in a few short months, and should generate additional revenues for the Inland Waterways trust Fund.

Reflecting the concept of “Users Pay, Users Say”, the Water Resources Development Act of 1986 (Public Law 99-662) (WRDA 86) established the Inland Waterways Users Board (“Board”), a Federal advisory committee, to give commercial users a strong voice in the investment decision-making they are supporting with their cost-sharing tax payments. The principal responsibility of the Board is to recommend to the Congress, the Secretary of the Army and the U.S. Army Corps of Engineers the prioritization of new and replacement inland navigation construction and major rehabilitation projects. Specifically, Section 302 of WRDA 86 tasked the Board as follows:

*“The Users Board shall meet at least semi-annually to develop and make recommendations to the Secretary regarding construction and rehabilitation priorities and spending levels on the commercial navigational features and components of the inland waterways and inland harbors of the United States for the following fiscal years. Any advice or recommendation made by the Users Board to the Secretary shall reflect the independent judgment of the Users Board. The Users Board shall, by December 31, 1987, and annually thereafter file such recommendations with the Secretary and with the Congress.”*

Earlier this year, on June 10, 2014, the President signed the Water Resources Reform and Development Act (Public Law 113-121) which, among other things, modified WRDA 86’s Section 302 to amend and increase the responsibilities of the Users Board. Section 2002 of WRRDA replaced subsection (b) of the 1986 Act’s Section 302 as follows:

*“(1) IN GENERAL. – The Users Board shall meet not less frequently than semiannually to develop and make recommendations to the Secretary and Congress regarding the inland waterways and inland harbors of the United States.*

*(2) ADVICE AND RECOMMENDATIONS. – For commercial navigation features and components of the inland waterways and inland harbors of the United States, the Users Board shall provide –*

- (A) prior to the development of the budget proposal of the President for a given fiscal year, advice and recommendations to the Secretary regarding construction and rehabilitation priorities and spending levels;
- (B) advice and recommendations to Congress regarding any feasibility report for a project on the inland waterway system that has been submitted to Congress pursuant to section 7001 of the Water Resources Reform and Development Act of 2014;
- (C) advice and recommendations to Congress regarding an increase in the authorized cost of those features and components;
- (D) not later than 60 days after the date of the submission of the budget proposal of the President to Congress, advice and recommendations to Congress regarding construction and rehabilitation priorities and spending levels; and
- (E)” advice and recommendations on the development of a long-term capital investment program in accordance with subsection (d).

(3) *PROJECT DEVELOPMENT TEAMS.* – The chairperson of the Users Board shall appoint a representative of the Users Board to serve as an advisor to the project development team for a qualifying project or the study or design of a commercial navigation feature or component of the inland waterways and inland harbors of the United States.

(4) *INDEPENDENT JUDGMENT.* – Any advice or recommendation made by the Users Board to the Secretary shall reflect the independent judgment of the Users Board...

...(d) *CAPITAL INVESTMENT PROGRAM.* –

(1) *IN GENERAL.* – Not later than 1 year after the date of enactment of this subsection, the Secretary, in coordination with the Users Board, shall develop and submit to Congress a report describing a 20-year program for making capital investments on the inland and intracoastal waterways based on the application of objective, national project selection prioritization criteria.

(2) *CONSIDERATION.* – In developing the program under paragraph (1), the Secretary shall take into consideration the 20-year capital investment strategy contained in the Inland Marine Transportation System (IMTS) Capital Projects Business Model, Final Report published on April 13, 2010, as approved by the Users Board.

(3) *CRITERIA.* – In developing the plan and prioritization criteria under paragraph (1), the Secretary shall ensure, to the maximum extent practicable, that investments made under the 20-year program described in paragraph (1) –

(A) are made in all geographical areas of the inland waterways system; and

(B) ensure efficient funding of inland waterways projects.

(4) *STRATEGIC REVIEW AND UPDATE.* – Not later than 5 years after the date of enactment of this subsection, and not less frequent than once every 5 years thereafter, the Secretary, in coordination with the Users Board, shall –

(A) submit to Congress and make publicly available a strategic review of the 20-year program in effect under this subsection, which shall identify and explain any changes to the project-specific recommendations contained in the previous 20-year program (including any changes to the prioritization criteria used to develop the updated recommendations); and

(B) make revisions to the program, as appropriate.

*(e) PROJECT MANAGEMENT PLANS. – The chairperson of the Users Board and the project development team member appointed by the chairperson under subsection (b)(3) may sign the project management plan for the qualifying project or the study or design of a commercial navigation feature or component of the inland waterways and inland harbors of the United States.”*

WRRDA’s Section 2002 further clarifies the role of the Users Board in a new subsection (f) of Section 302, as follows:

*“(f) ADMINISTRATION. –*

*(1) IN GENERAL. – The Users Board shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.), other than section 14, and, with the consent of the appropriate agency head, the Users Board may use the facilities and services of any Federal agency.*

*(2) MEMBERS NOT CONSIDERED SPECIAL GOVERNMENT EMPLOYEES. – For the purposes of complying with the Federal Advisory Committee Act (5 U.S.C. App.), the members of the Users Board shall not be considered special Government employees (as defined in section 202 of title 18, United States Code).*

*(3) TRAVEL EXPENSES. – Non-Federal members of the Users Board while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.”*



## Appendix B

### **List of the Fuel Taxed Inland and Intracoastal Waterways and System Map**

Statutory Definitions of Inland and Intracoastal Fuel Taxed Waterways of the United States

SOURCES: Public Law 95-502, October 21, 1978, and Public Law 99-662, November 17, 1986.

1. Alabama-Coosa Rivers: From junction with the Tombigbee River at river mile (hereinafter referred to as RM) 0 to junction with Coosa River at RM 314.
2. Allegheny River: From confluence with the Monongahela River to form the Ohio River at RM 0 to the head of the existing project at East Brady, Pennsylvania, RM 72.
3. Apalachicola-Chattahoochee and Flint Rivers (ACF): Apalachicola River from mouth at Apalachicola Bay (intersection with the Gulf Intracoastal Waterway) RM 0 to junction with Chattahoochee and Flint Rivers at RM 107.8. Chattahoochee River from junction with Apalachicola and Flint Rivers at RM 0 to Columbus, Georgia at RM 155 and Flint River, from junction with Apalachicola and Chattahoochee Rivers at RM 0 to Bainbridge, Georgia, at RM 28.
4. Arkansas River (McClellan-Kerr Arkansas River Navigation System): From junction with Mississippi River at RM 0 to Port of Catoosa, Oklahoma, at RM 448.2.
5. Atchafalaya River: From RM 0 at its intersection with the Gulf Intracoastal Waterway at Morgan City, Louisiana, upstream to junction with Red River at RM 116.8.
6. Atlantic Intracoastal Waterway: Two inland waterway routes approximately paralleling the Atlantic coast between Norfolk, Virginia, and Miami, Florida, for 1,192 miles via both the Albemarle and Chesapeake Canal and Great Dismal Swamp Canal routes.
7. Black Warrior-Tombigbee-Mobile Rivers: Black Warrior River System from RM 2.9, Mobile River (at Chickasaw Creek) to confluence with Tombigbee River at RM 45. Tombigbee River (to Demopolis at RM 215.4) to port of Birmingham, RM's 374-411 and upstream to head of navigation on Mulberry Fork (RM 429.6), Locust Fork (RM 407.8), and Sipsey Fork (RM 430.4).
8. Columbia River (Columbia-Snake Rivers Inland Waterways): From the Dalles at RM 191.5 to Pasco, Washington (McNary Pool), at RM 330, Snake River from RM 0 at the mouth to RM 231.5 at Johnson Bar Landing, Idaho.
9. Cumberland River: Junction with Ohio River at RM 0 to head of navigation, upstream to Carthage, Tennessee, at RM 313.5.

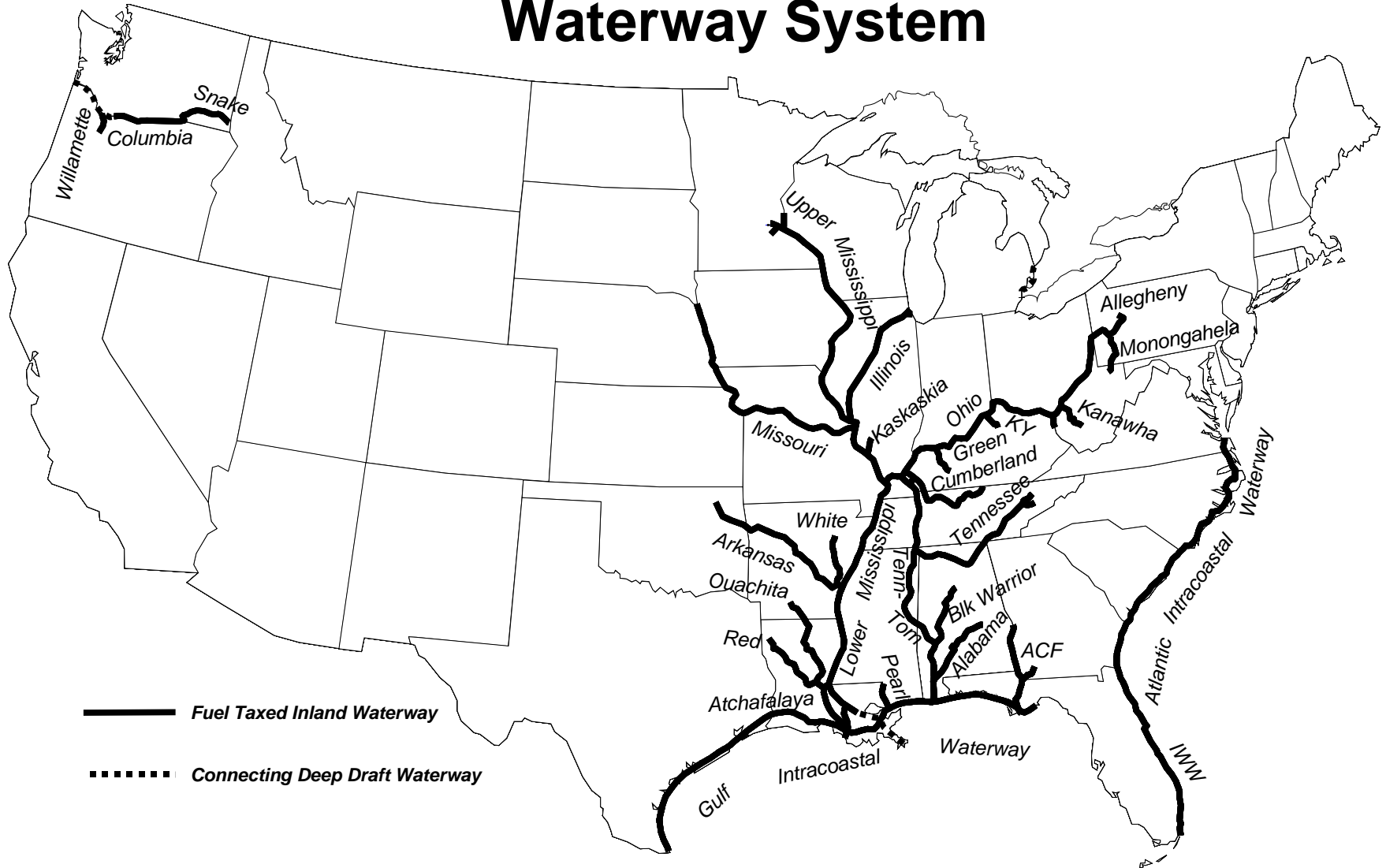
10. Green and Barren Rivers: Green River from junction with the Ohio River at RM 0 to head of navigation at RM 149.1.
11. Gulf Intracoastal Waterway: From St. Mark's River, Florida, to Brownsville, Texas, 1,134.5 miles.
12. Illinois Waterway (Calumet-Sag Channel): From the junction of the Illinois River with the Mississippi River RM 0 to Chicago Harbor at Lake Michigan, approximately RM 350.
13. Kanawha River: From junction with Ohio River at RM 0 to RM 90.6 at Deepwater, West Virginia.
14. Kaskaskia River: From junction with Mississippi River at RM 0 to RM 36.2 at Fayetteville, Illinois.
15. Kentucky River: From junction with Ohio River at RM 0 to confluence of Middle and North Forks at RM 258.6.
16. Lower Mississippi River: From Baton Rouge, Louisiana, RM 233.9 to Cairo, Illinois, RM 953.8.
17. Upper Mississippi River: From Cairo, Illinois, RM 953.8 to Minneapolis, Minnesota, RM 1,811.4.
18. Missouri River: From junction with Mississippi River at RM 0 to Sioux City, Iowa, at RM 734.8.
19. Monongahela River: From junction with Allegheny River to form the Ohio River at RM 0 to junction of the Tygart and West Fork Rivers, Fairmont, West Virginia, at RM 128.7.
20. Ohio River: From junction with the Mississippi River at RM 0 to junction of the Allegheny and Monongahela Rivers at Pittsburgh, Pennsylvania, at RM 981.
21. Ouachita-Black Rivers: From the mouth of the Black River at its junction with the Red River at RM 0 to RM 351 at Camden, Arkansas.
22. Pearl River: From junction of West Pearl River with the Rigolets at RM 0 to Bogalusa, Louisiana, RM 58.
23. Red River: From RM 0 to the mouth of Cypress Bayou at RM 236.
24. Tennessee River: From junction with Ohio River at RM 0 to confluence with Holstein and French Rivers at RM 652.
25. White River: From RM 9.8 to RM 255 at Newport, Arkansas.



26. Willamette River: From RM 21 upstream of Portland, Oregon, to Harrisburg, Oregon, at RM 194.

27. Tennessee-Tombigbee Waterway: From its confluence with the Tennessee River to the Warrior River at Demopolis, Alabama.

# The Fuel-Taxed Inland and Intracoastal Waterway System



**Appendix C**

**Letters to President Obama in Support of Funding for the Navigation and Ecosystem  
Sustainability Program (NESP)**



Upper  
Mississippi River  
Basin Association

ILLINOIS, IOWA, MINNESOTA, MISSOURI, WISCONSIN

August 20, 2014

The Honorable Barack Obama  
President  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Dear President Obama:

The passage of the 2014 Water Resources Reform and Development Act (WRRDA) signifies a new era for the nation's investment in water resources, improving project delivery, offering additional financing options, and expanding the Inland Waterways Trust Fund's ability to support critical navigation projects. Further, in the Conference Committee report on WRRDA, Congressional members specifically acknowledged the Upper Mississippi River System (Upper Mississippi) as the only system designated as a "nationally significant ecosystem and nationally significant commercial navigation system" and declared their ongoing commitment to the Navigation and Ecosystem Sustainability Program (NESP).

As the Administration formulates its fiscal year 2016 budget, we urge you to prioritize construction funding for NESP to immediately construct small-scale navigation efficiency improvements and ecological restoration projects, as well as to continue designing at least one 1,200-foot lock, per the sequencing recommendations of the Inland Waterways Users Board. Funding for NESP was last appropriated in 2011. Under current law, it could be deauthorized if it does not receive funding in 2016, undoing years of multi-state collaboration and study. The time is now to both address the navigation system's longstanding needs and ensure its capacity to relieve congestion on other parts of our nation's multi-modal infrastructure.

Several small-scale projects developed through NESP are ready for construction as soon as funding permits. These include switchboats at Locks 20-25 to facilitate double-cut lockages and downbound lock approaches; mooring cells at Locks 14, 22, and La Grange to provide waiting stations in closer proximity to the locks; and a guidewall extension at Lock 22 to better assist operators in transiting through the lock chamber. These projects will provide substantial benefits to the region at relatively little cost. Several habitat restoration projects are also ready for construction once funding is available that would have tremendous ecological and economic benefits, including water level management and riverbank forest restoration. With a long term monitoring component, NESP will build off of the region's

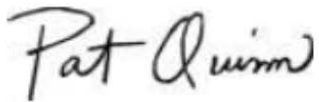
415 Hamm Building  
408 St. Peter Street  
St. Paul, Minnesota 55102  
Phone: 651-224-2880  
Fax: 651-223-5815  
[www.umrba.org](http://www.umrba.org)

ongoing successes in improving the river's health and resilience and increasing our understanding of its complex ecosystem.

To address critical capacity constraints on the Upper Mississippi from outdated and deteriorating infrastructure, it is prudent that the U.S. Army Corps of Engineers continue planning for at least one of NESP's seven-authorized 1,200-foot locks to be ready for construction at the earliest possible opportunity. The planned infrastructure improvements through NESP have been designed to substantially lower transportation costs by increasing the system's reliability and efficiency, eliminate or minimize safety risks, and stimulate market opportunities. These infrastructure improvements will also allow the region to capitalize on the Panama Canal's expansion, which will make international commerce even faster and less expensive.

Our region's prosperity and quality of life depend upon the Mississippi River's continuing viability as a commercial transportation system, particularly for its ability to move a substantial portion of the nation's agricultural exports to the Gulf of Mexico, as well as a rich and diverse ecosystem, a source of water supply, and a recreational resource. Thus, we, the Governors of States bordering the Upper Mississippi, have a vested interest in ensuring that the Upper Mississippi continues to function as a vital commercial transportation corridor — connecting our states to the world economy — and as a globally significant ecological resource to support the river's multiple uses.

Thank you for your consideration.



Pat Quinn  
Governor of Illinois



Terry E. Branstad  
Governor of Iowa



Mark Dayton  
Governor of Minnesota



Jeremiah W. (Jay) Nixon  
Governor of Missouri



Scott Walker  
Governor of Wisconsin

**Congress of the United States**  
**Washington, DC 20515**

November 17, 2014

The Honorable Barack Obama  
President of the United States  
The White House  
Washington, D.C. 20500

Dear Mr. President:

We write you today regarding the national significance of the Upper Mississippi & Illinois Rivers – the Upper Mississippi River System (UMRS). As you are aware, the UMRS is the only river system designated by Congress as a “nationally significant ecosystem and a nationally significant commercial navigation system.” With this in mind, as you develop your FY 2016 Budget, we urge you to support the U.S. Army Corps of Engineers’ Navigation and Ecosystem Sustainability Program (NESP), a program that will strengthen this river system and benefit the entire Mississippi River.

During your June 10, 2014 signing of the Water Resources Reform and Development Act (WRRDA) into law, you noted this bill is essential to “modernizing our water infrastructure and restoring some of our most vital ecosystems.” NESP accomplishes both by ensuring efficient passage of barges and recreational traffic as well as restoring and maintaining the river’s ecosystem.

The Conference Report to WRRDA was overwhelmingly agreed to by both chambers and, in Section 4002, Congress reinforced its commitment to the UMRS and the initiatives of NESP to strengthen the river system. The critical infrastructure along this river system allows our agriculture and manufacturing industries to compete on a global scale which ultimately benefits all American consumers. In fact, the Mississippi River transports more than 60 percent of America’s corn and soybean exports to the global market. Unfortunately, the locks and dams of the 1930s are undersized and limit the capacity for current and future barge traffic. Furthermore, the increasing number of both emergency and planned lock outages, as a result of their age and condition, raises the need to improve the integrity of the entire system. NESP will strengthen not only the UMRS but the entire Mississippi River by supporting the critical international trade route through the Gulf of Mexico and optimizing the nation’s intermodal transportation network.

NESP will also facilitate the critical migratory corridor for fish and wildlife of the entire Mississippi River, as well as improve water quality and other human and wildlife needs of a healthy river. Families and communities throughout the region rely on the Mississippi River for clean water. The Mississippi River is home to 25 percent of the fish species and serves as a flyway for 60 percent of the bird species in North America. NESP ensures we continue to be good stewards of the environment by protecting the ecosystem and this vital water resource. It will reconnect floodplain habitat, provide for environmental water level management, restore side channels and backwaters, create islands and protect shorelines.

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Congress authorized NESP to modernize the infrastructure required to keep American products moving, as well as ensure the UMRS ecosystem thrives for generations. Achieving both of these goals for the UMRS would tremendously benefit the economic and environmental sustainability of the entire Mississippi River. Federal investment in NESP is critical to these goals and will generate tens of millions of man-hours in the construction trades.

NESP will also create and sustain countless jobs related to the commodities that are the underpinnings of our economy - directly and indirectly relying on the entire Mississippi River for transportation as well as recreational opportunities. Improved transportation efficiency combined with restored ecosystems will enhance the nation's legacy of federal investment into the system and keep America competitive in global markets.

For this and many other reasons, implementation of NESP's dual-purpose plan is endorsed by the basin states, along with a wide and diverse coalition of stakeholders who support this vital and overdue program. Specifically, the Governors from Illinois, Iowa, Minnesota, Missouri, and Wisconsin recently sent you a letter urging the inclusion of NESP in the FY 2016 Budget. Additionally, the agriculture producers, manufacturers, commercial navigation industry, shipping entities, organized labor, economic development groups, and environmental, conservation and sportsmen's groups have declared their firm support for NESP.

NESP has a long-term vision but many projects are ready for construction within a year. The economic and environmental benefits can be quickly achieved with positive impacts to communities throughout the region. With threats of invasive species and aging infrastructure, we hope you will build on the passage of WRRDA by including NESP in your FY 2016 Budget. Thank you for your consideration.

Sincerely,



Rep. Adam Kinzinger (IL-16)




Rep. Ron Kind (WI-03)



Rep. William Enyart (IL-12)



Rep. David Loebbeck (IA-02)

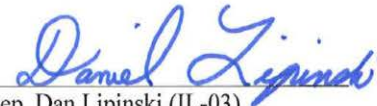


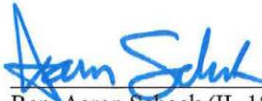
Rep. Ed Whitfield (KY-01)




Rep. Bennie G. Thompson (MS-02)


  
Rep. Wm. Lacy Clay (MO-01)


  
Rep. Dan Lipinski (IL-03)

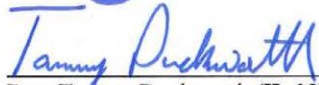
  
Rep. Aaron Schock (IL-18)

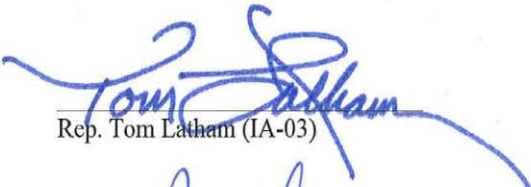
  
Rep. Rodney Davis (IL-13)

  
Rep. Sam Graves (MO-06)

  
Rep. Betty McCollum (MN-04)

  
Rep. Tim Walz (MN-01)

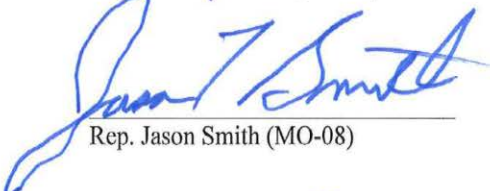
  
Rep. Tammy Duckworth (IL-08)

  
Rep. Tom Latham (IA-03)

  
Rep. Steve King (IA-04)

  
Rep. Alan Nunnelee (MS-01)

  
Rep. Blaine Luetkemeyer (MO-03)

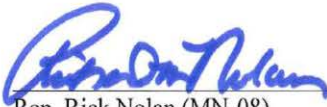
  
Rep. Jason Smith (MO-08)

  
Rep. Bill Foster (IL-11)


  
Rep. Cheri Bustos (IL-17)


  
Rep. Ann Wagner (MO-02)

  
Rep. Bill Johnson (OH-06)


  
Rep. Rick Nolan (MN-08)



  
Rep. Adrian Smith (NE-03)

  
Rep. Mark Pocan (WI-02)

  
Rep. Bruce Braley (IA-01)

  
Rep. Emanuel Cleaver (MO-05)

  
Rep. Michele Bachmann (MN-06)

  
Rep. Todd Young (IN-09)

  
Rep. Erik Paulsen (MN-03)


  
Rep. Mike Quigley (IL-05)


  
Rep. Pat Tiberi (OH-12)

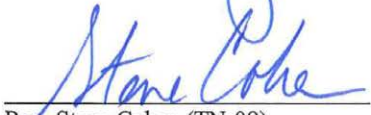
  
Rep. Thomas Petri (WI-06)

  
Rep. Randy Hultgren (IL-14)

  
Rep. Steve Stivers (OH-15)

  
Rep. Danny K. Davis (IL-07)

  
Rep. Bobby L. Rush (IL-01)

  
Rep. Steve Cohen (TN-09)

  
Rep. Tim Ryan (OH-13)

  
Rep. Keith Ellison (MN-05)

CC: Jo-Ellen Darcy, Assistant Secretary of the Army for Civil Works  
Shaun Donovan, Director of the Office of Management and Budget