

INLAND WATERWAYS USERS BOARD

34th ANNUAL REPORT

**To the SECRETARY OF THE ARMY
And the UNITED STATES CONGRESS**

December 2022



Monongahela River Charleroi Lock Construction

Inland Waterways Users Board Organization

Chairman

Canal Barge Company
Mr. Spencer Murphy
New Orleans, Louisiana

Vice Chairman

Marquette Transportation Company
Mr. Damon Judd
Paducah, Kentucky

Members

American Commercial Barge Line, LLC
Mr. Martin T. Hettel
Jeffersonville, Indiana

Bruce Oakley, Inc.
Mr. Dennis Oakley
Little Rock, Arkansas

Cargill, Inc., Cargill Marine and Terminal
Mr. Jeff Webb
Wayzata, Minnesota

CGB Enterprises, Inc.
Mr. Lance Rase
Covington, Louisiana

Continental Cement Company
Mr. David Loomes
Hannibal, Missouri

Ingram Barge Company
Ms. Crystal Taylor
Nashville, Tennessee

Kirby Corporation
Mr. Matt Woodruff
Houston, Texas

Members continued

SCF Marine, Inc.
Mr. Tim Power
St. Louis, Missouri

Shaver Transportation Company
Mr. Robert D. Rich
Portland, Oregon

Inland Waterways Board Members Project Representation Assignments

<u>IWTF Inland Waterways Project</u>	<u>Designated Representation</u>	<u>Organization</u>
Chickamauga Lock	Crystal Taylor	Ingram Barge Co.
GIWW: Brazos River Floodgates and Colorado River Locks	Matt Woodruff	Kirby Corporation
GIWW: Inner Harbor Navigation Canal Lock and Bayou Sorrel Lock	Spencer Murphy	Canal Barge Co.
Kentucky Lock Addition	Damon Judd	Marquette Transportation
MKARNS: Three Rivers and Channel Deepening	Lance Rase	CGB, Inc.
Monongahela River L&Ds 2-3-4 Replacements (Charleroi)	Martin Hettel	American Commercial Barge Line (ACBL)
NESP - Upper Miss & Illinois Waterway: Mississippi Lock #25 and LaGrange Lock	Jeff Webb	Cargill
Upper Ohio River (Montgomery, Emsworth, and Dashields Locks and Dams)	Martin Hettel	American Commercial Barge Line (ACBL)

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Introduction

From the earliest history of the United States, ours has been a maritime Nation, and our navigable rivers and inland waterways have played a crucial role in charting a course for our economic success. Our first President, George Washington, helped build canals, locks and dams. The Northwest Ordinance, passed by the Continental Congress, ratified by the States, and ratified again by the Congress of the United States under the Constitution, decreed the waters leading to the Mississippi and the Saint Lawrence “shall be common highways and forever free... without any tax, impost, or duty therefor.”¹

The U.S. Army Corps of Engineers (Corps) Civil Works program is responsible for America’s water resources, a mission that includes development, management, protection and enhancement of our rivers, lakes, streams, and their related land resources for the purposes of commercial navigation, hydropower production, flood damage reduction, aquatic ecosystem restoration, agricultural water supply, recreation, and other appurtenant purposes. This includes specific and direct responsibility for the expenditure of appropriations provided by Congress for the design, construction, operation and maintenance of waterways and commercial harbor infrastructure which exist for a primary purpose of facilitating the movement of commerce into, out of, and throughout the United States.

The significant disruptions to the domestic and global supply chains over the last 12-24 months have only accentuated how important this mission is. In an environment where the United States economy is battling through significant inflationary pressures, the ability to access inland marine transportation as the cheapest, safest and most environmentally friendly form of transportation is more critical than ever. America’s agricultural, energy and manufacturing supply chains rely on the 12,000 miles of navigable waterways in the U.S. Unfortunately, natural disasters like Hurricane IDA and the historically low water levels on the mainstem Mississippi Rivers and its tributaries this past Fall that disrupt river-borne transportation have only served to further underscore the importance of America’s inland waterways and Corps’ mission of maintaining a reliable inland transportation system.

The Inland Waterways Trust Fund (IWTF) was authorized by Congress in 1978 with the intent to provide financial support for capital improvements to the inland waterways transportation system to enhance the movement of goods. Revenues are derived from a 29-cents per gallon fuel tax on users of the system and fund 35 percent of the cost of capital improvements projects. Industry has long supported the public/private investment structure this tax arrangement facilitates. In recent years, it has led to annual fuel tax collections of around \$125 million to fund the IWTF, enough to support a construction program of over \$350 million per year.

The Inland Waterways Users Board (the “Board”) is a Federal Advisory Committee established by Congress under Section 302 of the Water Resources Development Act of 1986 (Public Law 99-662) with the intent to make recommendations on construction and rehabilitation projects on the inland waterways system. Reflecting the “Users Pay, Users Say” concept, the Board takes an

¹ <https://supreme.justia.com/cases/federal/us/87/430/#:~:text=%22The%20river%20Mississippi%20and%20the,impost%2C%20or%20duty%20therefor.%22>

active role each year in the development of federal waterway policy and the corresponding investment of funds for construction, rehabilitation, operation, and maintenance projects on the inland waterways system. The Board consists of 11 members whose appointments are required to be representative of the primary users of the waterways for commercial purposes, as well as incorporating the considerations of the various commodity shippers that utilize the system. Additionally, the Board's mandate requires representation from different geographic regions to adequately address its obligation to assist in formulating recommendations for a cohesive national prioritization of inland waterways infrastructure requirements.

America's ability to compete in the global economy is contingent upon our ability to efficiently transport bulk raw materials and finished products and commodities. Failure to fund construction of the priority projects identified jointly by the Board and the Corps at full capability levels each year results in billions of dollars in lost benefits to the Nation. After a significant gap following the disbandment of the Board in early 2021, industry leaders were relieved the Board was reconstituted in early 2022 to renew its important work in partnership with the Corps and to develop a 2022 update of projects and project-related data to the Capital Investment Strategy.

The Board continues to respectfully request Congressional action to invest in upgrades and improvements to the inland waterways system. Without a reliable inland waterways system that delivers key competitive advantages to our country, agricultural exports remain vulnerable to foreign competitors, power generation costs will increase, and manufacturing costs for consumer durables and nondurables using chemicals and petrochemicals will increase, and the nation's environment will suffer from increased pollution, noise, and congestion.

Recommending the prioritization of construction and major rehabilitation projects is the principal responsibility of the Board. The Board wishes to convey to Congress, the Corps, and the Secretary of the Army in the following recommendations:

Inland Waterways Users Board Recommendations **for Fiscal Year (FY) 2024**

- **Congress should appropriate ALL estimated receipts going into the Inland Waterways trust Fund (IWTF), including any remaining excess balances from previous years.** The Board maintains the IWTF should not maintain a balance above that which is required by the Anti-deficiency Act (\$20 million). While we understand from the Corps that several ongoing projects are likely to experience cost overruns, the list of important projects that await initiation is significant and the effect of inflation will only be to reduce the spending power associated with these funds if their deployment is delayed. In addition, the estimated annual receipts of \$125 million will add \$357 million in annual funding capabilities. The Board respectfully requests that Congress appropriate the full amount of these estimated receipts and spend down the existing excess balance in the IWTF. For [FY 2024], the Board recommends that, at a minimum, \$100 million should be allocated towards the Mississippi River – Illinois Waterway Navigation Ecosystem Sustainability Program (NESP), and \$259.9 million to the Gulf Intracoastal Waterway (GIWW) – Brazos River Floodgates project.

- **Congress should provide funds to initiate construction of the Brazos River Floodgates.** More than 30 million tons of commodities pass through this segment of the GIWW annually. However, the age, size, and alignment of the existing structures can no longer accommodate today's typical towboat and barge tow configurations. According to the feasibility study completed by the Corps, the current size and orientations of the existing structures is a significant contributing factor to the number of allisions that occur at this structure. In fact, the Corps briefed the Board at its recent site visit that the Brazos River Floodgates are the most frequently damaged structures due to navigation incidents in the entire Corps system. In addition to creating safety risks for our industry's mariners and the public, these incidents restrict vessel traffic at costs that exceed \$10 million annually. The Corps' proposed project consists of removing the existing gates on both sides of the river crossing, and constructing a 125-foot-wide open channel on the west side and a 125-foot wide sector gate on the east side, with the potential to remove the west side gate altogether. This design addresses the needs of navigation, controlling vessel traffic flow, and aiding in preventing sand and silt deposition into the GIWW. Construction of the new floodgates on the Brazos River will also include realigning the approaches into the structures, which will significantly enhance the safety elements of the project and modernizing existing structures to minimize crosscurrents in the GIWW.
- **Congress should increase the level of funding for the Operation and Maintenance (O&M) activities on the nation's inland waterways system, to address the critical backlog of routine work.** We recommend Congress and the Corps address the shortfalls in funding to avoid unnecessary delays in planned and unplanned maintenance activities. The 2023 Illinois Waterway Consolidated Closure, initially planned for one year, will now take place over multiple years because of a funding shortfall of approximately \$24 million which prevented the Corps from implementing the schedule which had been planned with the Board and inland towing industry over a multi-year period. Further, advanced planning and additional levels of investment will ensure challenges like the low water event in 2022 can be properly minimized and mitigated.
- **Provide significant funding for preconstruction engineering and design (PED), including \$3 million for Bayou Sorrel Lock.** Congress should provide substantial funding to the Investigations account. In particular, Congress should ensure that PED funds are made available to upgrade the GIWW's primary route to the Mississippi River from the Western half of the GIWW through Bayou Sorrel Lock. Failure to complete the design will delay project delivery, ultimately increasing the cost of project, adding time to completion, and putting further stress on the Port Allen Lock and other facilities along the GIWW system. In addition to representing a critical navigation point that, in its current state is at risk of being compromised in a major storm, the Corps has indicated the Bayou Sorrel Lock project will include significant flood protection benefits as part of the Mississippi River and Tributaries (MR&T) system.
- **Congress should follow regular order and enact the Energy and Water Development and Related Agencies Appropriations Act before the end of the fiscal year on September 30.** When annual funding legislation is not completed before the start of the

fiscal year, the Corps must rely on temporary funding through one or more Continuing Resolutions. Rather than following a realistic engineering-based timeline, project managers must schedule construction activities and milestones that conform to short-term appropriations, with durations of only a few weeks or months. Under these circumstances, contractors cannot plan for efficient construction sequences, often requiring contractors to pause their operations until full year funding is available. Continuing Resolutions not only delay construction timelines and increase costs, but also may result in workforce layoffs due to the inability to execute contracts. Efficient funding is essential to efficiently completing these projects and delivering the benefits they represent to the Nation.

- **Congress should adjust the construction and major rehabilitation cost-share in the 118th Congress.** In modifying the cost-share to 75% General Treasury / 25% IWTF, Congress would mirror the exact cost-share change that Congress made in the Water Infrastructure Improvements for the Nation Act of 2016 and the Water Resources Development Act of 2016 (Public Law 114-322) for the construction of coastal navigation projects to depths between 45 and 50 feet. Especially in light of the inflationary pressures reported by the Corps, this modification is critical to maintaining sufficient funds in the IWTF to continue full and efficient funding for inland waterways projects. Authorizing this modification will enable annual investment in the modernization of the nation's lock and dam infrastructure to remain at or above the levels achieved since 2014 and ensure the schedule and efficiency successes experienced in recent years.
- **Congress should support the Inland Waterways Users Board position that each member serving on the Board should continue be eligible for an additional 2-year term beyond their current term.** The zero-based review in 2021 broke the continuity of the Board and provided the Department of Defense an opportunity to vet existing Board members again before re-appointing them. Once the Department of Defense chose to renew the Users Board and restart the process to select Board members, the Users Board believes that this “restarted the clock” for each member’s term. Further, the Board suggests that current terms should be extended as follows to ensure that the term of every Board member does not expire at the same time: four members shall have their terms extended by an additional two (2) years, four members shall be extended by an additional year, and three members shall have their terms expire as currently scheduled. The Board is also open to other solutions that would prevent the entire Board from rolling off at once.

Inland Waterways Users Board in 2022

Taxpayers and the inland waterways industry have invested hundreds of millions of dollars annually to study, operate, maintain, rehabilitate, and modernize inland navigation projects as a system. The 117th Congress began without the Users Board being convened because of a zero-

based review of all Department of Defense advisory committees. That zero-based review led to the Board being non-existent for a year, with the Department of Defense giving little indication as to when the Board would be reconstituted.

While the Board was eventually reconstituted, the delay in repopulating its membership became an administrative impediment, since it occurred when Congress was negotiating the largest infrastructure investment in our nation's history. With \$2.5 billion provided by Congress for the inland waterways transportation system, the Board was unable to participate in deliberations on priorities to modernize the inland waterways transportation system. Also, with the Board terminated for the entirety of the year, no annual report was prepared for 2021.

We appreciate the willingness of the Corps to hold three meetings this year in New Orleans, Louisiana, Walla Walla, Washington, and Galveston, Texas. For 2023 and 2024, the Board would recommend at least three meetings annually given the significant project work that is in process.

Infrastructure Investment and Jobs Act (IIJA) or Bipartisan Infrastructure Law (BIL)

On January 19, 2022, the Administration released its IIJA or BIL Spend Plan for the Corps, allocating funds to specific projects, and the Board was receptive to the projects included. The following projects were funded in the spend plan: Kentucky Lock Addition (Tennessee River), Montgomery Lock (Upper Ohio River), Lock and Dam 25 (Mississippi River), Three Rivers (McClellan-Kerr Arkansas River Navigation System), and T.J. O'Brien Major Rehabilitation (Illinois Waterway). Then on March 30, 2022, the Corps of Engineers issued an addendum to the January 19th spend plan, included in this addendum was \$77 million to complete the design of Emsworth Lock of the Upper Ohio project, and \$92.6 million for the MKARNS 12-foot deepening project.

While some of the IIJA funded projects fell outside the Capital Investment Strategy (CIS) created jointly by industry and the Corps, the \$2.5 billion initiated construction for one third of the projects on the CIS. There remains approximately \$113 million available to invest in authorized construction and major rehabilitation projects on the inland waterways transportation system. Major General Butch Graham, the Corps of Engineers Deputy Commanding General for Civil and Emergency Operations, stated in the December Inland Waterways Users Board meeting that these remaining funds may be withheld to address expected cost overruns at ongoing projects. The Board is encouraged by the commitment from the Corps to provide the Board with regular updates of costs of ongoing construction projects. Having accurate cost estimates in an era of high inflation will help the Board prepare its recommendations and help the Corps coordinate construction schedules.

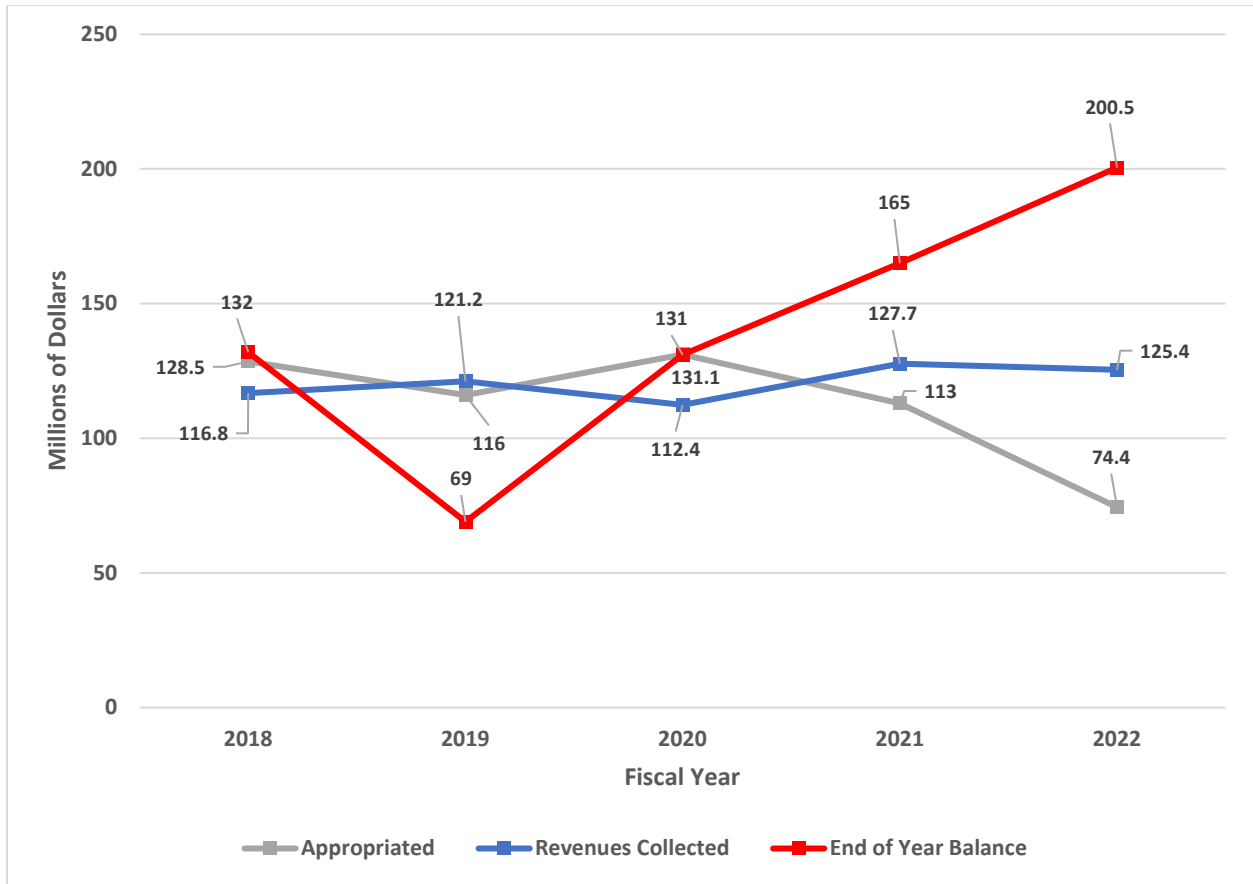
Since much of the IIJA funds have been allocated, the Board remains focused on the execution of these projects and continues to advocate for full use of the IWTF in carrying out the projects in the CIS. The remaining priority projects on the CIS are, in no particular order, as follows: two locks of the Upper Ohio River Project (Deshields and Emsworth), six NESP projects

(Mississippi River Locks and Dams 24, 22, 21, 20, and Illinois Waterway Locks and Dams LaGrange and Peoria), and the GIWW projects, Brazos River Floodgates, Colorado River Locks.

Inland Waterways Trust Fund

Annual revenues deposited into the Inland Waterways Trust Fund (IWTF) have increased almost ten percent since the 2020 annual report. According to the Treasury Department, as of September 30, 2022, \$125.4 million was collected from industry through the fuel tax in FY 2022. Although this is an increase from 2020, IWTF revenues are slightly lower this year compared to the \$127.7 million collected in FY 2021. The Board is surprised by this trend and would appreciate additional visibility on how the Department of the Treasury estimates and calculates the receipts that are deposited in the IWTF and then transferred to projects from the IWTF. At each of the Board's three meetings this year, there has been significant discussion with the Corps on the importance of timely reporting of accurate trust fund balances to ensure the Board and the Corps are correctly gauging the financial resources available for projects and that the Board is fulfilling its oversight duties to the industry. The Board requests a briefing from the Department of the Treasury on fuel tax collections, deposits into the IWTF, the methodology of tracking those deposits, reporting of transfers and other details on Treasury reported data at a 2023 meeting.

Since the IWTF end-of-year average balance has increased over the past five-year period, the Board maintains that an annual appropriation of at least \$125 million from the IWTF, plus matching General Treasury funds, is a reasonable request for the Administration and the Congress. However, as we are now in FY 2023, both the Administration and Congress continue the trend of underfunding IWTF-eligible work. As shown in the chart below, underutilizing IWTF receipts each year has caused a significant excess balance to grow.



End of Year Balance

Accurate reporting on the IWTF balance will assist in better coordination to finance the completion of ongoing and future construction and major rehabilitation projects. Accurate reporting of receipts provides the Board an opportunity to recommend better management of the inland waterways transportation system by providing maximum capability to new and ongoing projects. This is especially important to the Board, as at all Users Board meetings in 2022, the Corps focused on the potential for cost overruns and the likely need for increased investment to continue construction and increased outyear funding to keep projects on schedule. With a current available balance of more than \$200 million while maintaining a minimum balance of \$20 million (that represents \$514 million of project funding together with the General Treasury contribution), the Corps needs to request, and Congress should provide, all receipts collected and draw down the balance in the IWTF for IWTF-eligible work. If Congress continues to appropriate less than the annual receipts, the IWTF balance will only continue to grow, delaying the delivery of important projects and allowing their costs to increase.

Operation and Maintenance (O&M)

Congress provided \$5.078 billion for O&M activities in FY 2023. Additionally, IJA provided a total of \$4 billion over three years for O&M efforts throughout all Corps missions.² This increased investment will allow the Corps to move forward with numerous critical deferred maintenance projects throughout the inland waterways. Observing the development of an accelerated Spend Plan and schedule was encouraging from the Board's perspective. However, the Board and industry partners were previously unaware of any activities that were included in the O&M Spend Plan, nor was the Board consulted. Following many conversations to address this issue, the Corps has begun the practice of providing frequent updates to the Board and meeting with industry to discuss potential changes.

2023 Illinois Waterway Consolidated Closures

In the fall of 2022, the Corps announced updated plans for the 2023 Illinois Waterway (IWW) Consolidated Closures to examine and repair Starved Rock, Dresden, Marseilles, and Brandon Road Locks and Dams. As planned, the repairs would close the entire system at a time when vessel traffic volume was lower but still active. Between the \$85.6 million in planned major maintenance activities, the supply contracts subsequently awarded, and the additional \$26 million for additional FY 2023 work, this closure should have taken place over one year with minimal ongoing disruption to the system. Unfortunately, the Corps reported a \$26 million shortfall late in the process, forcing a shift to a multi-year plan that has the potential to close the IWW multiple times rather than the plan for a single closure that had been discussed for multiple years. As users of the system, the Board understands there are always potential unforeseen impacts to cost and project delivery, but funding contingencies must be addressed prior to contract delivery. The Board is thankful for the Corps' continued work on this issue and commitment to fully pursue solutions that do not require multiple closures on the IWW.

As IJA funds continue to enter the Civil Works program, the Board believes it is important to highlight the issues faced on the IWW. The benefits of a plan developed jointly by the Board and the Corps went unrealized due to a \$26 million shortfall in funding timing. The Board is disappointed with this result and strongly urges the Corps identify these potential shortfalls ahead of time so that Congress can be alerted and provide subsequent funds.

Low Water Conditions on the Mississippi River and Tributaries

In late 2022, the water levels in the Mississippi River and its tributaries were recorded at their lowest levels since 1988. The shallower depths and narrower widths of the channel significantly restricted commerce, as lighter loading of barges and smaller tow configurations were required to navigate. The inland waterways are a major component of the supply chain for the nation and the world, and the inability to move cargo on the Mississippi efficiently has far-reaching economic implications for the U.S. on top of implications for the global food and energy supply chains.

² <chrome-extension://efaidnbnmnnibpcajpcglclefindmkaj/https://crsreports.congress.gov/product/pdf/IN/IN11723>

While low water conditions significantly impacted the movement of cargo, the Board is pleased with the work done by the Corps to keep the Mississippi River and its tributaries from completely closing to navigation. As the need for additional dredging capacity increased, the Corps, in partnership with Congress and industry, confirmed the availability of roughly \$200 million in unobligated funding provided in H.R. 5305, Extending Government Funding and Delivering Emergency Assistance Act of 2021. This allowed the Corps to respond as needed to dredge low spots in close coordination with the United States Coast Guard and industry. However, it is worth noting the 1944 Flood Control Act authorized the Mississippi River to be maintained at a depth of 12 feet and width of 300 feet between Baton Rouge, LA and Cairo, IL.³ As stewards of the system, we believe Congress should consider providing additional O&M funding for this project, as we are all but certain to see a return to low water levels at some point in the future.

With a long history of navigating high-stakes challenges – hurricanes, COVID, flooding, drought and low water, wildfires, and other natural disasters, the Board remains confident that inland operators and the Corps will apply that knowledge and experience to overcome this low water event. However, it is incumbent upon Congress and the Corps to also identify shortfalls in O&M funding, like the 2023 IWW Consolidated Closure, well before an emergency declaration is considered.

Fiscal Year 2023 in Review

FY 2023 President’s Budget Request

The President’s Budget request continues the multi-decade trend of underinvesting in Inland Waterways Trust Fund-eligible projects. For Fiscal Year 2023, the Budget recommended investing only \$13.8 million from the IWTF when FY 2022 receipts indicated that over \$125 million was collected, and, according to Department of the Treasury reports, there is roughly a \$200 million IWTF balance.

As mentioned in the August 31, 2022 “advice and recommendations report” submitted by the Board, there remain concerns regarding the grossly insufficient annual budget requests from the Administration.

While Congress rejected this deficient funding request, the final Appropriations Act still falls short of the total amount of revenues deposited into the IWTF for FY 2022. In the final FY 2023 Energy and Water Appropriations Act, Congress only provided \$34.52 million from the IWTF, leaving an available balance of more than \$200 million.

Appropriations

Fiscal Year 2023 has been especially busy for the inland waterways and the Corps. To start the year, the entire Capital Investment Strategy (CIS) was boosted by significant investments from IJA, in addition to the reconstitution of the Inland Waterways Users Board. Meanwhile, strong harvests and international conflicts have all impacted the United States’ position in the global

³ H. Doc. 509, 78th Cong., 2d sess., Public Law 543, 78th Cong., 2d sess.

economy. The Board remains concerned with the Administration and Congress's continued underinvestment in IWTF-eligible projects. For FY 2023, the President's Budget identified only \$13 million of investment to continue modernizing one of the world's greatest strategic advantages when it comes to global trade and domestic manufacturing. For perspective, the IWTF receipts for FY 2022 are approximately \$125 million. When combined with the statutorily required cost-share established in the Water Resources Development Act (WRDA) of 2020 and made permanent in WRDA 2022, the total amount that should be made available for inland waterways construction equals roughly \$357 million. For a system that has witnessed countless disruptions due to infrastructure that has not been modernized, providing only \$34.52 million is an unacceptable outcome to the Board.

Further, at the 98th Meeting of the Inland Waterways Users Board in Galveston, TX, the Board was briefed on progress at ongoing projects. Chickamauga Lock, another project thought to be fully funded, is delayed due to an ongoing Alternative Dispute Resolution regarding impacts and delays incurred because of the COVID pandemic. The Nashville District did not express capability for this project, yet it was included in the President's Budget request at \$39.1 million, of which \$13.8 million was available from the IWTF. As explained above in the IJA and IWTF balance sections, the balances in the IWTF can accommodate additional work on the inland waterways transportation system.

To avoid this outcome in the future, the Board believes Congress and the Corps must further express fiscal year capabilities to reflect the number of receipts deposited each year into the IWTF. Currently, there are 12 ongoing inland waterways construction projects with an additional seven projects in Category Two of the CIS ready to be initiated.

Fiscal Year Capabilities

Each year, the Corps provides the Administration and Congress with their fiscal year capability for contract execution. For the inland waterways system, we typically witness significant construction capabilities, however, since the enactment of IJA, that trend has changed. Based on previous cost estimates, when IJA was enacted, the Board [and Congress] believed the \$2.5 billion provided for inland waterways construction and major rehabilitation projects was enough to fund one third of the CIS to completion. Unfortunately, the Board has been briefed by the Corps that several of the projects that were considered funded to completion will likely now require hundreds of millions of dollars in addition to the IJA funding. The Mississippi River-Illinois Waterway Navigation and Ecosystem Sustainability Program (NESP) had not received construction funds since its authorization from Congress in 2007. Once funds were allocated to Lock and Dam 25 through IJA, thereby initiating the entire program, all locks and dams are now eligible for construction funds. However, as the Corps presented the President's Budget to Congress last spring, the Board was surprised to hear there was zero capability for NESP in FY 2023. Previously, the Board had been informed there was PED and land acquisition needs in FY 2023. From the Board's perspective, this is not only unacceptable, but illustrates how a lack of communication can lead to disruption to inland waterways projects.

The Board remains concerned with delays on updated project costs and funding capability estimates and urges the Corps to ensure these important datapoints can be provided routinely ahead of annual appropriations decisions. As projects like the Brazos River Floodgates, LaGrange Lock and Dam, Emsworth Lock and Dam, and others continue to await annual IWTF funds, we must ensure the Corps is expressing their needs in a timely and comprehensive manner.

Water Resources Development Act of 2022

The Board continues its support for biennial Water Resources Development Acts (WRDA) and is particularly thankful policy changes were included in the final Act text in 2022. One policy change eliminates the sunset provision for the 65 percent General Treasury revenue cost share and 35 percent IWTF cost share. Eliminating the sunset is a positive development and further augments the progress the Board and the Corps have made to help expedite the completion of inland waterways construction and major rehabilitation projects. Another important provision in the Act recognizes the need for enhanced safety and flexible management of the inland waterways transportation system. The Houston Ship Channel Barge Lanes play a crucial role in the movement of dry and liquid cargos into the Nation. With the changes provided in WRDA 2022, the Corps can effectively manage these barge lanes to a sufficient depth for the improved safety of the vessels that transit this segment. Additionally, we thank Congress for including an Inland Waterways Regional Dredge Pilot Program in WRDA 2022. At a time when the Mississippi River is plagued by a low water event, providing the Corps with flexibility to deploy assets to trouble spots in a timely manner will help reduce disruption to navigation. Enacting this legislation through regular order is critical to ensuring inland waterways continue to be reliable to keep America competitive. The Board is committed to working with the Corps and Congressional leadership on implementing these changes and stands ready to assist with WRDA 2024.

2022 Capital Investment Strategy Updates

Updated construction projects and project-related of the CIS are listed in the following tables.

Category 1 - Ongoing Construction Projects

Project Title	Location	Remaining Cost (\$M)
Olmsted Locks & Dam	Ohio River	\$0
Locks & Dams 2, 3, and 4	Monongahela River	See notes 1 & 2
Kentucky Lock Addition	Tennessee River	\$332.0
Chickamauga Lock	Tennessee River	\$39.3
Three Rivers⁶	MKARNS	See notes 1 & 2
Montgomery Locks & Dam⁵	Upper Ohio River	See notes 1 & 2
NESP Lock 25⁷	Mississippi River	See notes 1 & 2
T.J. O'Brien Lock & Dam major rehabilitation⁷	Illinois Waterway	See notes 1 & 2
Emsworth Lock⁸	Upper Ohio River	\$664.7
MKARNS 12 ft. Channel⁸	MKARNS	See note 2
NESP LaGrange Lock⁶	Illinois Waterway	\$672.4
Dashiels Locks⁶	Upper Ohio River	\$716.0

Notes:

1. Project was funded to complete based on the estimated Total Project Cost (TPC) at the time of appropriation.
2. Project schedule and cost estimate are currently under review.
3. Revisions from 2020 CIS report are denoted in blue font.
4. Remaining costs and schedule information for are based on information dated 1 June 2022 and are in FY 2023 price level.
5. Funded in FY 2021 work plan.
6. Funded in FY 2022 appropriation.
7. Funded in FY 2022 IIJA/BIL.
8. Funded in FY 2022 IIJA/BIL addendum.

Category 2 - Projects Authorized for Construction and Awaiting Funding or New Start

Tier	Project Title	Location	Fully Funded Cost
A	Brazos River Floodgate ⁴	GIWW	\$203.4
	NESP Lock 24 ³	Mississippi River	\$862.0
B	NESP Lock 22 ³	Mississippi River	\$727.0
	NESP Lock 21 ³	Mississippi River	\$749.9
C	NESP Peoria Lock ³	Illinois Waterway	\$688.0
	Colorado River Locks ⁴	GIWW	\$317.5
D	NESP Lock 20 ³	Mississippi River	\$624.0

Notes:

1. Revisions from 2020 CIS report are denoted in blue font.
2. Remaining costs for are based on information dated 1 June 2022 and are in FY 2023 price level.
3. Project needs construction funding. New start is not required.
4. Brazos River Floodgate & Colorado River Locks was authorized for construction in WRDA 2020. New start and construction funding is required to start construction.
5. The projects are not listed alphabetically. Following the 2020 CIS Report methodology, the projects are organized into tiers of similar priority. See 2020 CIS Report section 3 for more information.

Summary

The Board looks forward to working with the Corps in 2023 to ensure that our fuel tax dollars are managed in a transparent and efficient manner that drives completion of these important inland waterways projects. We urge the Corps to seek, and ask that Congress authorize, full and efficient funding from the IWTF to serve this purpose that is so vital to the nation’s economy.

Acknowledgements

The Inland Waterways Users Board wishes to thank the U.S. Army Corps of Engineers for the support the Corps provides to the Board. The Users Board wants to thank Major General (MG) William “Butch” Graham for his active involvement with the Board as the Board’s Executive Director as the Deputy Commanding General for Civil and Emergency Operations and appreciates the interest he has demonstrated in the inland waterways. Finally, the Board also expresses its appreciation to Mr. Mark R. Pointon, the Designated Federal Officer for the Board, and to the various Corps division and district staff, Corps Headquarters staff, and Corps Institute for Water Resources staff who all have provided thorough and timely information throughout the year.

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 since WRDA 2020 generally fund 35% of the cost of inland navigation projects each year as authorized. From the beginning of 1995 through March 31, 2015, the amount of tax paid by commercial users was \$.20 per gallon of fuel, which in recent years generated approximately \$80 to \$85 million in contributions annually to the Inland Waterways Trust Fund. With the President's December 2014 signing of Public Law 113-295, the diesel fuel tax rate increased to \$.29 per gallon effective April 1, 2015, generating 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 1986) established the Inland Waterways Users Board (the 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."

The Water Resources Reform and Development Act (Public Law 113-121) which, among other things, modified WRDA 1986's Section 302 to amend and increase the responsibilities of the Users Board. And Section 2002 of WRRDA replaced subsection (b) of the 1986 Act's Section 302, and further clarifies the role of the Users Board in a new subsection (f) of Section 302.

Appendix B

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

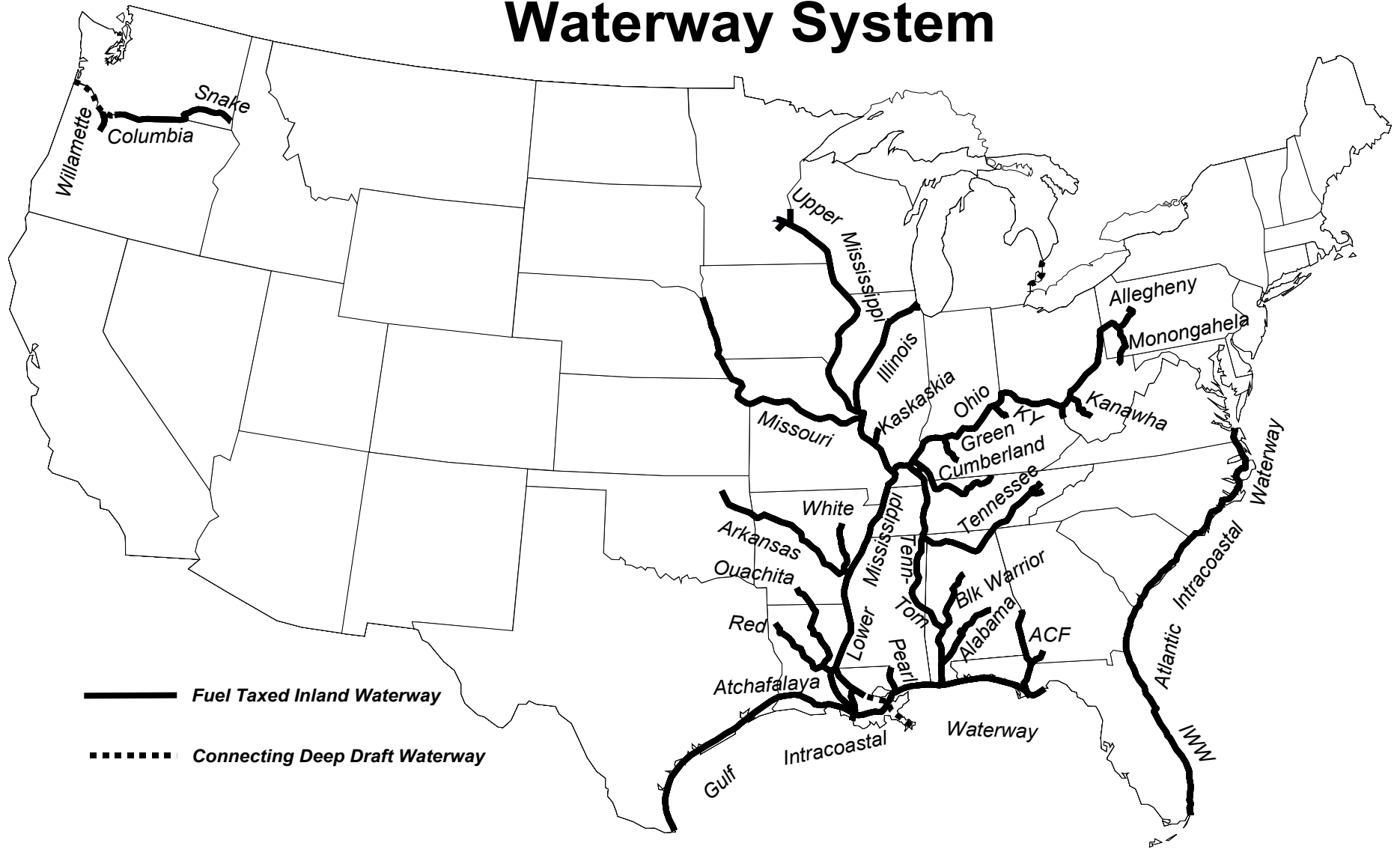
Statutory Definitions of Inland and Intracoastal Fuel Taxed Waterways of the United States

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

Congress of the United States

Washington, DC 20510

July 7, 2022

The Honorable Thomas R. Carper
Chairman
Committee on Environment & Public Works
U.S. Senate
Washington, DC 20510

The Honorable Shelly Moore Capito
Ranking Member
Committee on Environment & Public Works
U.S. Senate
Washington, D.C. 20510

The Honorable Peter DeFazio
Chairman
Transportation & Infrastructure Committee
U.S. House
Washington, D.C. 20515

The Honorable Sam Graves
Ranking Member
Transportation & Infrastructure Committee
U.S. House
Washington, D.C. 20515

Dear Chairs Carper and DeFazio and Ranking Members Capito and Graves:

Thank you for your continued efforts to maintain a biennial Water Resources Development Act (WRDA). This process provides each of us and our constituents an opportunity to address important navigation, ecosystem, and flood protection issues critical to our communities. We write in support of inclusion of section 103 of S. 4136, the Water Resources Development Act of 2022 (WRDA) in the final bill. Section 103 would adjust the cost-share for inland waterway projects to 75% general revenue/ 25% Inland Waterways Trust Fund (IWTF). Section 103 is paramount to ensuring reliable inland waterways transportation and will help the nation address growing concerns regarding supply chain efficiencies and emissions in the transportation sector.

Historically, Congress and the Nation have consistently recognized the vital contribution that waterborne transportation makes to overall economic prosperity. As a result, public expenditures to maintain navigation channels and build related infrastructure were among the nation's earliest investments. However, our constituents have a growing concern over our aging inland waterways infrastructure as they become more vital to our economy with agriculture exports increasing each year. According to the USACE, more than 80% of the locks and dams on the inland waterways system are past their design life of 50 years.

The inland waterways are naturally situated in the breadbasket of America, which gives American farmers competitive advantages globally. This advantage provides the United States with an opportunity to assist in feeding the world while making up the lost food from the Ukraine and Russian conflict. It's important to note the inland waterways system plays a more prominent role in domestic transportation. One barge can carry approximately 1,750 short tons of dry cargo compared to 16 rail cars and 70 semi-tractor trailers. Additionally, the efficiency gained from transportation by barge is unmatched by other modes of surface transportation. Barge transportation can move one ton of goods 675 miles per gallon of fuel compared to 472 for rail and 151 for trucking – making it one of the most efficient, safest, and environmentally friendly means of surface transportation.

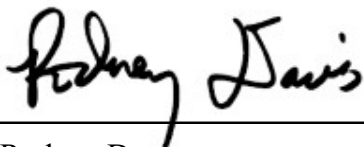
Currently, construction and major rehabilitation projects on the nation's inland waterways transportation system have a cost-share at 65% general revenue/ 35% Inland Waterways Trust Fund (IWTF), per a cost-share adjustment in 2020. Prior to 2020, inland waterways had a cost-share for construction and major rehabilitation projects of 50% general revenue/ 50% IWTF.

In WRDA 2016, Congress changed the construction cost-share attributable to deepening coastal ports with depths between 45 and 50 feet from 50% non-Federal sponsor/50% general revenues to 25% non-Federal project sponsor/75% general revenues. As members representing inland states with ports and facilities, we request parity with the adjustments made for coastal port construction projects and believe this adjustment would ensure fairness between port and inland waterway construction projects.

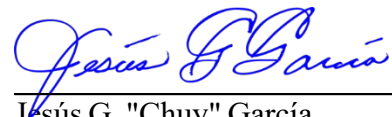
These changes were made for coastal port construction projects because finishing projects faster can reduce both final project cost and the amount of time resulting benefits from the project can be realized. This is the same argument for adjusting the cost-share for inland waterways construction and major rehabilitation projects.

As you move forward with negotiations of WRDA 2022, we respectfully urge the inclusion of section 103 of the Senate WRDA 2022.

Sincerely,



Rodney Davis
Member of Congress



Jesús G. "Chuy" García
Member of Congress



Mike Bost
Member of Congress




Conor Lamb
Member of Congress



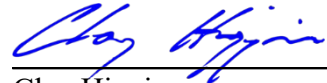
Pete Stauber
Member of Congress



Angie Craig
Member of Congress



Cheri Bustos
Member of Congress



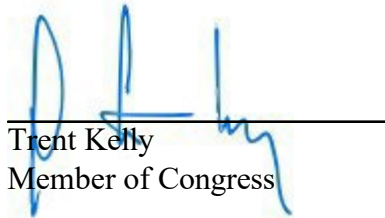
Clay Higgins
Member of Congress



Robert B. Aderholt
Member of Congress



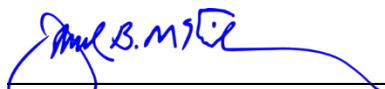
Guy Reschenthaler
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Trent Kelly
Member of Congress



Mark Pocan
Member of Congress



David B. McKinley, P.E.
Member of Congress



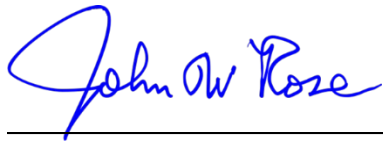
Ron Kind
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Carol D. Miller
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James Comer
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John Rose
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Betty McCollum
Member of Congress



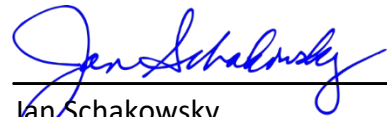
John Yarmuth
Member of Congress



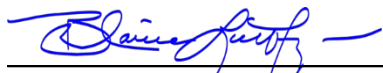
Troy Carter
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Charles J. "Chuck" Fleischmann
Member of Congress



Jan Schakowsky
Member of Congress



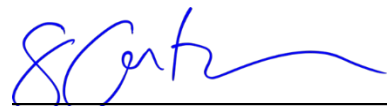
Blaine Luetkemeyer
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Mike Doyle
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Tim Burchett
Member of Congress



Sean Casten
Member of Congress



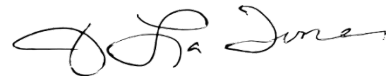
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Adrian Smith
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Bobby L. Rush
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Jake LaTurner
Member of Congress



Darin LaHood
Member of Congress



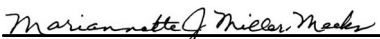
Vicky Hartzler
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Bill Foster
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Bradley Scott Schneider
Member of Congress



Mariannette Miller-Meeks,
M.D.
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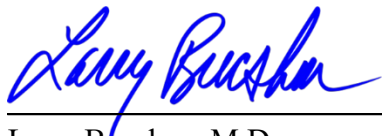
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David Kustoff
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Bruce Westerman
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Larry Bucshon, M.D.
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Marie Newman
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Frank D. Lucas
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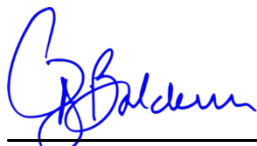
Brian Babin, D.D.S.
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Randy Feenstra
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Michael Guest
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Troy Balderson
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Mike Kelly
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Robin L. Kelly
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Emanuel Cleaver, II
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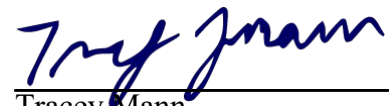
Raja Krishnamoorthi
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Cynthia Axne
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Brett Guthrie
Member of Congress



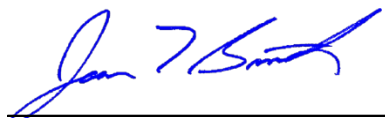
Tracey Mann
Member of Congress



Steven M. Palazzo
Member of Congress



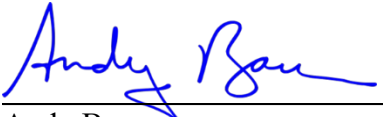
Dan Newhouse
Member of Congress



Jason Smith
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Kevin Hern
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Andy Barr
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Mike Johnson
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Bob Gibbs
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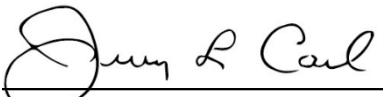
Julia Letlow
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Bryan Steil
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Eric A. "Rick" Crawford
Member of Congress



Jerry L. Carl
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Dean Phillips
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Steve Womack
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Troy E. Nehls
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Tom Emmer
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Mike Quigley
Member of Congress



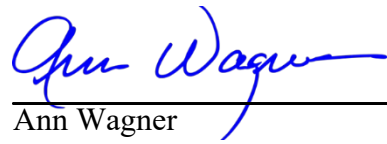
Terri A. Sewell
Member of Congress



Michelle Fischbach
Member of Congress



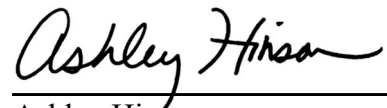
French Hill
Member of Congress



Ann Wagner
Member of Congress



Lizzie Fletcher
Member of Congress



Ashley Hinson
Member of Congress



Michael R. Turner
Member of Congress

