

INLAND WATERWAYS USERS BOARD

35th ANNUAL REPORT

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

December 2023



Illinois Waterway Brandon Road Lock Major Maintenance Activities in 2023

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

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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
Chesterfield, Missouri

Ingram Barge Company
Ms. Crystal Taylor
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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 Users 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)

Table of Contents

INLAND WATERWAYS USERS BOARD ORGANIZATION.....	I
INLAND WATERWAYS USERS BOARD MEMBERS PROJECT REPRESENTATION ASSIGNMENTS	II
TABLE OF CONTENTS	III
INTRODUCTION.....	1
INLAND WATERWAYS USERS BOARD RECOMMENDATIONS FOR FISCAL YEAR (FY) 2024.....	2
INLAND WATERWAYS USERS BOARD IN 2023.....	8
INFRASTRUCTURE INVESTMENT AND JOBS ACT (IIJA)	8
INLAND WATERWAYS TRUST FUND.....	9
END OF YEAR BALANCE	10
OPERATION AND MAINTENANCE.....	11
2023 ILLINOIS WATERWAY CONSOLIDATED CLOSURES	11
LOW WATER CONDITIONS ON THE MISSISSIPPI RIVER AND TRIBUTARIES	11
FISCAL YEAR 2024 IN REVIEW	12
FY 2024 ADMINISTRATION BUDGET REQUEST	12
APPROPRIATIONS	12
FY 2024 CAPABILITIES	12
WATER RESOURCES DEVELOPMENT ACT OF 2024.....	13
2022 CAPITAL INVESTMENT STRATEGY UPDATES	13
SUMMARY	15
ACKNOWLEDGEMENTS.....	15
APPENDIX A - HISTORY	A-1
APPENDIX B – FUEL TAXED WATERWAYS.....	B-1

Introduction

Our Nation's inland waterways system is a critical component of the transportation supply chain, providing a unique and strategic global advantage to the United States. Approximately 465 million tons valued at over \$158 billion move on our waterways system each year, including approximately 65% of our Nation's grain exports. The system facilitates the transportation of one-third of America's Gross Domestic Product, representing a diverse range of bulk commodities across many industries including agriculture, construction, manufacturing, and the energy sector.

The nationwide importance of the system extends beyond those provided to the supply chain. Other beneficiaries include boat manufacturers, commercial and recreational fishing and boating, tourism, water supply, irrigation, property owners and communities relying on flood risk reduction, hydropower, and many others. Despite the broad set of beneficiaries of the system, the inland barge transportation industry is the only segment which contributes financially to the modernization of the system through the projects funded by the Inland Waterways Trust Fund (IWTF), which receives its funding from a fuel tax incurred by the inland barge transportation industry.

Moving bulk commodities on the inland waterways system burns less fuel than other modes of surface transportation. Just one 15-barge tow would require 1,050 trucks or 216 rail cars and six locomotives to move the same tonnage of dry cargo. But aging infrastructure along the 12,000-mile system threatens the reliability of the safest, most environmentally friendly, and efficient mode of surface transportation for bulk commodities. The ability of our Nation to leverage the significant advantages of inland waterways transportation is bottlenecked by the age and capacity of the lock and dam infrastructure required for commercial navigation. It is a significant concern of the Inland Waterways Users Board that, in 2024, 80 percent of the lock and dam infrastructure on the inland waterways system will exceed its 50-year design life.

Capital improvements to the inland waterways system are cost-shared through a 29-cent-per-gallon fuel tax imposed on commercial transportation users of the system, the highest non-federal fuel tax among all modes of surface transportation. To enhance the effectiveness of our Nation's investments in the waterways, Congress established a "user pay / user say" framework through the establishment of the Inland Waterways Users Board (the "Board") as a Federal advisory committee in the Water Resources Development Act (WRDA) of 1986. The Board is constituted of representatives from each region of the system and contains a balance of industry interests, shippers, and carriers. Each year the Board makes recommendations to Congress and the Secretary of the Army on policies and investment decisions for construction and major rehabilitation projects on the fuel-taxed system. The goal of these recommendations is to help prioritize project funding for the projects that will provide the most value to the Nation. The Board is supported by the U.S. Army Corps of Engineers (the "Corps"), the federal partner responsible for managing America's water resources including the construction, operation, and maintenance of inland waterways locks and dams. Federal observers to the Board include the National Oceanic and Atmospheric Administration (NOAA), Office of Coast Survey, the U.S.

Department of Agriculture (USDA), Transportation and Marketing Division, the U.S. Department of Transportation's Maritime Administration (MARAD), and the Assistant Secretary of the Army for Civil Works.

Recognizing the economic benefits and geopolitical importance of our inland waterways, Congress has made significant investments in recapitalizing aging infrastructure. In 2021, Congress enacted the Infrastructure Investment and Jobs Act (IIJA) (also called the Bipartisan Infrastructure Law or BIL), which provided \$2.5 billion to modernize the inland waterways system. IIJA made a historic investment in infrastructure for water resources, including record-level funding for inland waterways amounting to 400% more than was provided in the previous stimulus supplemental, the American Recovery Reinvestment Act (ARRA) of 2009. This investment was scaled based on the information provided to Congress and the Administration by the Corps on the total funding needed to complete seven critical projects that would return value to the Nation.

Since the passage of IIJA, the Corps has determined that program-wide cost overruns will make IIJA funding insufficient to complete any of the seven projects with the funding they received. It is disappointing that outdated cost estimates from the Corps used for IIJA did not reflect current inflation and market conditions, labor shortages and other impacts from the recent COVID Pandemic. This disconnect has created a large gap between what Congress and the Administration had sought to accomplish through IIJA funding and the current realities facing these projects.

Despite the challenges ahead, a historic opportunity exists to make considerable progress, as was originally intended with IIJA, on modernizing the Nation's inland waterways system. The Board respectfully requests Congressional action to finish what IIJA started to see these seven key projects to completion. Without a reliable inland waterways system, agricultural exports will remain vulnerable to foreign competitors, power generation costs will increase, and manufacturing costs for consumer durables and nondurables will increase. Further, increased emissions can also be expected due to increased idle times at locks and the need to break standard tows to navigate 600-foot lock chambers, in addition to the negative climate impacts of cargo shifting to truck and rail. The cost of inaction is far greater than the cost of funding ongoing projects to completion.

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

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

- **Congress should appropriate ALL estimated available revenues going into the Inland Waterways Trust Fund (IWTF), including any remaining excess balances from previous years.** The Board continues to emphasize that the IWTF should not maintain a balance above that which is necessary to comply with the Anti-Deficiency Act (\$20 million). The Corps has reported an available end-of-year balance of \$179.5 million, which is sufficient to cover the total FY 2024 capability provided to Congress by the

Corps of \$456 million. The significant cost overruns reported by the Corps on nearly all ongoing projects create material risk for further delays and overruns resulting from gaps or delays in funding. Continued regular appropriations of the resources available in the IWTF are essential to ensuring the impacts of inefficient funding are minimized. 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, \$236.8 million should be provided to the Chickamauga Lock (Tennessee River), \$75 million to the Mississippi River—Illinois Waterway Navigation and Ecosystem Sustainability Program (NESP), \$41 million to Locks and Dams 2, 3 and 4 on the Monongahela River, and \$103.2 million to the McClellan-Kerr Arkansas River Navigation System (MKARNS) Three Rivers project.

- **Congress should advocate that Funding provided for MKARNS Deepening be transferred to the MKARNS Three Rivers project to ensure that benefits are achieved with limited cost overruns.** After a reevaluation the Three Rivers project, it was determined that a reallocation of funds from the deepening project would allow the Corps to continue progress on the second phase of the Three Rivers project. On April 13, 2023, the Board unanimously passed a motion recommending the Corps and the Administration reallocate funding from the 12-foot channel to complete the Three Rivers project. The Board is disappointed this reallocation was not reflected in the revised Spend Plan released by the Administration on August 1, 2023. The purpose of the Three Rivers project is to preserve navigation on this portion of the system by addressing the risk of a catastrophic breach of the federally maintained channel. As such, successful completion of the Three Rivers project is a prerequisite for any subsequent deepening of the MKARNS. Reallocating these dollars represents an opportunity to enhance value to the Nation by sequencing investments appropriately and avoiding the added costs and project delays associated with a funding gap for the Three Rivers project.
- **Congress should maximize use of the remaining IJA dollars to achieve benefits to the Nation.** The Corps has allocated all but \$113 million of the \$2.5 billion in IJA funding included for construction of inland waterways projects. With updated cost certifications showing IJA projects cannot be completed as originally intended when IJA funding was allocated, maximizing the remaining IJA resources to minimize additional cost and schedule overruns is imperative. Two such opportunities exist in 2024 with the Kentucky Lock Addition project and a separable element of the Brazos River Floodgates project on the Gulf Intracoastal Waterway (GIWW).

Some of the longest delay times of any lock in the inland waterways system occur at the Kentucky Lock. Modernization of the Kentucky Lock has been ongoing for nearly two decades. More recent cost overruns now threaten the Corps ability to make this lock operational by the current schedule of 2029 (a date that has slipped on numerous occasions). After clearing a number of funding and technical hurdles over the years, the current construction contract at Kentucky Lock has been largely successful with the project effectively on-track as scheduled to be operational for 2029 so long as funding

can be provided timely. As a project that has been ongoing long before IJIA was enacted, allocating remaining funding from IJIA to Kentucky Lock presents a chance to get a decades-long-running project over the finish line. Completing Kentucky Lock allows for greater focus on finishing the significant work that remains on other authorized projects.

Another opportunity exists on the GIWW, where upgrading the existing 1940s infrastructure on the Brazos River Floodgates not only increases navigational efficiency, but also increases safety on the most frequently damaged structure in the entire Corps inland waterways portfolio. The number of allisions that occur due to the current size and orientation of the structure creates undue safety risks for our industry's mariners and the public. These transit risks restrict vessel traffic at costs exceeding \$10 million annually. The Corps evaluated alternative ways the project could proceed to address safety and bring benefits online to the users early. The Corps determined this could be achieved by breaking the project into two contracts, one for the removal of the Westside gate and a second for the replacement of the Eastside gate. Funding the \$80 million cost to complete the Westside portion provides the quickest return on investment for this GIWW project. This project also supports an area of transit that is key for moving commodities that form the feedstocks for chemical manufacturing sites along the Gulf Intracoastal Waterway.

- **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 ability to address unexpected emergencies caused by low water events like those seen in 2022 and 2023 relies on access to sufficient funding regardless of timing in the fiscal year. The risks of navigation disruptions from low water or other acts of nature exist throughout each year. Whether it be critical harvest seasons, hurricane season or at the end of the fiscal year when access to funding is more limited, accessible financial resources are needed to enable the Corps to support the reliability of the system. Supplemental funding such as the amounts included in the Disaster Relief Supplemental Act of 2022 allowed the Corps to respond more efficiently to low water in 2023, but the flexibility afforded by emergency funding is not always an available option to the Corps. Since supplemental funding is often based on damages and needs known at the time of enactment, events that occur after passage of a supplemental add to a backlog of needs and must compete for the limited funded with other missions of the Corps, including flood control and shore protection. With 99% of O&M dollars from regular appropriations required to be allocated to specific projects within 60 days after enactment of a bill, Congress should consider opportunities to allow flexibility to allocate O&M after submission of a work plan, such as increasing the percentage of funding set aside for emergencies.
- **Congress should provide significant Investigations account funding for the Bayou Sorrel Lock and the Inner Harbor Navigation Canal Lock.** The Bayou Sorrel Lock

project represents a critical navigation point that is currently at risk of being compromised in a major storm or through wear and tear due to its old age. This multi-purpose project not only serves navigation, but also includes significant flood protection benefits at a low point in the East Atchafalaya Basin. The Board is pleased the Corps worked diligently to successfully designate this project as a new investment decision and eliminate the unnecessary delays of requiring a new start. As a result, the Energy and Water Development Appropriations bill should include full capability for FY 2024 and FY 2025, so this study can be completed.

The Inner Harbor Navigation Canal (IHNC) Lock provides a critical linkage between the portion of the Gulf Intracoastal Waterway that extends East of New Orleans, LA (including Lake Pontchartrain) and the Mississippi River / western segment of the Gulf Intracoastal Waterway. Originally completed over 100 years ago, this is the oldest major lock in the system, and it is outdated and inefficient, with average transit times taking more than 16 hours according to the Corps. These delays are a result of the existing lock's limited capacity compared to the volume of traffic and the size of the tows that use the lock. Given its considerable age, the costs and time needed to maintain the lock continue to increase, further exacerbating these delays by creating closures and restrictions. Replacing the lock is necessary to improve efficiency and facilitate reliable passage of waterborne traffic utilizing the GIWW. Significant Preconstruction, Engineering and Design (PED) remains to be completed to position this lock to move forward. Congress should provide sufficient resources in the Investigations account to ensure PED funds are available to upgrade Bayou Sorrel Lock and the IHNC Lock.

- **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 30th.** 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 (CR). Under a short-term CR, project managers and contractors cannot plan for efficient construction sequences, often causing them to pause operations until full year funding is available, leading to negative cost and schedule impacts. Because the Administration operates under a “least of” rule, a CR is particularly damaging to inland waterways construction. During a temporary CR, a project can only receive the lesser of the amount included in the President’s Budget, the House bill, or the Senate bill. Since the FY 2024 President’s Budget request did not include any funding for IWTF cost-shared projects, no funding will be made available during the temporary CR period. The impacts of a full-year CR are even greater, since this rule would also apply, resulting in no funding allocations during the entire fiscal year. Continuing Resolutions not only delay construction timelines and increase costs but may also result in workforce layoffs due to the inability to execute contracts. Efficient funding is essential to complete these projects and to deliver the benefits they will create for the Nation. Delaying funding to projects like the Chickamauga Lock in Tennessee for just one year will result in a multi-year delay to the scheduled operational date.

- **Congress should ensure all inland waterways construction and major rehabilitation projects funded by the Infrastructure Investment and Jobs Act (IIJA) remain at federal cost.** In the IIJA, Congress intended to fund to seven inland waterways construction projects to completion at 100% federal cost to accelerate the upgrades needed for America’s aging inland waterways infrastructure. Due to significant cost overruns, estimated by the Corps to be in the billions, IIJA funds are now insufficient for the Corps to complete any of these projects that were originally considered funded to completion. The Board respectfully asks Congress to maintain 100% federal costs on these projects to ensure they are delivered in a timely manner and can deliver the significant benefits to the Nation they represent, consistent with Congressional intent at the time IIJA was passed.

Necessary capital improvements to the inland waterways transportation infrastructure are normally cost-shared through a 29-cent-per-gallon fuel tax imposed on commercial users of the system which are deposited into the IWTF to help recapitalize the system. The current cost share requirement is 35% from the IWTF, with the remaining 65% from General Treasury funds. In FY 2023, the IWTF received \$105.8 million in revenues from taxes collected and interest income; combined with the General Treasury matching funds, this provides for \$300 million to be appropriated. With cost overruns estimated to be in the billions, ongoing projects will take decades to complete if the IWTF is used to fund these overruns. Furthermore, with 80 percent of America’s inland waterways infrastructure operating beyond their 50-year design life, there is a long list of projects that need the investment capacity of the IWTF going forward. It would be a major setback to America’s transportation strategy for the next 50 years if the IWTF is cannibalized to fund the overruns on the IIJA projects. Based on analysis provided by the Corps, just shy of one billion dollars in annual economic benefits will be created once these IIJA-funded projects become operational. These are necessary and worthwhile investments for Treasury dollars.

- **Corps should prioritize appointment of Board members to avoid disruption in IWUB mission.** The Inland Waterways Users Board ensures a transparent federal process and supports a “Users Pay, Users Say” system to give industry users a voice in significant policy decisions and how their industry tax dollars are invested. The 2021 zero-based review of the Board and other Department of Defense advisory committees that temporarily disbanded the Board came at a particularly critical time - industry was unable to provide input when IIJA funding decisions were being made and Congress was returning to directed funding in project allocations after a 10-year hiatus. The Corps should prioritize timely appointment of Board members to avoid a similar situation and continue the Board mission without disruption.
- **Corps should provide three-to-five-year capability outlook to Congress and the Board.** Reliable cost estimates that identify out-year funding schedules are essential to

understanding current and future funding requirements within the inland waterways construction program. With 10 ongoing construction projects inclusive of the seven IJA projects, and across-the-board cost overruns, a complete outlook of future funding needs for each project is a crucial tool in making investment decisions that optimize project completion and minimize risk to the entire program. Congress needs accurate out-year funding requirements when determining how much funding to appropriate to various programs and how those decisions impact the need for future funding. Communicating this information to the Board and to Congress ensures a common understanding and expectation of funding needs, promotes trust, increases transparency, and provides greater certainty to important stakeholders. These out-year capabilities are especially important for the next Capital Investment Strategy (CIS) update which the Board expects to be completed in 2024 and transmitted in 2025.

- **Congress should prioritize capital investment over major rehabilitation.** The Board is concerned with the number of major rehabilitation evaluation reports funded by the Administration, particularly after completion of major maintenance activities. It is our understanding that major maintenance extends the life of these facilities by at least a decade. With greater needs for already limited resources, investments should first focus on projects prioritized in the CIS. The CIS holistically considers program-wide investment decisions including recent upgrades and actions that sustain longer-term operations while maximizing IWTF funding for the overall program. Major maintenance is an important part of keeping the system reliable to users. When planned effectively and coordinated closely with industry, the negative effects of closures can be mitigated and minimized. Proceeding with a major rehabilitation of a facility that just underwent major maintenance is an inefficient use of scarce resources.
- **Congress should only fund PED for projects with major construction ready to start within five years.** The Corps should prioritize resources on delivering the ongoing construction program to ensure costs remain on budget and all opportunities to get a project operational faster are exhausted. Understanding that the Corps is executing its mission with fewer employees than it had 10 years ago despite overall funding for the Civil Works mission tripling over the last decade, limited resources must focus on overcoming the existing challenges in completing these projects efficiently. There was an important lesson to be learned from the unanticipated program-wide cost overruns identified after allocation of IJA funding that relying on outdated cost estimates and designs based on assumptions made many years prior comes with extreme risk. Investment decisions for PED should only be made for projects with major construction that realistically can start within five years. The current practice of funding PED for projects that will not start for decades does not make sense given the current funding challenges. Stale project designs also regularly require significant re-work which indicates that the process of completing these designs too early is wasting scarce financial and engineering resources.

Inland Waterways Users Board in 2023

Membership

Established by Section 302 of the Water Resources Development Act of 1986 (Public Law 99-662), the Inland Waterways Users Board consists of 11 members representing a balanced mix of industry interests from six geographic regions of the fuel-taxed inland waterways system, carriers and shippers, and waterborne cargoes. Member organizations nominate a representative to serve on the Board on a two-year term basis. In February 2023, the Corps issued a Federal Register notice requesting nominations to serve on the Users Board for appointments to begin by January 31, 2024.

Timely approval of those appointments is critical to continuing the Board's mission without disruption. As noted above, the impacts of such a disruption were evident when the Board was one of many federal advisory committees temporarily suspended in January 2021 after the Secretary of Defense ordered the Department of Defense (DoD) conduct a review of DoD advisory committees. The Board was not reactivated until a year later and during that time lost the opportunity to make recommendations on investment priorities during a critical time when allocation decisions on IJA funding allocations were made.

Meetings

The Water Resources Reform and Development Act of 2014 (WRRDA) amended the original 1986 authorization to require the Board meet not less frequently than semi-annually and requires the Secretary of the Army to communicate the status of inland waterways system project activities not less frequently than once each quarter. Continuing its commitment to hold regular Board meetings, the Corps held the following three meetings in 2023:

- Meeting No. 99 on 13 April 2023 in Pittsburgh, Pennsylvania
- Meeting No. 100 on 20 July 2023 in Paducah, Kentucky
- Meeting No. 101 on 19 October 2023 in Springfield, Virginia

As the Corps makes progress on the 10 ongoing construction projects and executes the \$2.5 billion in IJA funding for seven of those projects, the Board continues to recommend at least three meetings annually.

Infrastructure Investment and Jobs Act (IIJA)

In 2022, the Corps allocated all but \$113 million of the \$2.5 billion in funding provided by IIJA. The 2022 Spend Plan released by the Corps included funding to completion (based on the then available project cost estimates) the 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).

The Administration released its IIA (also known as the Bipartisan Infrastructure Law or BIL) Spend Plan for FY 2024 on March 9, 2023. No construction funding for inland waterways projects was included in this Spend Plan or the addendum to the FY 2022 Spend Plan, released by the Corps on August 1, 2023.

As described above, the Board is disappointed the addendum released in August did not include a reallocation of funding from the MKARNS 12-foot channel to complete the Three Rivers project despite a unanimous motion passed by the Board during its 99th Meeting in Pittsburgh in April recommending the Corps and the Administration strongly consider this reallocation. This provides an opportunity to fund one of the IIA projects to completion: a goal of the IIA funding designed to return economic benefits to the Nation. This reallocation would also appropriately sequence investment priorities between two interdependent projects as the 12-foot deepening relies on the completion of the Three Rivers project to ensure navigation to the MKARNS.

As the Corps continues to fully identify and evaluate the true impacts of cost overruns on the program, the Board implores the Corps to identify opportunities and find solutions to optimize limited resources and return benefits most efficiently. The Board understands the Corps is pursuing the ability to use ‘continuing contract’ authority or ‘incremental funding’ authority for Lock and Dam 25 and Montgomery Lock. The ability of the Corps to award more work in a base contract instead of a contract with many options provides greater certainty to the contractor, leading to better bids and flexibility to plan the work most efficiently. The Board unanimously passed a motion in support of the Corps pursuing continuing contract authority for major lock and dam construction projects at its 101st Meeting on October 19, 2023.

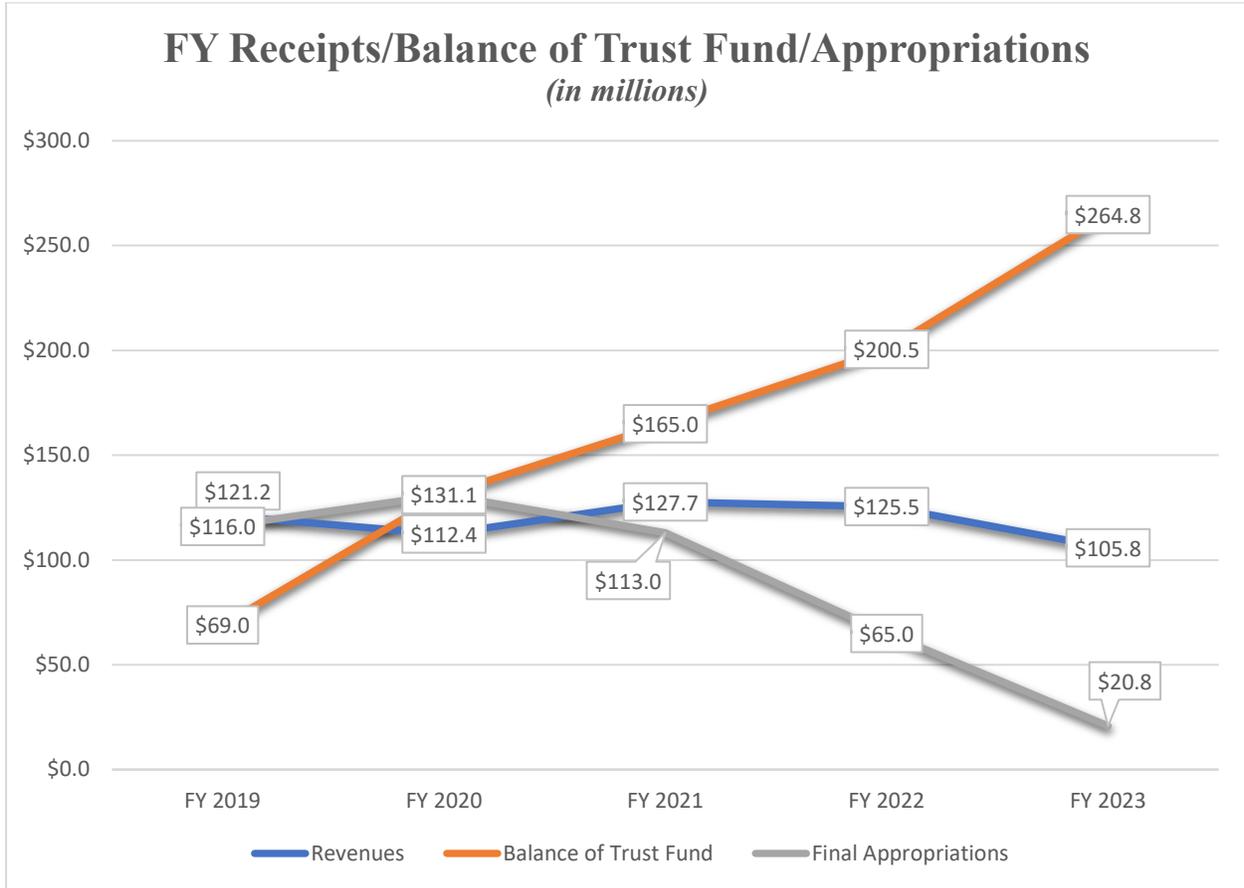
Inland Waterways Trust Fund

FY 2023 revenues deposited into the Inland Waterways Trust Fund (IWTF) decreased by 16% from FY 2022. According to the Treasury Department, \$105.8 million in revenues were collected from industry through the fuel tax and by interest income in FY 2023. The FY 2019-2023 five-year average for revenues collected is \$118.1 million, including record collections of \$127.7 million in 2021. A closer examination of this reduction highlights a potential risk that cannot be overlooked: if our Nation does not follow through with strong investments to modernize our inland waterways infrastructure, other countries who do will out-compete us in global markets.

Full use of the IWTF is a key objective of the Board. Accurate accounting of trust fund obligations and expenditures is necessary to precisely determine how much funding is available to be appropriated each year. The exact timing and amounts of annual appropriations, obligations and expenditures, and remaining balances is not well understood. As a key priority of the Board, an accurate accounting of IWTF obligations and expenditures is necessary for Congress to appropriate funding accordingly. The Board remains interested in receiving a briefing from the Internal Revenue Service (IRS) and the Department of Treasury on fuel tax collections, deposits into the IWTF, the methodology of tracking those deposits, reporting of transfers, and other details on data reported by Treasury at a meeting in 2024. The Board is pleased the Corps has

started to closely track and report back to the Board the estimated available balance of the IWTF. Accurate reporting of receipts allows the Board to recommend better management of the inland waterways system by providing maximum capability to new and ongoing projects.

Under-utilization of IWTF funding, particularly in FY 2023 where no funding for IWTF cost-shared projects was provided, continues to grow the balance of the IWTF, as shown in the chart below.



End of Year Balance

With a reported available year-end balance of \$178.5 million, that leaves approximately \$160 million for funding above the minimum required balance of \$20 million. Together with the matching funds from the General Treasury, this represents \$456 million of project funding capabilities that had not been deployed as of year-end. The Board believes the Corps should request, and Congress should provide, all receipts collected and draw down the balance in the IWTF for IWTF-eligible work. It is imperative that Congress recognize that costs for these projects continues to grow each year funding is not provided, leading to inefficient funding scenarios and longer construction timelines that delay benefits to the Nation.

Operation and Maintenance

Congress provided \$5.078 billion for O&M activities in FY 2023. The House Energy and Water Appropriations bill which passed the full chamber on October 26, 2023, included \$5.496 billion for O&M. The Senate Appropriations Committee passed its version on July 20, 2023, and included \$5.532 billion for O&M.

Additionally, IJA provided a total of \$4 billion over three years for O&M efforts throughout all Corps missions.¹ On March 9, 2023, the Corps released its FY 2024 Spend Plan for the remainder of the IJA O&M funding. This increased investment will allow the Corps to move forward with numerous critical deferred maintenance projects throughout the inland waterways.

2023 Illinois Waterway Consolidated Closures

In 2023, the Corps completed a substantial amount of work pertaining to the Illinois Waterway consolidated closures. The lessons learned from these planned closures, particularly related to timely identification of funding shortfalls, should be applied to future closures throughout the inland waterways system. The Board is grateful to the Corps for conscientiously working to find solutions to minimize impacts to industry users and to eliminate the need for a second dewatering at these project sites in 2024. The timely completion of the revised 2023 scope of work was a success and the Corps' communication throughout the process to provide as much lead time as possible to industry was very appreciated and serves as a good model for reducing the impacts to waterway users in future scheduled and unscheduled closures.

Low Water Conditions on the Mississippi River and Tributaries

For the second year in a row, the Mississippi River and its tributaries experienced historically low water. As in 2022, drought conditions and warm fall temperatures contributed to record lows on the Mississippi River over a 350-mile stretch from Cairo, Illinois to Helena, Arkansas. Both events occurred at a time when moving cargo on the river is critical: when farmers rely on the inland waterways system to get crops to market. As a major component of the global food and energy supply chains, the consequence of low water is widespread. The shallower depths and narrower widths of the channel significantly restrict commerce, requiring lighter loading of barges and smaller tow configurations (fewer barges) to navigate.

The Board commends the Corps for preventing closure of the waterways by quickly identifying dredging resources and funding to address low water. Proactive communication by Corps leaders and the application of lessons learned from 2022 resulted in fewer impacts and allowed industry to shift assets and adapt to fast changing conditions more effectively. The Board believes Congress should evaluate options to address future low water events such as increasing funding

¹ <chrome-extension://efaidnbmninnibpcjpcglclefindmkaj/https://crsreports.congress.gov/product/pdf/IN/IN11723>

to address unanticipated low water events, providing flexibility to allocate funding throughout a fiscal year, and providing additional O&M funding to maintain the Mississippi River at 12 feet between Baton Rouge, Louisiana and Cairo, Illinois as authorized in the 1944 Flood Control Act.

Fiscal Year 2024 in Review

FY 2024 Administration Budget Request

Despite the capabilities presented by the Corps for FY 2024, the President’s Budget request failed to include any funding for inland waterways construction projects, continuing the trend of under-investing in IWTF eligible projects. With cost overruns threatening timely completion of ongoing projects and an IWTF balance sufficient to cover all capabilities expressed by the Corps for FY 2024, recommending zero funding in the budget request is counter-intuitive and a major step backward in the progress made in recent years. This is particularly disappointing given the extensive capabilities for FY 2024, the large carryover balance in the IWTF, and the system-wide needs that need to be addressed to ensure ongoing competitiveness of America’s economy.

Appropriations

The FY 2024 appropriations process is ongoing. Congress has enacted two Continuing Resolutions (CR) to avoid a government shutdown with the latest CR extending appropriations for the Corps until January 19, 2024. Neither a temporary CR nor a full-year CR are good news for the inland waterways construction program. Because of the “least of” rule applied by the Administration during allocation of CR funding, inland waterways construction projects would be ineligible for funding because no IWTF cost-shared projects were included in the Administration’s budget. A lack of funding in FY 2024 would create multi-year delays to the program and add significant unnecessary costs to in-process projects. The Board is hopeful Congress will reach agreement on fully funding inland waterways capabilities as reflected in the House Energy and Water Development bill that passed on October 26, 2023.

FY 2024 Capabilities

The Board appreciates the Corps’ commitment to provide proactive and transparent project capabilities to Congress and the Board. Following through on that commitment, the Corps provided a total capability for ongoing in FY 2024 of \$456 million. These capabilities include \$237 million for Chickamauga Lock, \$41 million for Locks and Dams 2, 3 and 4 on the Monongahela River, \$91.4 million for the MKARNS Three Rivers project, \$75 million for Lock and Dam 25, and in the Investigations account \$800,000 to continue design on the Bayou Sorrel Lock. Receiving updated capabilities as soon as possible ensures the Board can fulfill its mission to provide recommendations for Congress to plan and appropriate sufficient funding. Understanding that changes can occur throughout the year for a number of reasons, communicating these changes on an ongoing basis is critical not only to respond in the short term, but also to allow for successful long-term planning as the budget and appropriations cycles can be uncertain.

Water Resources Development Act of 2024

The Board continues its support for biennial Water Resources Development Acts (WRDA). As Congress kicks off the WRDA 2024 process and consideration of requests, the Board requests the inclusion of language that all inland waterways construction and major rehabilitation projects funded by IJA remain at full federal cost, consistent with Congressional intent. Congress, recognizing the limitations of the IWTF, waived the IWTF cost-share requirement for IJA funded projects. There were seven projects funded by the IJA that were intended to be funded to completion, however cost overruns seen program-wide will prevent completion with IJA funds. Most of the updated cost estimates the Board has seen from the Corps are effectively doubling the cost estimates from the time IJA was passed. With revenues of \$105-\$125 million going into the IWTF each year, the required 35% cost-share from IWTF limits regular appropriations from the IWTF for inland waterways projects to \$300-350 million each fiscal year. This limitation means it would take decades to complete the IJA projects if the IWTF is cannibalized to make-up the shortfall in the IJA projects. This would also compound a backlog of key needs not addressed by IJA. To achieve the economic and environmental returns this funding was intended to provide in a reasonable timeframe, the IJA funded projects should continue to be funded 100% out of the General Treasury. When the projects funded by IJA are complete, the Corps estimates that each year the U.S. will see nearly \$1 billion in benefits to the American economy.

2022 Capital Investment Strategy Updates

Construction projects and project-related activities of the most recent CIS are listed in the following tables. The next five-year update of the CIS will be commenced in 2024 and is expected to be published in 2025. The Board strongly supports the use of the CIS as the best tool to prioritize inland waterways projects that deliver the best value to the Nation.

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
Dashields 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 2024 to ensure that the IWTF is managed in a transparent and efficient manner that contributes to completion of the important inland waterways projects. We look forward to working with the Corps to establish the priority of projects that deliver the best value to the Nation while balancing system reliability and resiliency needs. 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 wants to thank the U.S. Army Corps of Engineers for the support the Corps provides to the Board throughout the year. The Board wants to thank Assistant Secretary of the Army for Civil Works Michael Connor and 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

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 – Fuel Taxed Waterways

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

