

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

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

December 2017



# **Inland Waterways Users Board Organization Membership**

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## **Introduction**

For as long as there has been a United States of America there has been recognition that our rivers and the transportation system they provide are central to our nation's well-being. While at various times and points during the nation's development the specific characterization of the nature of that importance may have changed somewhat -- from essential thoroughfare for early settlers, to critical strategic military asset during the Civil War, to indispensable commercial artery during the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, to an irreplaceable transportation resource unlocking and then sustaining the agricultural and productive bounty of the nation's heartland in more recent times -- the role of our river transportation system has been foundational to the creation of this great country.

Critics too often lose sight of this reality. They wrongly view our inland waterways transportation system and particularly the system of U.S. Army Corps of Engineers locks and dams as existing for the benefit of the barge companies. This is completely misguided thinking. The locks and dams that underpin our inland waterways transportation system exist, not for the benefit of barge companies, but for the benefit of the entire national economy and the overall well-being of the entire nation, which depends on the safe, efficient and low cost movement of the commercial commodities we move by water.

Our nation has been uniquely blessed, among other things, with a magnificent collection of rivers and inland waterways. The U.S. Army Corps of Engineers (the Corps) has constructed and maintains the world-class system of locks and dams that enables our national economy to prosper through effective use of those rivers and waterways as arteries of commerce. The barge industry is the linchpin that makes the system function, the sine qua non of the system's enormous contribution to our nation's economy. The best rivers in the world and the most advanced locks and dams on the planet would be of little to no economic value to the nation without the tugs and barges that are in operation today facilitating the transportation of our country's building block commodities and finished commercial products for the benefit of the entire nation.

As true as the transportation-based conclusion is, the widespread nationwide importance of our inland waterways system comes into focus even more clearly when consideration also is given to the many non-commercial-navigation purposes and beneficiaries the system serves. These include commercial and recreational boat building, commercial fishing, recreational fishing, boating and tourism, air quality, transportation safety, congestion mitigation, municipal water supply, cooling water for electric power plants, irrigation, and hydropower production. Also included is the significant contribution the system makes to the national security of the nation, both by acting as a functioning transportation artery for the movement of military equipment and militarily-important commodities and by making the overall transportation system more robust and able to withstand disruption.

The entire nation benefits from our inland waterways system.

## **The Nation's Prosperity**

Many studies and analyses have documented the nationwide importance of our inland waterways system. One of the most recent was released just a few weeks ago.\* Jointly sponsored by the federal government's United States Department of Transportation Maritime Administration (MARAD) and the non-profit National Waterways Foundation (NWF) and conducted by researchers at the University of Tennessee and at Vanderbilt University, the study examined four representative and geographically dispersed lock and dam projects: Markland Locks and Dam on the Ohio River, Lock and Dam 25 on the Mississippi River, Calcasieu Lock on the Gulf Intracoastal Waterway (GIWW), and LaGrange Lock and Dam on the Illinois Waterway.

The study's essential conclusion is that "if an unscheduled and extended outage were to occur at any of the four locks analyzed here, the impact would reach across all the states served by the system and cause billions of dollars in economic harm to shippers, the commerce that depends on those shippers, and the communities that rely on this substantial business activity."

Key findings of the study include the following:

- "Each of the four locks considered within the study helps shippers avoid more than \$1 billion in additional transportation costs each year.
- The important roles played by individual navigation projects span a broad range of both geographies and economic purposes, and in some cases provide freight mobility that could not be easily replaced by other transport modes.
- While every state that originates or terminates traffic supported by the four locks benefits from inland navigation's availability, the results reflect the waterway's extraordinary commercial value to 18 states, especially Louisiana, Texas, and Illinois.†
- In the case of LaGrange Lock and Dam and Mississippi River Lock and Dam 25, trucking to alternative waterway locations would mean an additional 500,000 loaded truck trips per year and an additional 150 million truck miles in the affected states. This is not tenable."

The following table, reproduced from the study's Executive Summary, delineates for each of the studied projects the distribution among commodity categories of estimated direct unplanned closure costs.

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\*"The Impacts of Unscheduled Lock Outages," October 2017

† For each of the four locks, those benefits were particularly evident in a few states: for example, Kentucky, Ohio, Louisiana and West Virginia for Markland Locks and Dam, and Minnesota, Iowa, Illinois, and Louisiana for Mississippi River Lock and Dam 25. Overall, the analysis reflected the waterways' extraordinary commercial value to the states of Louisiana, Texas, and Illinois.



Table 1  
Estimated Direct Unplanned Closure Costs

COMMODITY	MARKLAND LOCKS & DAM		LAGRANGE LOCK & DAM	
	Total 2014 <sup>↓</sup> Tons	Total Direct <sup>↓</sup> Costs	Total 2014 <sup>↓</sup> Tons	Total Direct <sup>↓</sup> Costs
Coal	30,788,869	\$221,987,745	443,288	\$20,291,015 <sup>↓</sup>
Petroleum Products	7,440,371	\$368,253,302	5,623,494	\$182,914,135 <sup>↓</sup>
Chemicals	3,898,264	\$276,416,124	4,888,770	\$251,529,491 <sup>↓</sup>
Crude Materials	14,339,508	\$242,729,791	3,401,419	\$208,236,345 <sup>↓</sup>
Primary Manufactured Goods	4,896,902	\$160,394,481	3,344,289	\$103,524,351 <sup>↓</sup>
Farm Products and Food	4,089,324	\$38,460,711	11,460,988	\$932,684,606 <sup>↓</sup>
Equipment	55,525	\$1,818,681	5,632	\$477,986 <sup>↓</sup>
<b>TOTAL</b>	<b>65,508,763</b>	<b>1,310,060,835</b>	<b>29,167,880</b>	<b>1,699,657,928<sup>↓</sup></b>

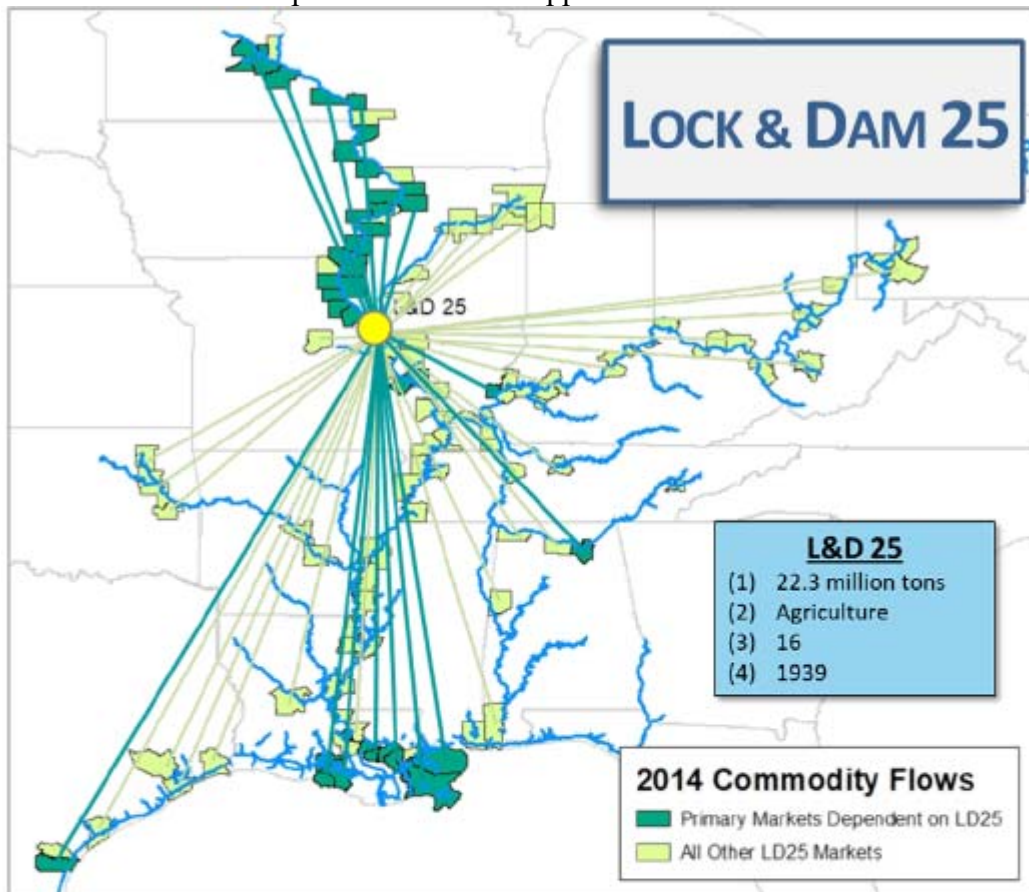
COMMODITY	CALCASIEU LOCK		L&D 25	
	Total 2014 <sup>↓</sup> Tons	Total Direct <sup>↓</sup> Costs	Total 2014 <sup>↓</sup> Tons	Total Direct <sup>↓</sup> Costs
Coal	245,836	\$6,629,552	660,624	\$25,696,959 <sup>↓</sup>
Petroleum Products	24,988,887	\$542,287,348	320,411	\$15,103,646 <sup>↓</sup>
Chemicals	9,078,337	\$230,953,087	4,171,737	\$248,899,601 <sup>↓</sup>
Crude Materials	3,937,379	\$179,789,257	3,082,613	\$208,863,996 <sup>↓</sup>
Primary Manufactured Goods	2,744,157	\$120,009,771	1,667,149	\$38,225,955 <sup>↓</sup>
Farm Products and Food	843,753	\$22,753,806	12,433,825	\$1,033,977,564 <sup>↓</sup>
Equipment	9,222	\$248,693	6,602	\$542,606 <sup>↓</sup>
Scrap and Waste	626,896	\$16,905,741 <sup>↓</sup>		
<b>TOTAL</b>	<b>42,474,467</b>	<b>1,119,577,255</b>	<b>22,342,961</b>	<b>1,571,310,327<sup>↓</sup></b>

It should be noted that the costs presented in the previous table are only the direct economic costs, calculated in an intentionally very conservative way that understates those costs by relying on an analysis based on water-compelled freight rates which ignore the additional costs that would inevitably be incurred as competing alternative transportation modes -- rail and trucking, for example -- raised their rates post-lock-closure to take advantage of the changed competitive environment. Further, the study's reported results do not even attempt to identify and include the indirect economic costs that, as The Waterways Journal has correctly explained, "would ripple outward into virtually every facet of the economy, directly effecting trade and economic competitiveness, which means jobs both now and in the future."<sup>‡</sup>

<sup>‡</sup> "Lock Closure Study Is Essential Reading for Congress," The Waterways Journal, November 13, 2017, page 8.

Consider Figure 1 below, reproduced from the NWF/MARAD study, which visually illustrates the multi-state system-wide impact, based on conservatively calculated direct costs, of a prolonged unplanned closure of the Mississippi River Lock and Dam 25.

Figure 1  
Markets Dependent on Mississippi River Lock and Dam 25



#### LOCK & DAM 25

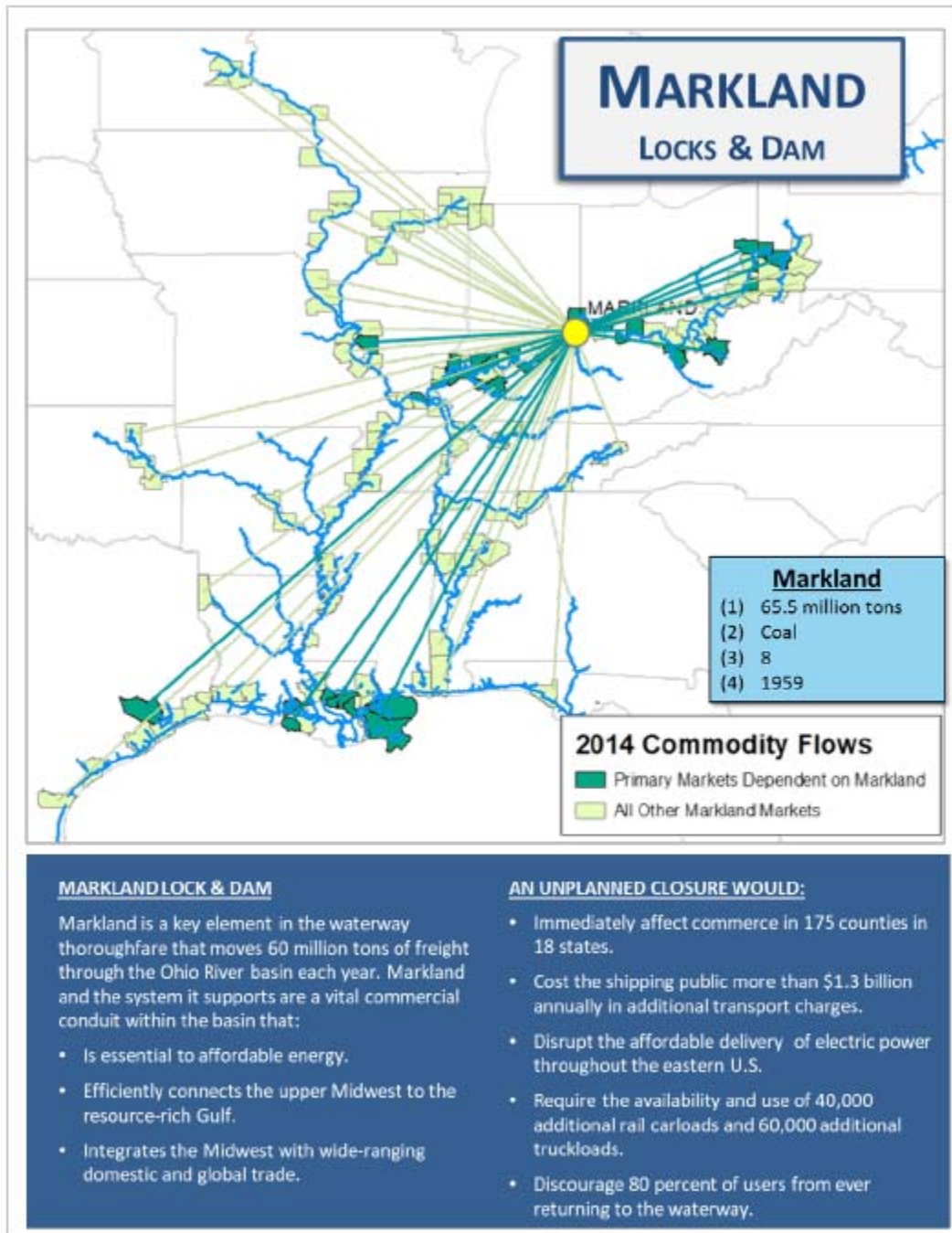
L&D 25 is a second essential piece of the inland waterway system linking the upper Mississippi and Illinois basins to global farm product markets reachable through the Louisiana Gulf. Like LaGrange, each year, more than ten million tons of corn and soybeans transit L&D 25 down-bound, for export, while up-bound fertilizer movements account for more than 4 million tons of the lock's up-bound traffic.

#### AN UNPLANNED CLOSURE WOULD:

- Immediately affect commerce in 132 counties in 17 states.
- Immediately affect the nation's primary path for corn and soybean exports.
- Cost the shipping public nearly \$1.6 billion annually in additional transport charges.
- Severely test the nation's railroads.
- Discourage 80 percent of users from ever returning to the waterway.

Or consider Figure 2, from the same study, which relates to the Markland Locks and Dam project on a different river with a different mix of commodities moving through the locks.

Figure 2  
Markets Dependent on Markland Locks and Dam



In both cases, it is clear that many states throughout the nation benefit as originating or receiving states of the commodities that transit these projects. Identifying these states and the specific shipments that moved through the project to or from the respective states is the mechanism that was used to quantify closure costs and create Figures 1 and 2. Imagine how much more widespread and diverse those impacts would be if the Figures were revised to also show the locations of all those who also benefited from the indirect economic effects of those shipments, such as the purchase of cars built from steel shipped through the project, the users of electricity generated from the coal shipped through the project and distributed throughout the nation's power grid, the consumers of breakfast cereal made from the grain shipped through the project, the travelers on airplanes who are able to fly in the cold of winter because of the de-icing fluid that is transported through the project, and so on. The benefits of these projects and of the inland waterways system clearly are truly multifaceted and nationwide in scope.

### **Infrastructure Investment Initiative**

The Administration has expressed its intention to advance a major Infrastructure Investment Initiative during the Second Session of the 115<sup>th</sup> Congress. The Inland Waterways Users Board believes that under the right circumstances significant opportunity exists within the inland waterways system to modernize the lock and dam infrastructure on which that system depends.

As discussed more fully below, the Users Board has identified four ongoing lock and dam construction projects that continue to be its highest priority projects for receipt of full and efficient funding leading to completion at the earliest possible time. The Corps estimated these projects currently require a total of \$1.85 billion after Fiscal Year (FY) 2017 to reach construction completion. Fourteen (14) additional lock and dam construction projects, totaling \$6.22 billion, have already been authorized by Congress or, in the case of the Inner Harbor Navigation Canal (IHNC) Lock project, are expected to be reauthorized by Congress in the next few years. An additional seven lock and dam major rehabilitation projects are also candidates for construction over the next ten to 20 years, with a total estimated cost of \$368 million. These projects, either under construction currently, awaiting funding or major rehabilitation projects, are identified in Table 2 below.

Under the current cost sharing policy generally applied to projects such as these, 50 percent of the cost to construct these projects would be derived from the Inland Waterways Trust Fund (IWTF) and 50 percent would be derived from revenues from the General Treasury. In the Water Resources and Development Act of 2016 (WRDA 2016, Title I of the Water Infrastructure Improvements for the Nation Act "WIIN Act", Public Law 114-322, signed into law December 16, 2016), Congress revised the applicable cost-sharing for the construction of ports to be deepened to depths between 45 and 50 feet from 50 percent non-federal/50 percent federal to a new 25 percent non-federal/75 percent federal formula. This was done to bring that cost sharing formula into alignment with current economic and competitive conditions. If the same change were made for the inland waterways, revising that cost sharing formula to 25 percent IWTF/75 percent General Treasury revenues, all of the above projects could be able to be completed over the next 20 years.

Table 2

**REMAINING COST OF PROJECTS CURRENTLY UNDER CONSTRUCTION**

Project	River/State	Amount
Chickamauga Lock and Dam	Tennessee River/ TN	\$499,000,000
Kentucky Lock and Dam	Tennessee River/ KY	\$752,000,000
Lower Monongahela Locks and Dams 2, 3, and 4	Monongahela River/ PA	\$392,000,000
Olmsted Locks and Dam	Ohio River/ KY	\$204,000,000
		<b>\$1,847,000,000</b>

**PROJECTS AWAITING CONSTRUCTION**

Project	River/State	Amount
Brazos High Island	Gulf Intracoastal Waterway/ TX	\$17,400,000
Brazos River to Port O'Connor	Gulf Intracoastal Waterway/ TX	\$22,000,000
Calcasieu Lock	Gulf Intracoastal Waterway/ LA	\$16,700,000
Dashields Lock	Ohio River/ PA	\$800,700,000
Emsworth Lock	Ohio River/ PA	\$737,100,000
Inner Harbor Navigation Canal Lock	Mississippi River/Louisiana	\$1,000,000,000 <sup>1</sup>
LaGrange Lock	Illinois River/ IL	\$357,700,000
Montgomery Lock	Ohio River/ PA	\$782,300,000
Peoria Lock	Illinois River/ IL	\$358,900,000
Upper Mississippi River Lock and Dam 20	Mississippi River/ MO	\$323,100,000
Upper Mississippi River Lock and Dam 21	Mississippi River/ MO	\$449,700,000
Upper Mississippi River Lock and Dam 22	Mississippi River/ MO	\$372,900,000
Upper Mississippi River Lock and Dam 24	Mississippi River/ MO	\$434,000,000
Upper Mississippi River Lock and Dam 25	Mississippi River/ MO	\$543,100,000
		<b>\$6,215,600,000</b>

**MAJOR REHABILITATION PROJECTS**

Project	River/ State	Amount
Brandon Road Lock	Illinois River/ IL	\$68,500,000
Dresden Island	Illinois River/ IL	\$50,000,000
Greenup Lock	Ohio River/ OH & KY	\$54,500,000
J.T. Myers Lock	Ohio River/ IN & KY	\$44,800,000
Starved Rock	Illinois River/ IL	\$30,000,000
T.J. O'Brien	Little Calumet River/ IL	\$46,500,000
LaGrange Lock	Illinois River/ IL	\$74,000,000
		<b>\$368,300,000</b>

<sup>1</sup> Estimated cost, Corps now updating design and cost estimate.

The Users Board strongly supports such a change in the cost sharing formula for the inland waterways. It will expedite the construction initiation and completion of these lock and dam modernization investments, minimize the costs necessary to complete these projects, and result in the delivery of the projects' intended national economic development benefits far earlier than could be achieved without the cost share change.



The experience with the construction at the Olmsted Locks and Dam project, discussed later, is illustrative. As the direct result of the Water Resources Reform and Development Act of 2014 (“WRRDA 2014”, Public Law 113-121, signed into law on June 10, 2014) change in the Olmsted project cost share formula to 15 percent Inland Waterways Trust Fund (IWTF)/85 percent General Treasury revenues (Section 2006 of Public Law 113-121) the Olmsted project is on course to become operational in 2018, four years ahead of the previous schedule and \$330 million below the expected project cost.

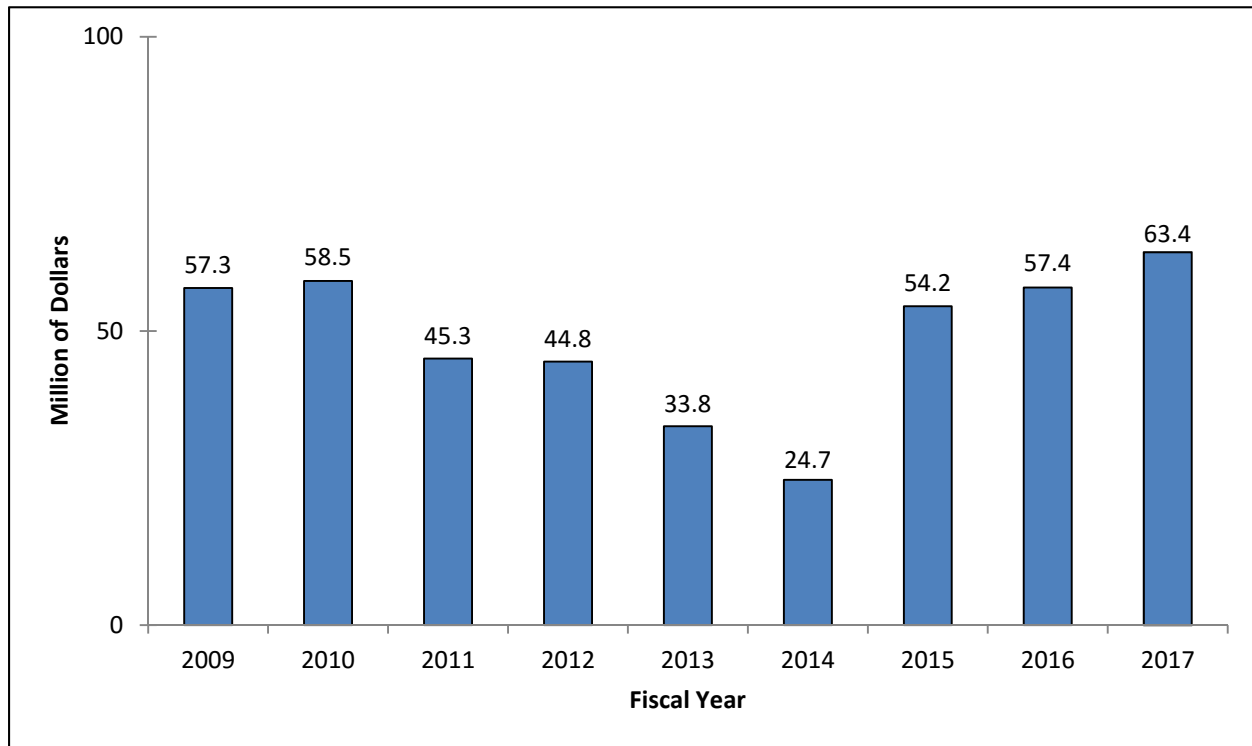
Further, with \$640 million in Corps-calculated Olmsted average annual benefits accruing to the nation’s economy each of those four years due to the project’s expedited completion, almost \$3 billion in economic benefits -- \$330 million in cost reduction plus \$2.56 billion in National Economic Development (NED) benefits -- will have been achieved just for the Olmsted project because of the same kind of cost share change that the Board is recommending for the rest of the inland waterways modernization program. Billions of additional dollars in economic value can be captured for our nation’s economy by adopting the 25 percent IWTF share/75 percent General Treasury revenue cost share change programmatically for the foreseeable future.

### **Inland Waterways Trust Fund**

At the November 3, 2017 Inland Waterways Users Board Meeting No. 85 held in Vicksburg, Mississippi, the Corps briefed Users Board members on the end-of-FY 2017 status of the Inland Waterways Trust Fund. As of September 30, 2017, the year-end balance in the IWTF stood at \$63.4 million, a little more than \$6 million higher than the FY 2016 year-end balance. The 10.5 percent increase from the prior year’s \$57.4 million balance was somewhat unexpected to Congressional appropriators who accepted the Administration’s estimate of \$109 million in inland waterway diesel-tax-based revenues being deposited into the IWTF in FY 2017. Actual FY 2017 deposits into the IWTF, however, totaled \$114.4 million which, together with transfers out of the IWTF of only \$108.4 million, combined to increase the end-of-year balance in the IWTF to \$64.5 million, the highest it has been since before Fiscal Year 2009, as indicated in Figure 3, shown below.

Five months ago, on July 24, 2017, the Board submitted its 60-day “Advice-and Recommendations” letter report, addressing the President’s Budget proposed for Fiscal Year 2018. Our letter report was completed just days after our Meeting No. 84 on July 19, 2017, held in Portland, Oregon. At the Portland Users Board Meeting, using Treasury Department data covering the first nine months of Fiscal Year 2017, the Corps reported that estimates of the amount of diesel tax revenues going into the IWTF for FY 2017 were lagging the previous year’s performance by almost one percent which, in conjunction with the project spending levels reflected in the Corps’ work plans, raised the prospect of the FY 2017 year-end IWTF balance declining, as mentioned in our July 60-day report. This, of course, did not happen because actual FY 2017 IWTF revenues exceeded Treasury’s estimates by so much.

Figure 3  
Inland Waterways Trust Fund End-of-Year Balance



We make this point in this year's Annual Report, recognizing that detailed tracking of IWTF revenue receipts and funding expenditures is an involved and complicated process, but also believing that the Treasury Department is capable of improved estimating and tracking of this important information. We urge the Secretary and Congress to look into whether there might be a better, more up-to-date system achievable to track and report IWTF receipts and expenditures.

In the meantime, the Users Board recommends that appropriations and work plan decisions for modernization spending on IWTF-supported projects during Fiscal Year 2018 be based on an estimate of \$112 million in diesel tax revenues going into the IWTF during FY 2018. The Board makes this recommendation with the knowledge that the first two FY 2018 monthly reports of the Treasury Department addressing the status of the Inland Waterways Trust Fund indicate more than \$1 million in IWTF diesel tax receipts for the months of October and November of this fiscal year than was the case last year which, if continued for all of FY 2018, would put the \$112 million recommendation well below the full-year total of actual receipts into the IWTF. The Board chooses to be conservative, however, in its recommendation.

The Board also recommends that the FY 2019 budget development and appropriations decisions be based on the receipt of \$112 million in diesel tax revenues for the IWTF.

## Priority Modernization Projects

### Project Allocations versus Budget Proposals

Table 3 provides a five-year history (FY 2013-FY 2017) of the project-specific construction funding recommendations contained in the President's Budget proposals for IWTF cost-shared projects and the actual allocations made to those projects in response to Congress adding funding to IWTF projects in each year's respective appropriations legislation.

Table 3

<b>IWTF Projects – President's Budget and Total Allocation</b>							
<b>Project</b>	<b>Funding Item</b>	<b><sup>1</sup>FY2013</b>	<b>FY2014</b>	<b>FY2015</b>	<b>FY2016</b>	<b>FY2017</b>	<b>FY2018</b>
<b><u>Olmsted</u></b>	President's Bud	\$144,000,000	\$163,000,000	\$160,000,000	\$180,000,000	\$225,000,000	\$175,000,000
	Total allocation	\$143,712,000	<sup>2</sup> \$165,712,374	<sup>3</sup> \$212,710,000	\$268,000,000	<sup>11</sup> \$250,000,000	\$0
<b><u>Lower Mon</u></b>	President's Bud	\$36,650,000	\$1,960,000	\$9,032,000	\$52,000,000	\$0	\$0
	Total allocation	\$23,697,311	<sup>2,4</sup> \$72,673,000	<sup>2</sup> \$55,888,463	\$58,900,000	<sup>11</sup> \$82,010,000	\$0
<b><u>Emsworth</u></b>	President's Bud	\$0	\$0	\$0	\$0	\$0	\$0
	Total allocation	\$5,881,785	<sup>2</sup> \$2,000	<sup>2</sup> \$-2,715,701	\$0	<sup>11</sup> \$1,000,000	\$0
<b><u>Kentucky L&amp;D</u></b>	President's Bud	\$0	\$0	\$0	\$0	\$0	\$0
	Total allocation	\$44,285,500	\$0.00	<sup>4</sup> \$14,700,000	<sup>9</sup> \$45,700,000	<sup>11</sup> \$39,000,000	\$0
<b><u>Chick L&amp;D</u></b>	President's Bud	\$0	\$0	\$0	\$0	\$0	\$0
	Total allocation	(\$3,600)	<sup>5</sup> \$1,815,000	<sup>6</sup> \$3,000,000	<sup>9</sup> \$29,600,000	<sup>11</sup> \$37,000,000	\$0
<b><u>Lockport</u></b>	President's Bud	\$3,600,000	\$11,400,000	\$0	\$0	\$0	\$0
	Total allocation	\$4,990,000	\$28,800,000	\$0	\$1,700,000	<sup>10</sup> \$(550,000)	\$0
<b><u>IHNC</u></b>	President's Bud	\$0	\$0	\$0	\$0	\$0	\$0
	Total allocation	\$0	\$0	\$0	\$0	\$0	\$0

1. FY13 was under a Continuing Resolution Act

2. Reflects reprogramming from Lower Mon (FY14: \$2M to Olmsted & 2K to Emsworth and FY15 \$2K to Emsworth), and withhold.

3. Reflects FY2015 PB (\$160M) & Funding Pot allocations (\$47.3M - NAV), (\$4.9M - Hydro), McAlpine reprogramming (\$510K)

4. Reflects \$2M reprogrammed from Lower Mon to KY L&D (Nov 2014) & FY2015 NAV Funding Pot allocations (\$12.7M).

5. Reflects withhold.

6. FY2015 NAV Funding Pot allocations (\$3M).


7. ARRA funds erroneously omitted.

8. Reflects \$2K reprogrammed from L&D 27 to Mel Price

9. Reflects \$300K reprogramming from Chick L&D to KY Lock as a result of higher than anticipated bids for DS Cofferdam contract required for risk-based TPCE, FY17 construction contract design activities, and an Economic Update.

10. Reflects \$550K reprogrammed from Lockport (Split 50% General Treasury/50% IWTF) to Fargo Moorhead Metro (100% General Treasury). The \$275K IWTF reprogrammed from Lockport remains at HQUSACE for future allocation to IWTF projects.

11. Amount includes allocation provided through the FY17 work plan.



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A clear pattern is evident whereby the previous Administration proposed each year to significantly under-fund these important infrastructure investments, leaving it up to Congress to rectify the situation. Fortunately, Congress did exactly that in each of those year's appropriations acts.



The new Administration's first budget proposal, for FY 2018, appears to be following the same misguided pattern. The Users Board is aware that this proposal was developed over a very short time-frame and without the benefit of most Administration policy personnel being in their positions yet. Board members are hopeful that future budget proposals will recommend much more adequate and robust funding for the construction of IWTF cost-shared projects.

### **Progress Due to Fiscal Year 2017 Allocations**

Of the \$1.876 billion in Construction account funds that Congress appropriated to the Corps for Fiscal Year 2017, \$409 million was allocated to the continued construction of priority lock and dam modernization projects, as reflected in Table 4. The \$409 million allocation was driven by Congress' intent that there be "full use" of the diesel tax revenues that the Administration estimated would be deposited into the Inland Waterways Trust Fund during FY 2017.

Table 4  
FY 2017 Funding Allocation  
(Millions of Dollars)

Priority Project	FY 2017 Allocation
Olmsted Locks & Dam	\$250.0
Monongahela River Locks & Dams 2, 3 & 4	\$ 82.0
Kentucky Lock	\$ 36.0
Chickamauga Lock	\$ 40.0
Emsworth Lock & Dam (Major Rehab)	\$ 1.0
Total	\$409.0

Last year's 29<sup>th</sup> Annual Board Report of the Users Board summarized the year-ago/end-of-FY 2016 status of the Board's top priority projects as depicted in Table 5.

Table 5  
Top Priority Project Funding Status\*  
(Millions of Dollars)

	Total Cost	Allocations ≤ FY 2016	Remaining Cost > FY 2016
Olmsted Locks & Dam	\$3,059	\$2,315	\$744
Lower Mon L&Ds 2-3-4 (with deferrals)**	\$1,220	\$ 746	\$474
Kentucky Lock	\$ 875	\$ 472	\$403
Chickamauga Lock	\$ 755	\$ 216	\$539
Total	\$5,909	\$3,749	\$2,160

\*Based on figures reported at the December 13, 2016 Users Board Meeting No. 81 in Linthicum, MD.

\*\*Lower Monongahela River Locks and Dams 2-3-4 costs exclude construction of the land chamber and Port Perry Bridge, which will be deferred.

Table 6  
Top Priority Project Funding Status  
(Millions of Dollars)

	Total Project Cost	Allocations ≤ FY 2017	Remaining Balance > FY 2017
Olmsted Locks & Dam	\$3,060	\$2,566	\$ 494
Lower Mon L&Ds 2-3-4	\$1,220	\$ 828	\$ 392
Kentucky Lock	\$1,255	\$ 503	\$ 752
Chickamauga Lock	\$ 754	\$ 255	\$ 499
Total	\$6,289	\$4,152	\$2,137

A quick review of Tables 5 and 6 identifies the Kentucky Lock and Dam project to be the principal culprit. Shortly after the Board's 29<sup>th</sup> Annual Report was published, the Corps informed Board members that the Kentucky project's cost estimate had increased significantly -- by almost \$400 million -- effectively doubling the remaining balance to complete the project and almost totally negating the programmatic benefit of the FY 2017 \$409 million allocation. Explanations provided to the Board raised as many questions as they answered. At a minimum, the Secretary and the Congress should examine the Corps' current cost estimating and budgeting procedures to determine how similar situations can be prevented from occurring in the future.

The Board believes, or at least is hopeful, that the current project status situation is more favorable than reflected in Table 6. Leaving aside the questions and doubts the Board has about the reliability of the reported doubling of Kentucky Lock's remaining completion balance, for a project that has already had more than \$500 million allocated to it and that was originally authorized at an estimated cost in 1994 of \$393 million, the Board is aware that the reported balance to complete the Olmsted project is recognized by the Corps as being too high. Olmsted's construction continues to proceed ahead of the schedule and below the estimated cost contained in the project's Post-Authorization Change Report (PACR), such that, instead of the PACR's \$3.1 billion estimate, the project's total estimated price (TEP) was reported at the November 3, 2017 meeting of the Board in Vicksburg, Mississippi to be \$2.77 billion. If Olmsted's price were to hold until completion of the project, even without a lowering of Kentucky's new remaining balance, the project funding status would approximate the figures displayed in Table 7.

Table 7  
Priority Funding Status  
(Millions of Dollars)

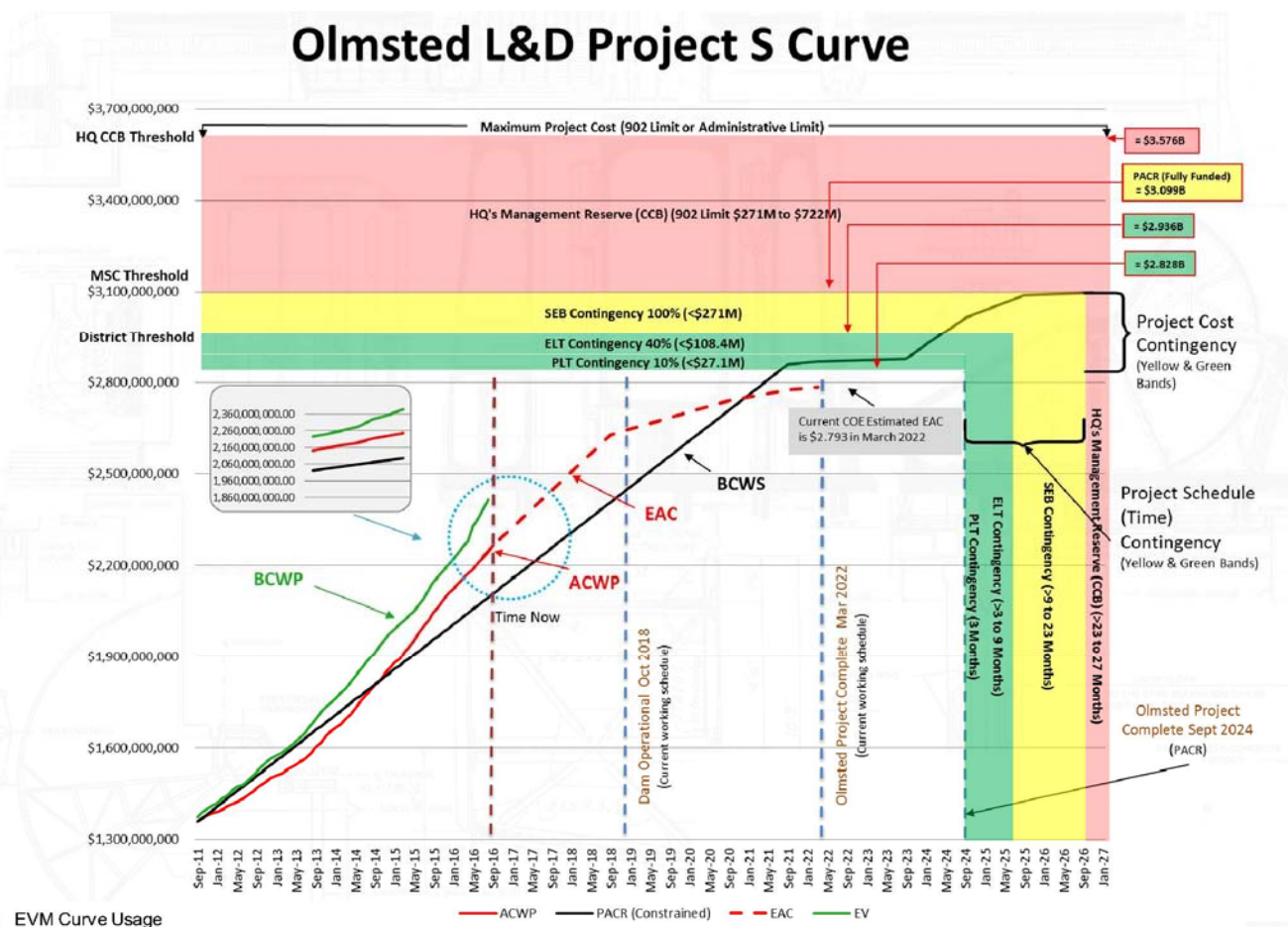
	Total Project Cost	Allocations ≤ FY 2017	Remaining Balance > FY 2017
Olmsted Locks & Dam	\$2,770	\$2,566	\$204
Lower Mon L&Ds 2-3-4	\$1,220	\$ 828	\$392
Kentucky Lock	\$1,255	\$ 503	\$752
Chickamauga Lock	\$ 754	\$ 255	\$499
Total	\$5,999	\$4,152	\$1,847

## Construction Status of Ongoing Projects

The U.S. Army Corps of Engineers continues to make significant progress on the construction of the Board's top priority lock and dam modernization projects as discussed below.

- Olmsted Locks and Dam, Ohio River, IL and KY (Olmsted).** While nowhere close to what was envisioned when Congress authorized the project in 1988, Olmsted's construction continues to proceed ahead of the schedule and below the budget that was announced in the revised 2013 Post-Authorization Change Report (PACR). The current Corps plan calls for a project operational date of November 2018, four years ahead of the PACR projection, at an estimated cost that is \$330 million under the budgeted cost of \$3.1 billion, as depicted below in Figure 4.

Figure 4  
Olmsted L&D Project earned Value Analysis  
(Based on DOD Gold Card)  
September 2017



Tremendous progress has been made in the past few years. This progress was explained in the Users Board meeting in November 2017 as due to receipt since 2013 of “efficient funding..., which has allowed the project delivery team to plan their construction activities to take advantage when river conditions are advantageous to construction.” The Board would add that also contributing in a major way to the achievement of this progress was intense oversight of this project by senior Corps leaders and superb planning and execution by Corps district and division personnel. The Board also is convinced that this progress would not have occurred without the actions taken by Congress in WRRDA 2014 and in annual appropriations legislation covering the past four years.

Not being content that the November 2018 date is the best they can do, and further motivated by repeated outages over the past three months at Ohio River Locks and Dams 52 and 53 (both of which Olmsted is being built to replace), the Corps has proceeded to try to do even better. Critical path work on the project’s Tainter Gate section of the dam -- including No. 5 Bay unwatering, side seal, sill installation and the setting of Service Bridges 5 and 6 -- was completed in November and December of 2017. In the Navigable Pass section of the dam, the stretch goal of installing the final shell was achieved in December 2017, and a Single Award Task Order Contract (SATOC) has been awarded to install a series of river dikes in early 2018.

Beyond these achievements, it was reported at the November 2017 Users Board Meeting No. 85 that high-level deliberations are occurring in Washington D.C., involving senior Corps leaders, to determine how to have Olmsted become operational at the earliest practical moment, earlier than October of next year, in order to obviate the need to repeatedly respond to continuing failures at Ohio River Locks and Dams 52 and 53. While no final decision has been reached, Corps representatives suggested that their decision would be risk-based and a function of the circumstances at the time, but that their goal is to open the project as soon as it is practical and also minimizes the risk to the long-term viability of Olmsted. The end of June of 2018 was offered as a possible realistic estimate of when Olmsted could become operational.

The Board heartily supports these Corps efforts to expedite operation and, ultimately, completion of the Olmsted project and urges the Corps to continue focusing on this in ways that are safe and don’t jeopardize the substantial investment embodied in the project. The Board also understands that \$175 million is the full and efficient funding amount that the project needs in FY 2018, and \$30 million is the full and efficient funding amount for Fiscal Year 2019.

- Locks and Dams 2, 3 and 4, Monongahela River, PA (Lower Mon). The Lower Mon project was allocated \$82.1 million for Fiscal Year 2017, none of which was requested by the prior Administration and, therefore, had to be added by the Congress in the Consolidated Appropriations Act, 2017 (Public Law 115-31, signed into law on May 5, 2017). With that full-year funding, which the Pittsburgh District personnel managing and executing the project did not receive until June of 2017 due to very late final decision-making on full-year appropriations levels, the Corps successfully awarded options 1 and

2 of the River Chamber Completion contract and the Pool 3 Dredging contract, including the first task order under that three-year contract.

The Lower Mon project provides an example of the completely avoidable waste and inefficiency that functioning (for a prolonged period of time) under one or more Continuing Resolutions (CRs) and the “Least of Rule” creates.<sup>§</sup> Last year’s 29<sup>th</sup> Annual Report of the Users Board went into some detail describing the expected negative repercussions if options 1 and 2 of the River Chamber Completion contract were not awarded in May and June of 2017, respectively. Because the necessary FY 2017 funding was not provided to district personnel until June, those options could not be awarded until August, only one month before the end of the fiscal year. While the Corps was able to award the options without incurring any additional cost, the delayed award has caused the overall project’s projected operational date to slip from November of 2022 to January of 2023. That slippage, if not recouped somehow between now and January of 2023, can be expected to result in two or three months of lost project benefits, amounting to between \$35 million and \$55 million being lost to the nation’s economy based on the Corps-calculated \$220 million in average annual benefits for the Lower Mon project.

Unfortunately, the FY 2018 experience is beginning to look like that of FY 2017. The Corps, like other federal programs, is three months into FY 2018, all of which has been funded under three Continuing Resolutions and again is being constrained by the “Least of Rule.” Instead of the \$105 million full and efficient funding amount that Lower Mon needs for FY 2018, the project has received no FY 2018 money at all because Lower Mon was not included in the President’s Budget proposed for FY 2018.

The River Chamber Completion contract option No. 3 was scheduled to be awarded in November of 2017 but, because the project was not included in the President’s Budget proposal, that award was not able to be made and may not be able to be made until August or September of 2018. That option expires on September 30, 2018. If it cannot be awarded by then and an extension cannot be negotiated, it will result in a Corps-estimated \$100-plus million in additional project cost and will add four years to the project completion date. This draconian, wasteful outcome can be prevented by either the Office of Management and Budget (OMB) or the Congress taking appropriate action to remove the Lower Mon project from this funding conundrum caused by the “Least of Rule.”

For Fiscal Year 2019, the Board understands the Lower Mon project’s full and efficient funding requirement to be \$106 million.

- Kentucky Lock Addition, Tennessee River, KY (Kentucky). Through the end of FY 2017, the Kentucky project has had \$503 million allocated to it, with \$36 million of that provided for FY 2017. The FY 2017 funds allowed the remaining options of the

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<sup>§</sup>As discussed in more detail later in this report, the “Least of Rule” applies when a federal agency is being funded under a Continuing Resolution. The rule limits funding for any covered program, project or activity to the lowest amount envisioned for that program, project or activity in the Administration budget proposal, House appropriation bill or Senate appropriation bill.

Downstream Cofferdam Contract to be awarded in May, just prior to the expiration of those options.

For Fiscal Year 2018, the Corps-reported full and efficient funding need for the Kentucky project is \$41 million, the bulk of which is planned for award of the Downstream Lock Excavation contract. Award of a smaller contract also is planned for site, demolition and utilities. For FY 2019, full and efficient funding at \$79 million is needed for the project according to information provided by the Corps.

Nashville District personnel have been actively seeking ways to minimize and even reduce the ultimate cost of the project through means including value engineering and contractor performance incentive clauses in contracts, which were reported as being successful thus far. The Board applauds this work and urges that similar efforts continue until the project's construction is completed.

Perhaps the most significant development related to the Kentucky Lock project during calendar year 2017 was the very large increase that was announced in the completed project's cost estimate. Weeks after the Users Board submitted our 29<sup>th</sup> Annual Report, the Corps informed the Board that Kentucky's new estimated total project cost had risen to \$1.254 billion, an unexpectedly large increase from the previously-reported \$874 million amount.

The Board continues to struggle to understand why this project's cost has increased so much, and how much of that increase was reasonably preventable. Inefficient funding is clearly a significant factor. At the Board's request, the Corps presented an analysis on a "first cost" basis (which does not include inflation) that suggested that 19.4 percent or \$229.5 million of the Kentucky project's costs are due to inefficient funding. But the current "fully funded" cost estimate for Kentucky, which does include inflation, is \$73 million higher than the \$1.181 billion "first cost" project cost on which the 19.4 percent was calculated. This suggests that the actual preventable costs due to inefficient funding exceed \$300 million.

Perhaps by a significant amount.

The Kentucky Lock project was authorized by Congress in WRDA 1996 at an estimated cost of \$393.2 million, on a "first cost" basis, which was \$533 million on a fully-funded with-inflation basis. Kentucky Lock's construction period expanded from nine years to 29 years, an additional 20 years of inflation, not to mention 20 years of additional overhead and administrative and labor costs. Much more than \$300 million on the Kentucky Lock project probably could have been saved building the project on a full and efficient funding basis.

Repeated Administration failure to include Kentucky Lock in the President's Budget requests has been a significant contributing factor causing this unnecessary inefficiency and cost escalation. Even when Congress has rejected the Administration proposal and has appropriated the needed funds for Kentucky, as has been the case in recent years and

as has provided some measure of relief, completely preventable uncertainty, stop/start project execution, construction disruption, delay, and increased cost have been caused by the Administration's failure to properly budget for the Kentucky Lock project.

- Chickamauga, Tennessee River, TN (Chickamauga). With the \$40 million in FY 2017 funds that were allocated to the project, Chickamauga Lock crossed the quarter-billion-dollar threshold in terms of investments made to date to construct the lock project. Full and efficient funding of \$78 million is needed for FY 2018, and \$100 million is needed in FY 2019, according to the Corps.

Construction continues on the Lock Excavation contract, which is scheduled to be completed in November of 2018. Just days prior to the end of FY 2017, the \$240 million Lock Chamber contract was awarded as a base contract with 13 options. Only the base was awarded, with follow-on work and contracts being configured for between five and seven years to allow flexibility on funding. The Corps reported that the contract will require funding "at a fairly significant level to keep it viable over the next seven years."

Funding the lock chamber options in FY 2018 is on course to have the same type of problem that Chickamauga had during FY 2017 due to applying the "Least of Rule" while Continuing Resolutions fund the Corps Civil Works Program. The options expire at the end of the FY 2018, so funding must be received before then or the options will expire.

Nashville District personnel are in the process of preparing a Post-Authorization Change Report (PACR) for Chickamauga Lock, which will be submitted to Congress to increase the project's total cost authorization level. Chickamauga Lock, like the other ongoing priority lock and dam modernization projects, has experienced significant cost escalation. Its construction period was expected to take six years but is now projected to take 19 years. Inefficient funding may be even more responsible for this under-performance at Chickamauga Lock than has been discussed for the Kentucky Lock project. Where on a "first cost" basis the Corps suggested at the November 2017 Users Board Meeting No. 85 in Vicksburg that 19.4 percent of Kentucky's cost was due to inefficient funding, more than 24 percent of Chickamauga's cost, \$170 million was reported as being due to inefficient funding. And, like Kentucky Lock, this figure seems to be and probably is significantly lower than what will actually be experienced on a fully funded basis. Try as it has, the Board does not know the exact figure. However, the Board is seriously concerned that inefficient funding has caused hundreds of millions of dollars essentially to be lost in the construction of the Chickamauga Lock project.

The Board deeply appreciates Congress' recognition of this problem and its willingness, particularly in recent years, to add funding and direction to the President's Budget requests to begin to rectify this situation.

## **Fiscal Year 2018 Funding**

### **President's Budget Proposal**

The July 24, 2017, 60-day “Advice and Recommendations” letter report from the Users Board, located herein at Appendix C, discusses in some detail the specifics of the FY 2018 President’s Budget for the Corps Civil Works Program and the Board’s reaction to that proposal. In sum, there were three features in the Administration’s recommendations that the Board found to be very positive. First, for only the second time in at least ten years, more than \$5 billion was requested in a President’s Budget proposal for the Civil Works Program. While still well below the amount actually needed, the \$5.002 billion was \$382 million higher than the previous President’s Budget requested for Fiscal Year 2017. Second, the Trump Administration’s \$3.1 billion request for the Corps Operation and Maintenance (O&M) account was by far the largest request ever made by any proposed budget for the O&M account. And third, the President’s Budget request for \$175 million to continue construction of the Olmsted Locks and Dam project constituted what the Corps considered to be “full and efficient” funding during Fiscal Year 2018 for this important project.

Three features of the FY 2018 President’s Budget proposal are of serious concern to Board members. While Olmsted was included in the budget request, three other ongoing high priority lock and dam construction projects -- Lower Mon, Kentucky Lock, and Chickamauga Lock -- each of which has had between \$250 million and \$830 million already appropriated and allocated to it, were not included in the President’s Budget proposal, despite the fact that there are clearly-adequate amounts in the Inland Waterways Trust Fund to support funding those projects. Second, on the heels of the 45 percent increase in the inland waterways diesel fuel tax that became effective only slightly more than two years ago, the budget proposed to further double the amount collected each year from the commercial users of the waterways. And third, as unfortunately has occurred in recent budget proposals from the previous Administration, no funding was requested in the FY 2018 President’s Budget proposal to resume Preconstruction Engineering and Design (PED) of the lock modernization projects authorized as part of the Mississippi River Navigation and Ecosystem Sustainability Program (NESP), despite strong bipartisan support for NESP.

### **Congressional Appropriations**

Fortunately, Congress has chosen so far to react to the President’s Budget proposed for FY 2018 by building on its strong points and attempting to rectify its shortcomings. While final year-long decisions have been postponed as the Corps and other federal engineers continue to operate under a Continuing Resolution, both the U.S. House of Representatives and the Senate have developed appropriations bills that, when enacted into law, promise to significantly improve on the budget’s proposals as indicated in the following table.



Table 8  
FY 2018 Corps Civil Works Program Funding Comparisons  
(Millions of Dollars)

<b>Account</b>	<b>FY 2017 Enacted</b>	<b>FY 2018 President's Budget</b>	<b>House (H.R. 3266)</b>	<b>Senate (S. 1609)</b>
Investigations	\$121.0	\$86.0	\$105.0	\$113.5
Construction	\$1,876.0	\$1,020.0	\$1,697.0	\$1,668.0*
Mississippi River and Tributaries	\$362.0	\$253.0	\$301.0	\$375.0
Operation and Maintenance	\$3,149.0	\$3,100.0	\$3,519.0	\$3,481.5
Regulatory Program	\$200.0	\$200.0	\$200.0	\$200.0
FUSRAP	\$112.0	\$118.0	\$118.0	\$117.0
Flood Control & Coastal Emergencies	\$32.0	\$35.0	\$32.0	\$21.9
Expenses	\$181.0	\$185.0	\$181.0	\$185.0
Office of ASA(CW)	\$4.8	\$5.0	\$4.8	\$4.4
<b>TOTAL</b>	<b>\$6,037.8</b>	<b>\$5,002.0</b>	<b>\$6,157.8</b>	<b>\$6,166.4*</b>

\*After reduction for \$35 million rescission

In the Construction account, both the House and Senate bills rejected the Administration's proposal to only appropriate \$26.25 million from the Inland Waterways Trust Fund for just the Olmsted project. Both bills call for making use of at least all estimated annual revenues in the IWTF. To this end, the House bill appropriates an additional \$78.75 million of IWTF revenues, while the Senate bill appropriates an additional \$111.75 million from the IWTF to continue construction work on the other lock and dam modernization projects. Unlike the President's Budget proposal, both bills appropriate all of the \$105 million that the Administration proposed budget assumes will be generated from inland waterways diesel fuel taxes collected during Fiscal Year 2018. The Senate bill goes further and appropriates some of the surplus that has accumulated in the Inland Waterways Trust Fund, leaving the IWTF with a FY 2018 year-end balance of roughly \$30 million, assuming the Administration's \$105 million revenue figure. The Senate bill would provide sufficient IWTF and General Treasury revenue to enable all four of the Users Board's ongoing priority lock and dam modernization projects to receive full and efficient funding for FY 2018. The House bill falls short of that outcome by a total of \$66 million, half of which would be IWTF revenues. Using the Users Board's estimate of \$112 million in diesel tax revenues rather than the Administration's \$105 million, the Board believes that, under the Senate bill, the FY 2018 year-end IWTF balance will be approximately \$37 million while, under the House bill, that balance will increase to approximately \$70 million.

The Users Board deeply appreciates the actions to date by both the House and Senate to increase the amount of appropriations during FY 2018 for IWTF-supported modernization projects. Of the two approaches, the Board prefers that of the Senate bill and urges Congress to incorporate the Senate funding level in the final full-year appropriations legislation for the remainder of Fiscal Year 2018.

## **Continuing Resolutions and the “Least of Rule”**

For more than half of Fiscal Year 2017, the Corps Civil Works Program was funded under a series of Continuing Resolutions (CRs). Again, for Fiscal Year 2018, Congress has provided only short-term funding for Corps programs and projects through enactment of three CR's, the most recent of which is scheduled to expire on January 19, 2018. Addressing agency funding needs in this fashion is inherently inefficient and wasteful. Most Corps projects, and particularly capital projects in the Construction account like lock and dam modernization investments, involve sophisticated engineering and design work and multi-year construction activity costing tens or hundreds of millions of dollars. Or more. Long-range planning is essential and fine-tuned coordination is required to minimize costs and make these projects a reality. Asking Corps managers and engineers to address project decision-making and execution in small bits and pieces -- 69/365ths under the first FY 2018 CR, 14/365ths under the second FY 2018 CR, and 27/365ths under the third FY 2018 CR -- is a recipe for under-performance and a near-guarantee of wasted federal dollars and delayed delivery to taxpayers of the national benefits the projects are built to provide. No private enterprise of even minimal quality would ever allow themselves to function this way.

To make matters worse, during the period of time that the agency's funding is being provided by a Continuing Resolution, the Corps is required to operate under a rule mandated by OMB known as the “Least of Rule.” As was explained to Board members at our November 3, 2017 Users Board meeting, while the conceptual purpose of a Continuing Resolution is to temporarily maintain prior year spending levels and priorities until changed by Congress in subsequent appropriation legislation, in allocating funding received under a CR, “(the Corps is) bound by the least of: 1) the President's Budget; 2) the amount in the House (appropriation) bill; and 3) the amount in the Senate (appropriation) bill. We take the “least of” amount in each one of those bills and determine how much funding we can put on a project during the Continuing Resolution.”

As in the FY 2017 President's Budget, the FY 2018 President's Budget proposal recommends funding for only one of the Users Board's priority projects, Olmsted Locks and Dam. No funding has been requested in the proposed FY 2018 budget for Lower Mon, Kentucky Lock, or Chickamauga Lock, despite the fact that, as intended by Congress, both the House and Senate appropriations bills add significant additional dollars to address the needs of the omitted projects but, because of the “earmark ban,” none of these omitted projects is listed by name in the respective House or Senate bills. Thus, under the “Least of Rule,” only Olmsted is receiving additional CR-provided funding thus far in FY 2018.

The Users Board is appalled by this situation which, it appears, is little more than intentional and institutionalized waste and inefficiency. The Administration on its own can correct this situation, and, in making allocations for FY 2018, it should do so without delay. If it doesn't, at the earliest opportunity, Congress should rectify the problem for FY 2018 and beyond.

## **Fiscal Year 2019 Funding**

The Users Board believes that, in developing its proposed budget for Fiscal Year 2019, the Administration should recommend a funding level for ongoing IWTF-supported construction projects sufficient to allocate full and efficient funding amounts to each of those projects. Based on information provided by the Corps, and assuming that each of those projects received full and efficient funding for FY 2018 as Congress is moving in the direction of providing, the Board understands those FY 2019 amounts to be \$30 million for Olmsted, \$106 million for Lower Mon, \$79 million for Kentucky, and \$100 million for Chickamauga. In addition, \$29 million should be provided for FY 2019 and allocated to the major rehabilitation of LaGrange Lock and Dam. With the 75/25 cost sharing change discussed earlier that the Users Board is suggesting, these FY 2019 full and efficient funding amounts could readily be accommodated by expected IWTF diesel tax revenues for FY 2019.

## **Users Board Recommendations**

- **For FY 2018 and FY 2019, and exclusive of any additional funding that might be forthcoming in one-time “Infrastructure Investment” legislation, the Administration and Congress should base IWTF project funding recommendations and funding decisions on assumed annual inland waterways diesel fuel tax revenues deposited into the IWTF at a level of \$112 million during each of those fiscal years.** The \$112 million figure is slightly below the actual FY 2017 diesel tax revenues deposited into the IWTF. As the nation’s economy continues to improve in 2018, the Board is hopeful that 2018 revenues into the IWTF will increase commensurately. In the event that actual revenues fall short of these projection; the balance of funds remaining in the IWTF should be more than adequate to support the Board’s recommended level of lock and dam construction funding for FY 2018 and, with the Board-recommended cost sharing changes, for FY 2019.
- **For Fiscal Year 2018, to the maximum extent practicable, Congress should appropriate for the construction of inland waterways modernization projects an amount sufficient to provide full and efficient funding for each of the Board’s ongoing priority projects, including \$175 million for Olmsted Locks and Dam, \$105 million for Lower Mon, \$41 million for Kentucky Lock, and \$78 million for Chickamauga Lock, and in addition, \$4 million for major rehabilitation of the current LaGrange Lock, which is the Board’s top priority major rehabilitation project.** Together with an estimated \$112 million in inland waterways diesel fuel tax revenues to be deposited into the Inland Waterways Trust Fund for FY 2018, sufficient funds reside in the IWTF to support full and efficient funding for each of these projects and still leave a healthy balance in the IWTF going into the next fiscal year.
- **Congress should modify the cost sharing for IWTF-financed construction projects to require 25 percent of the project cost to be derived from the Inland Waterways Trust Fund and the remaining 75 percent to come from General Treasury revenues.** This change recognizes that, in April 2015, the inland waterways diesel fuel tax was

increased by 45 percent to 29 cents per gallon. It would mirror the same cost share change that Congress made in WRDA 2016 for the construction of ports to depths between 45 and 50 feet. And it would eliminate the existing unintended barrier to needed infrastructure investment that the current inland waterways construction cost sharing requirement creates for future years. With this cost sharing change, there will be sufficient funds in the IWTF to continue full and efficient funding for the ongoing inland waterways projects already under construction and to allow consideration of additional important and time-sensitive projects.

- **For Fiscal Year 2019, the four ongoing priority projects each should receive full and efficient funding to the maximum extent practicable, including \$30 million for Olmsted, \$106 million for Lower Mon, \$79 million for Kentucky Lock, and \$100 million for Chickamauga Lock, and \$29 million for major rehabilitation of the current LaGrange Lock.** Full and efficient funding can be achieved by the Board-recommended cost sharing change discussed above and, therefore, this level of FY 2019 funding is contingent upon Congressional approval of the cost sharing envisioned by the Board.
- **For Fiscal Years 2018 and 2019, the Administration and Congress should continue to increase the robust levels of funding provided during each of the past four fiscal years for the Operation and Maintenance (O&M) activities of the Corps affecting inland and coastal navigation throughout the nation.** Additional funding will help address the Corps deferred O&M and will be completely consistent with the broadly-supported objective of improving our national standard of living, growing the nation's economy, and increasing our international competitiveness.
- **In making funding investment and allocation decisions for lock and dam modernization projects already under construction, policy-makers generally should focus project-specific economic analysis primarily on a project's Remaining-Benefit/Remaining-Cost Ratio (RBRCR) rather than on its Benefit Cost Ratio (BCR).** We also included this recommendation in our 29<sup>th</sup> Annual Report of a year ago. In last year's report, we went into some detail to explain how continuing the previous Administration's favored approach of using BCRs, instead of RBRCRs, for budgeting additional investment in ongoing construction projects is likely to prolong project construction schedules, misallocate new investment dollars, and waste scarce financial resources. The Board continues to believe that a project's RBRCR typically provides a far better measure of the likely economic return to be expected from further construction expenditures on the project than does the project's BCR.
- **Funding should be allocated during Fiscal Years 2018 and 2019 from the Corps Investigations appropriation account for Preconstruction Engineering and Design (PED) of lock modernization projects on the Upper Mississippi River and Illinois Waterway System (also referred to as the "NESP" project) authorized in title VIII of the Water Resources Development Act of 2007 (Public Law 110-114).** Strong bipartisan and bicameral Congressional support exists for the NESP project. Most recently, 40 Members of the U.S. House of Representatives -- 20 Republicans and 20

Democrats from ten different States wrote the Administration on November 29, 2017, to request inclusion of PED funding in both the FY 2018 work plan and FY 2019 President's Budget request. (See Appendix D.) A similar Senate letter signed by ten Senators was also sent on December 22, 2017. Moving forward with PED in this fashion will position the NESP projects to proceed to construction as soon as funding becomes available for them.

- **Unless Congress directs to the contrary, the “Least of Rule” should not be permitted to prevent the allocation of funding under a Continuing Resolution (CR) to lock and dam modernization projects that received allocated funding for the previous fiscal year and continue to require additional construction funding.** Particularly when Congress adds funds for IWTF-supported projects in not-yet-final appropriations legislation, the failure of an Administration to have requested funding for that project in their budget proposal should not be what controls the decision to allocate or not allocate CR-provided funds to the project. Instead, project allocation decisions involving CR-provided funding should be based whenever possible on a realistic estimate of the level of full-year funding likely to be appropriated by the Congress and any expressions by the Congressional Appropriations Committee of desired spending outcomes for the additional funding being provided.
- **Congress must find a way to return to “regular order” and pass individual annual appropriations bills in a timely manner instead of continuing to resort to last-minute Continuing Resolutions, often of short-term duration, to fund federal agencies and their programs.** Relying on last-minute partial-year appropriations funding for lock and dam construction and operation and maintenance creates unnecessary, wasteful, and entirely preventable inefficiencies that delay project completion and increase project costs, all of which could be minimized or eliminated by an improved Congressional appropriation process.

### **Acknowledgements**

The Inland Waterways Users Board wishes to express its sincere appreciation to Major General Ed Jackson, the U.S. Army Corps of Engineers Deputy Commanding General for Civil and Emergency Operations and Executive Director to the Board for the outstanding leadership and support he has provided throughout his tenure. The Board thanks Mr. Mark R. Pointon, the Designated Federal Officer for the Board, and Mr. Kenneth E. Lichtman from the Corps Institute for Water Resources for the support they provide. The Corps' division and district staffs and the staffs at Corps Headquarters and at the Institute for Water Resources have provided thorough and timely information throughout the year, which the Board greatly appreciates. The Board would also like to recognize and express its deep appreciation to Mr. Jeffrey A. McKee for his exceptional dedication and principled leadership throughout his long career with the Corps of Engineers, particularly in his role as Chief of the Navigation Branch at Corps Headquarters in Washington, D.C.



## **Appendix A**

### **History**

The Inland Waterways Fuel Tax was established to support inland waterways infrastructure development and rehabilitation. Commercial users are required to pay this tax on fuel consumed in inland waterways transportation. Revenues from the tax are deposited in the Inland Waterways Trust Fund and generally fund 50% of the cost of inland navigation projects each year as authorized. 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 1986 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."*

On June 10, the President signed 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. Section 2002 of WRRDA replaced subsection (b) of the 1986 Act's Section 302 as follows:

*"(1) IN GENERAL. – The Users Board shall meet not less frequently than semi-annually to develop and make recommendations to the Secretary and Congress regarding the inland waterways and inland harbors of the United States.*  
*(2) ADVICE AND RECOMMENDATIONS. – For commercial navigation features and components of the inland waterways and inland harbors of the United States, the Users Board shall provide –*

*(A) prior to the development of the budget proposal of the President for a given fiscal year, advice and recommendations to the Secretary regarding construction and rehabilitation priorities and spending levels;*

*(B) advice and recommendations to Congress regarding any feasibility report for a project on the inland waterway system that has been submitted to Congress pursuant to section 7001 of the Water Resources Reform and Development Act of 2014;*

*(C) advice and recommendations to Congress regarding an increase in the authorized cost of those features and components;*

*(D) not later than 60 days after the date of the submission of the budget proposal of the President to Congress, advice and recommendations to Congress regarding construction and rehabilitation priorities and spending levels; and*

*(E)” advice and recommendations on the development of a long-term capital investment program in accordance with subsection (d).*

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

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

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

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

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

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

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

*and*

*(B) ensure efficient funding of inland waterways projects.*

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

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

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



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

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

*“(f) ADMINISTRATION. –*

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

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

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

On July 19, 2017, in Charleston, West Virginia at the 84<sup>th</sup> Meeting of the Inland Waterways Users Board, the Oath of Office was administered to ten of the 11 current members of the Users Board for a term of office lasting two years. The Oath of Office was administered to the 11<sup>th</sup> current Board member on November 3, 2017, in Vicksburg, Mississippi, at the Users Board Meeting No. 85.



## **Appendix B**

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

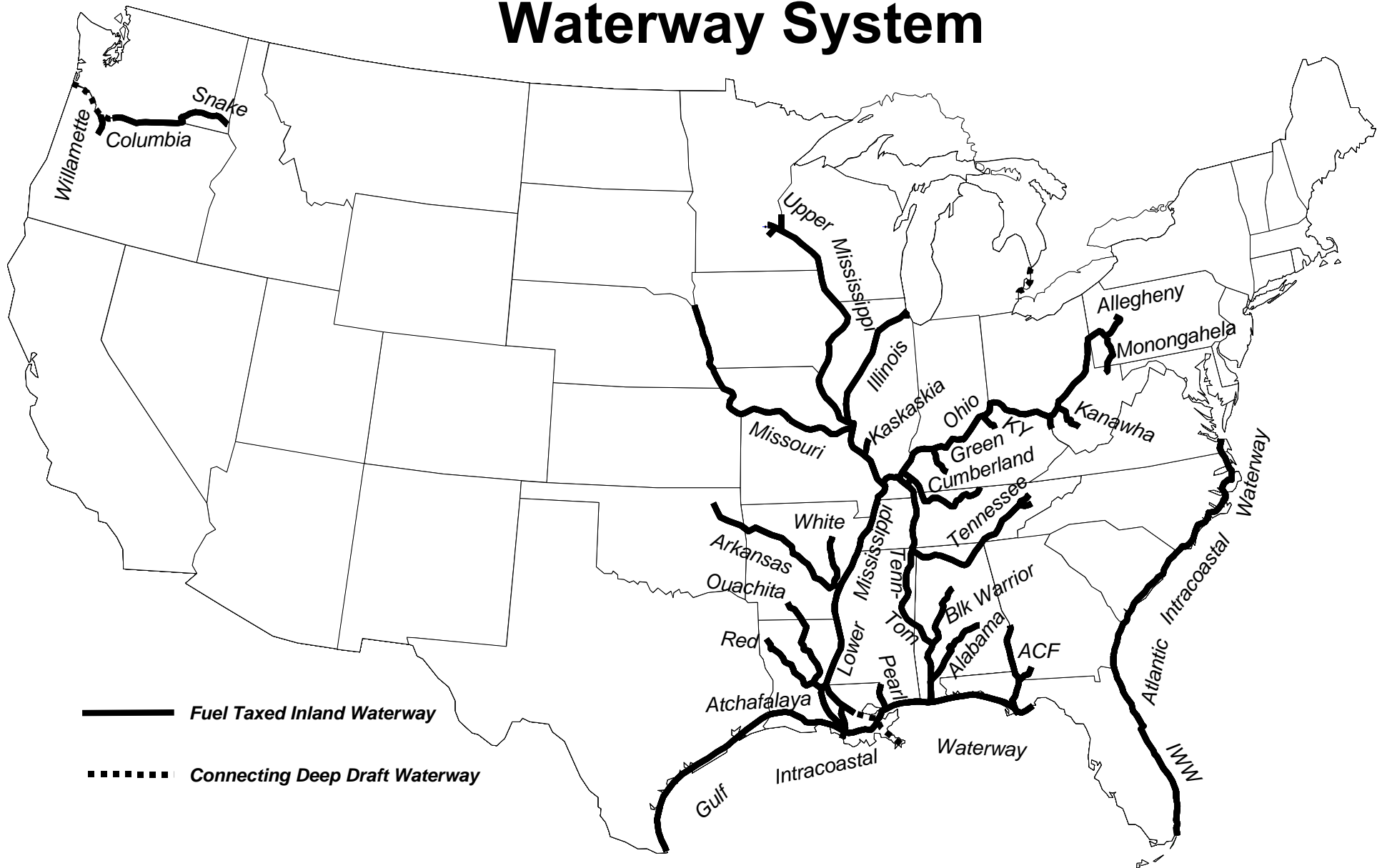
Statutory Definitions of Inland and Intracoastal Fuel Taxed Waterways of the United States

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**

### **Water Resources Reform and Development Act (WRRDA) Post-Budget Advice and Recommendations Submission for FY 2017**



## **INLAND WATERWAYS USERS BOARD**

Washington, D.C. 20314-1000 (CECW-P)

July 24, 2017

The Honorable Paul D. Ryan  
Speaker  
U.S. House of Representatives  
H-232, Capitol Building  
Washington, DC 20515

The Honorable Nancy Pelosi  
Minority Leader  
U.S. House of Representatives  
H-204, Capitol Building  
Washington, DC 20515

The Honorable Mitch McConnell  
Majority Leader  
U.S. Senate  
S-230 Capitol Building  
Washington, DC 20510

The Honorable Charles E. Schumer  
Minority Leader  
U.S. Senate  
S-221, Capitol Building  
Washington, DC 20510

Dear Speaker Ryan, Leader McConnell, Leader Pelosi, and Leader Schumer:

Pursuant to Section 2002(d) of the Water Resources Reform and Development Act of 2014<sup>\*</sup> (Public Law 113-121, June 10, 2014, hereinafter referred to as WRRDA 2014), the Inland Waterways Users Board (“Board” or “Users Board”) hereby submits its third annual post-budget-submission “advice and recommendations” concerning investment in the Nation’s inland waterways system. The Users Board is a federal advisory committee established more than 30 years ago by the Water Resources Development Act of 1986 (Public Law 99-662). Comprised of a balanced, regionally-varied mix of the primary users and shippers utilizing the inland and intracoastal waterways for commercial purposes, the Users Board was created to give commercial users a strong voice in the investment decision-making the users are supporting with their continuing diesel-fuel-based tax payments used to fund a portion of construction and major rehabilitation of the nation’s inland waterways infrastructure. Appendix A contains the current membership and organizational structure of the Inland Waterways Users Board.

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<sup>\*</sup> “ADVICE AND RECOMMENDATIONS. – For commercial navigation features and components of the inland waterways and inland harbors of the United States, the Users Board shall provide –... (D) not later than 60 days after the date of submission of the budget proposal of the President to Congress, advice and recommendations to Congress regarding construction and rehabilitation priorities and spending levels;”. Sec.2002(d)



## **Overview**

On June 7<sup>th</sup> of this year, at the Rivertown Marina on the banks of the Ohio River in Cincinnati, Ohio, President Trump spoke to hundreds of attendees on the importance of increasing the level of investment in our Nation's infrastructure, including our inland waterways infrastructure. Accompanied by Secretary of Agriculture Sonny Perdue, Secretary of the Interior Ryan Zinke, and Environmental Protection Agency Administrator Scott Pruitt, the President emphasized that our waterways are vital for the Nation's industry and economic growth, declaring that "the rivers carry the lifeblood of our heartland." A White House press release on the President's speech noted that:

- "According to the American Society of Civil Engineers (ASCE), our inland waterways delivered more than 575 million tons of cargo, valued at \$229 billion.
- According to the Department of Transportation, inland waterways support more than 270,000 jobs and \$30.9 billion in economic activity.
- 60 percent of the grain meant for export uses inland waterways to reach the Gulf of Mexico.
- American Steel production is entirely dependent on the inland waterways system.
- Up to 25 percent of the country's energy cargo, including coal, and petroleum are moved on inland waterways."

The Inland Waterways Users Board has worked for three decades to increase awareness of the waterways' critical importance, and Board members were very heartened to see the President drawing America's attention to what is too often an out-of-sight-out-of-mind reality. Congress has acted to address the waterways' modernization investment needs in recent years, responding to requests from the Board and other commercial users of the system to prioritize project construction, raise additional revenues from the fuel tax, and increase investment in the system's infrastructure.

The Board applauds this renewed commitment to modernize and upgrade our Nation's inland waterways transportation system and the infrastructure that enables the system to function effectively. The entire Nation benefits in significant ways when inland waterways system investments occur. These investments must continue to be made if America's economy and standard of living are to remain the envy of the world.

## **FISCAL YEAR 2017**

### **Consolidated Appropriations Act, 2017**

On May 5, 2017, President Trump signed into law the Consolidated Appropriations Act, 2017 (Public Law 115-31) making appropriations through the remainder of Fiscal Year (FY) 2017 for the Civil Works Program of the U.S. Army Corps of Engineers (Corps) as well as for most of the rest of the federal government. Approved in overwhelming bipartisan votes in both the House of Representatives and the Senate just days earlier, the legislation brought closure for FY 2017 to numerous funding issues that had been held in abeyance for more than seven months of the fiscal

year as a result of previous Congressional enactment of three Continuing Resolutions (P.L. 114-223, P.L. 114-254 and P.L. 115-30), each of which provided only temporary fiscal year funding.

For the Corps Civil Works Program, the Consolidated Appropriations Act provided \$6.038 billion on a full-year basis, a 0.8% increase above the Fiscal Year 2016 enacted funding level, but almost a 31% increase above the Obama Administration requested amount. The Act, along with its accompanying explanatory statement, called for “full use” of all estimated annual revenues in the Inland Waterways Trust Fund (IWTF), prioritizing allocation of additional Construction account appropriated amounts to IWTF-funded projects and providing necessary flexibility for the Corps to allocate even more than the “full use” amount to those projects by beginning to draw down the surplus in the IWTF. The Corps also was directed to use allocated funds to prevent the unnecessary expiration of existing contract options applicable to three active IWTF construction projects.

Continuing the trend of the past few years, the Consolidated Appropriations Act provided \$3.149 billion for the Corps Operation and Maintenance (O&M) account, the fourth consecutive year of record-level funding for that account. Within the O&M account total, at least \$46.5 million more than President Obama’s request of \$631 million was appropriated for inland navigation and \$1.3 billion was appropriated for activities funded from the Harbor Maintenance Trust Fund (HMTF), which again hit the spending target set in WRRDA 2014.

The Inland Waterways Users Board remains deeply appreciative of the very strong Congressional appropriations for the Corps inland navigation mission and of the continuing Congressional recognition of the inland waterways system’s importance to the economic and social well-being of the nation.

### **FY 2017 Work Plan**

Well ahead of the deadline established by Congress, the Corps of Engineers made public on May 24, 2017 the details of the Fiscal Year 2017 Work Plan for the Corps’ Civil Works Program. The FY 2017 Work Plan was developed based on account-specific appropriation amounts and project-selection criteria contained in Division D of the recently-enacted Consolidated Appropriations Act, 2017.

Overall, the Board is very pleased with the project-specific funding allocations contained in the FY 2017 Work Plan for inland waterways system navigation projects.

In the Construction account, the Work Plan allocates \$409 million for lock and dam modernization projects that are partly funded from the Inland Waterways Trust Fund. The project allocations track very closely the recommendations made in the Board’s 29<sup>th</sup> Annual Report to the Secretary of the Army and the United States Congress of December 2016, as follows:

Project	Users Board Recommendation (\$ million)	FY 2017 Work Plan Allocation (\$ million)
• Olmsted Locks & Dam	\$250.0	\$250.0
• Lower Monongahela Locks and Dams 2-3-4	\$84.7	\$82.0
• Kentucky Lock Addition	\$39.0	\$39.0
• Chickamauga Lock	\$37.0	\$37.0
• Emsworth Locks & Dam	-	\$1.0
TOTAL	\$410.7	\$409.0

With one exception, the Work Plan allocation for each of these ongoing construction projects constitutes the amount that the Corps of Engineers reported to the Board was the amount the Corps believed it needed to “fully and efficiently” obligate for continued construction of the project during FY 2017. The exception is the \$1 million for Emsworth, which the Board has been told is the amount that is necessary to fiscally close out that 12-year \$160 million major rehabilitation project.

The Board recognizes that funding the five projects at these levels probably will slightly exceed the “full-use” appropriation amount based on estimated FY 2017 IWTF fuel tax revenues. However, knowing that the IWTF began Fiscal Year 2017 with an unobligated balance of \$57.4 million, the Board estimates that the end-of-FY 2017 IWTF balance at these allocation levels should still be at or slightly below \$50 million and that expediting completion of the projects leading to earlier realization of the substantial national economic benefits the projects will produce strongly supports these allocation decisions.

The Board is particularly pleased that the Work Plan allocations were able to accommodate the funding needs of the four Users Board priority lock and dam modernization projects which, without additional funding for three of them, were in danger of having existing contract options expire to the detriment of those projects’ costs and schedules. Thanks to the emphasis placed on this issue in the managers explanatory statement accompanying the Continuing Appropriations Act and to the Corps’ expeditious actions to provide the needed funds to the appropriate contract management personnel in the relevant Corps district offices, \$27.4 million in threatened options for the Kentucky Lock Addition project were exercised before they expired on May 31, 2017. At Chickamauga Lock, the May 31<sup>st</sup> option expiration date was able to be extended to July 31<sup>st</sup>, allowing the option to be exercised by the end of July. And at the Lower Monongahela Locks and Dams 2-3-4 project, the threatened options will be exercised next month. In its 29<sup>th</sup> Annual Report of December 2016, the Board highlighted the need to address this challenge and is most appreciative of the actions taken by the Congress and the Corps in response to the Board’s recommendation.

In allocating Operation and Maintenance account funds, the recently-released FY 2017 Work Plan closely tracks the requirements of the Consolidated Appropriations Act, 2017, and accompanying explanatory materials. Congress added \$455.87 million in “additional funding for ongoing work”

to the Obama Administration’s FY 2017 O&M budget request of \$2.705 billion<sup>†</sup>. This “additional funding” was apportioned to categories and subcategories as follows:

- Navigation Maintenance \$24.365 million
  - Deep-draft Harbors and Channels \$268.000 million
  - Donor and Energy Transfer Ports \$28.000 million
  - Inland Waterways \$46.500 million
  - Small, Remote, or Subsistence Navigation \$49.000 million
- Other Authorized Purposes \$40.000 million

Funding associated with each category was eligible to be allocated to any eligible O&M project within that category, while funding associated within each subcategory only could be allocated to eligible projects within that subcategory. Eleven criteria were specified by Congress for the Corps to use in allocating the additional funding to specific projects.

In adhering to this Congressional guidance, the Corps FY 2017 Work Plan provided significant additional funding to address inland navigation O&M needs. Some noteworthy increases were allocated as follows:

<u>Project</u>	<u>Additional Amount (\$ million)</u>	<u>Percentage Increase (%)</u>
• McClellan-Kerr Arkansas River Navigation System, AR	\$4.783	11.3%
• Ohio River Locks and Dams, KY	\$9.761	31.6%
• Gulf Intracoastal Waterway, LA	\$8.000	24.4%
• J. Bennett Johnston Waterway, LA	\$12.200	140.0%
• Mississippi River between Missouri River and Minneapolis (MVP portion), MN	\$7.660	11.5%

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<sup>†</sup> Because the final agreement reflected in the Consolidated Appropriations Act adjusted some project-specific allocations downward from amounts requested in the Obama Administration’s FY 2017 Budget proposal based on updated work-projection information, the Act’s \$3.149 billion appropriation for the O&M account is slightly lower than the sum of \$455.98 million and \$2.705 billion.

## FISCAL YEAR 2018

### Administration Budget Proposal for Fiscal Year 2018

On May 23, 2017, the day before the Corps publicly released the FY 2017 Work Plan, the Administration announced the details of the Fiscal Year 2018 President’s Budget proposal for the entire federal government. The documents supporting the May 23<sup>rd</sup> release provided project, program, and policy information to more fully explain the general overview-level proposed funding decisions that the Administration had announced in March with the release then of what has been characterized as the Trump Administration “skinny” budget proposal.

Table 1 below provides a prior year comparison at the appropriations level of the Trump Administration’s detailed FY 2018 President’s Budget proposal for the Corps of Engineers Civil Works Program.

Table 1: FY 2018 Corps Civil Works Program Budget Proposal Comparison (millions of dollars)

	FY 2017 Request	FY 2017 Enacted	FY 2018 Request	FY 2018 Request vs FY 2017 Request	FY 2018 Request vs FY 2017 Enacted
<b>Investigations</b>	85.0	121.0	86.0	+1.0 (1.2%)	-35.0 (-28.9%)
<b>Construction</b>	1,090.0	1,090.0	1,876.0	-70.0 (-6.4%)	-856.0 (-45.6%)
<b>[For Inland Waterways   Trust Fund Projects]</b>	[225.0]	[409.0]	[175.0]	[-50.0 (-22.2%)]	[-234.0 (-57.2%)]
<b>Mississippi River &amp; Tributaries</b>	222.0	362.0	253.0	+31.0 (14.0%)	-109.0 (-30.1%)
<b>Operation and Maintenance</b>	2,705.0	3,149.0	3,100.0	+395.0 (14.6%)	-49.0 (-1.6%)
<b>[For Harbor   Maintenance Trust Fund]</b>	[951.0]	[1,252.0]	[965.0]**	[+14.0 (1.5%)]	[-287.0 (-22.9%)]
<b>Other*</b>	518.0	529.0	543.0	+25.0 (4.8%)	+13.2 (2.5%)
<b>TOTAL</b>	4,620.0	6,037.8	5,002.0	+382.0 (8.3%)	-1,035.8 (-17.1%)

\*Regulatory, Expenses, Flood Control & Coastal Emergencies, FUSRAP, and ASA(CW)

\*\*\$923M for O&M, \$37M for Construction, \$5M for MR&T

As suggested in the “skinny” budget, the overall President’s Budget for the Corps Civil Works Program for FY 2018 is proposed to be \$5.002 billion. This is only the second time in at least ten years that an Administration has proposed a Corps budget of \$5 billion or more—FY 2010’s \$5.125 billion proposal was the other--but it falls more than \$1 billion below the \$6.038 billion that Congress just appropriated in the Consolidated Appropriations Act (P.L. 115-31) to Corps for FY 2017.

Within the overall \$5.002 billion total, the Administration proposes to fund the Construction account at \$1.020 billion, \$50 million below the Obama Administration FY 2017 request level of \$1.070 billion and \$736 million below what Congress appropriated for FY 2017. The Operations and Maintenance account benefits most in the Trump Administration’s FY 2018 request, a highest-ever-request of \$3.100 billion for FY 2018 compared to the Obama FY 2017 request level of \$2.705 billion and only \$49 million below the Congressionally-appropriated O&M level of \$3.149 billion. This is the first time that any Administration has requested more than \$3 billion for the



Corps O&M account in “regular” fiscal year appropriations. As in previous years’ President’s Budget proposals, the Investigations account, which funds Corps project feasibility studies and Preconstruction Engineering and Design (PED) work, is proposed to be cut substantially at a requested level of \$86 million, essentially the same as last year’s \$85 million Obama request level but \$35 million below the FY 2017 appropriated amount. The Mississippi River and Tributaries Account FY 2018 proposal is \$253 million, \$31 million above the FY 2017 Obama-requested level but far below the Congressionally-appropriated amount of \$362 million.

For construction projects funded in part out of the Inland Waterways Trust Fund, the President’s Budget proposes a FY 2018 appropriation of only \$175 million, a \$50 million reduction from the Obama Administration’s President’s Budget proposal for FY 2017 and a \$234 million 57.2% reduction below what Congress appropriated and the Corps has included in the FY 2017 Work Plan for this category of projects. Only one lock and dam modernization project would receive funding in President Trump’s FY 2018 Budget proposal, Olmsted, while three other ongoing high priority lock and dam projects--Lower Mon, Kentucky, and Chickamauga--each of which has had between \$250 million and \$800 million already appropriated and allocated to it, will be left without additional funds in FY 2018, thereby threatening to shut these important projects down and cause serious job loss and economic damage.

Similar to what the Obama Administration proposed and Congress has repeatedly rejected, the Trump Administration is proposing to double the amount collected each year from the commercial users of the inland waterways system, increasing FY 2018 revenues collected by \$108 million and 10-year revenues by \$1.037 billion by “establishing an annual fee” which is not defined in the budget documents. The FY 2018 President Trump’s Budget does not propose to spend any of that additional revenue in FY 2018, which increases the end-of-FY 2018 IWTF balance to \$243 million--from the Administration-projected end-of-FY 2017 level of \$56 million. The net effect for FY 2018 of these proposals would be to collect from commercial operators on the inland waterways \$213 million in taxes and fees, but only spend \$26.3 million of those revenues for the purpose those taxes and fees were established. Not only do these proposals not spend any of the new revenue, they don’t come close to spending most of the existing 29-cent-per-gallon diesel fuel tax revenues, which is what drives the end-of-FY 2018 IWTF balance up to the \$243 million shown in the budget documents.

### **Inland Waterways Trust Fund**

Fiscal Year 2016 ended with an unobligated balance of \$57.35 million in the Inland Waterways Trust Fund. Total receipts into the IWTF amounted to \$111.13 million during the fiscal year, and transfers by the Treasury Department to the Corps of Engineers for lock and dam construction work totaled \$108.0 million, resulting in a \$3.13 million increase in the IWTF’s balance during FY 2016.

This \$111.13 million in IWTF revenues for FY 2016, derived from the 29 cent-per-gallon diesel fuel tax paid by commercial users of the inland waterways system that went into effect on April 1, 2015, was 3.8% higher than the \$107 million that the Obama Administration had assumed would be collected during FY 2016 in that President’s Budget proposal. For FY 2016, each penny of the

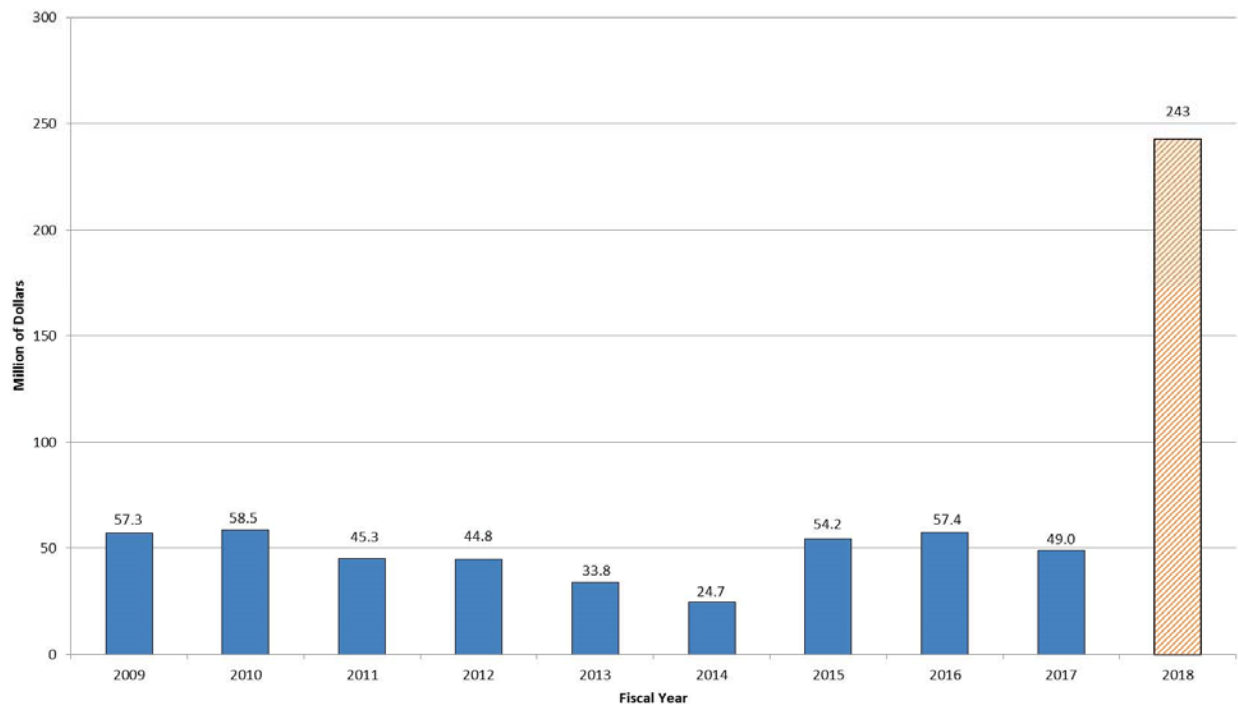
29-cent tax generated \$3.82 million in collected annual IWTF revenues, slightly lower than the \$4 million in average annual revenues that were deposited in the Inland Waterways Trust Fund over the preceding 10-year period.

For FY 2017, the Obama Administration estimated that \$109 million in diesel fuel tax revenues will be deposited into the Inland Waterways Trust Fund. Because of the uncertain nature of the Treasury Department's monthly IWTF statement, which for most months lists amounts that are only estimates and must be reconciled at the end of the fiscal year with actual revenues collected, neither the Corps nor the Board can be as confident as would be liked in Treasury Department's current monthly statement figures. That said, three-fourths of the way through FY 2017, the Board believes that IWTF diesel tax revenues for FY 2017 seem to be on track to approximate FY 2016's collected amount.

In the event that FY 2017 diesel tax revenues come close to the amount collected for FY 2016, and given the Corps FY 2017 Work Plan allocation total of \$409 million for inland navigation lock and dam construction projects, the Users Board recognizes that the unobligated balance in the IWTF as of September 30<sup>th</sup> of this year will decline slightly to a little less than \$50 million. The Board is completely comfortable with this outcome, recognizing that that occurs as a result of project-specific allocations that match very closely recommendations the Board made in the 29<sup>th</sup> Annual Report of December 2016.

For FY 2018, the President's Budget proposal assumes that only \$105 million will be collected in inland waterway diesel taxes and deposited in the Inland Waterways Trust Fund. In addition, the President proposes in his budget to collect another \$108 million during FY 2018--and \$1.037 billion over ten years---through a new user fee, described only as intended "to produce additional revenue to help finance future inland waterways navigation capital investments to support economic growth." No details have been provided to any User Board member or to any other inland waterways interest that we are aware of detailing the specifics of this proposed new user fee. Of major concern, however, to Users Board members and as mentioned earlier is the budget's proposal to use in FY 2018 only \$26.25 million of the \$213 million that the budget assumes will be collected and deposited in the IWTF during FY 2018, which would leave the IWTF with an unobligated balance of \$243 million at the end of FY 2018, as illustrated in Figure 1 below.

Figure 1: Inland Waterways Trust Fund End-Of-Year Balance



### Inland Waterways Users Board Recommendations

The Users Board is gratified by the reception accorded to the recommendations made by the Board in previous annual reports. For example, prior recommendations to (1) prevent lapses in the appointment of Board members, (2) provide “full use” funding for priority lock and dam modernization projects, (3) prevent costly expiration of existing contract options, (4) expedite completion of the feasibility report for the Upper Ohio River Navigation Study, and (5) continue to increase O&M funding for navigation projects, have all been adopted in the past year.

Going forward, the Board continues to believe that the overall direction reflected in the recommendations contained in our December 2016 Annual Report remains valid. Thus the Board continues to recommend for FY 2018:

- **Exclusive of any additional funding that might be forthcoming in new “infrastructure initiative” legislation, Congress should appropriate the maximum amount supportable by expected IWTF revenues for the continued construction of ongoing lock and dam modernization projects.** The Board understands that at least \$332.5 million and, depending on actual revenue receipts and specific project allocation decisions, perhaps tens of millions more than that can likely be available for these important investments.



- **To the maximum extent practicable, construction of ongoing priority lock and dam modernization projects should be funded at those projects' "full and efficient" execution levels, which the Corps has indicated currently include \$175 million for Olmsted Locks and Dam, \$105 million for Lower Mon Locks and Dams 2-3-4<sup>‡</sup>, \$41 million for Kentucky Lock Addition, \$71 million for Chickamauga Lock, and \$4 million for the LaGrange Lock and Dam major rehabilitation project.** While the total of these amounts exceeds the Administration's estimate of expected FY 2018 inland waterways diesel tax revenues, the Board believes that the existing surplus in the Inland Waterways Trust Fund will be sufficient, along with matching amounts from the General Fund, to provide most, if not all, of the needed funds.
- **Congress should continue to increase appropriations for the Corps' Operations and Maintenance account as much as possible above the Administration-requested \$3.1 billion.** The appropriation trend of the last four years should be maintained in order to attack the O&M deferred maintenance on the inland waterways and elsewhere throughout the Corps Civil Work Program.
- **In order to ensure that construction can be initiated as soon as can be supported by available resources, funds should be appropriated and allocated to (1) resume Preconstruction Engineering and Design (PED) of lock modernization projects authorized as part of the Mississippi River Navigation and Ecosystem Sustainability Program (NESP) and (2) continue PED for the Upper Ohio River Navigation project.**
- **The Corps should continue to efficiently fund the General Re-evaluation Report (GRR) for the Inner Harbor Navigation Canal (IHNC) Lock Replacement on the Gulf Intracoastal Waterway (GIWW) so that construction can be resumed on this priority project at the earliest opportunity.**

Sincerely,



Chairman

Mr. Martin T. Hettel

American Commercial Barge Line

Jefferson, Indiana

July 24, 2017

Date

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<sup>‡</sup> This amount for Lower Mon, which was recently provided by the Corps, is \$28 million higher than the Corps-provided \$77 million amount that we included a few months ago in our 29<sup>th</sup> Annual Report of December 2016. The Board is in the process of trying to better understand the basis of the increase, but for now we are including the higher figure in these recommendations.

## Appendix A

### **Inland Waterways Users Board Organization Membership**

#### **Chairman**

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

#### **Vice Chairman**

Kirby Corporation  
Mr. William Matthew Woodruff  
Houston, Texas

#### **Members**

Campbell Transportation Company, Inc.  
Mr. Michael J. Monahan  
Houston, Pennsylvania

CGB Enterprises, Inc.  
Mr. G. Scott Leininger  
Mandeville, Louisiana

Crounse Corporation  
Mr. C. Matt Ricketts  
Paducah, Kentucky

Dow Chemical Company  
Mr. Mike Fewell  
Houston, Texas

Ingram Barge Company  
Mr. Daniel P. Mecklenborg  
Nashville, Tennessee

LafargeHolcim  
Mr. Robert J. Innis  
Dundee, Michigan

**Members continued**

Marathon Petroleum Company  
Mr. David A. Earl  
Catlettsburg, Kentucky

Parker Towing Company  
Mr. Timothy Parker III  
Tuscaloosa, Alabama

Tidewater Barge Lines, Inc.  
Mr. David Konz  
Vancouver, Washington

Copies to:

Senator Orrin G. Hatch, Chairman, Senate Committee on Finance

Senator Ron Wyden, Ranking Member, Senate Committee on Finance

Senator Thad Cochran, Chairman, Senate Appropriations Committee

Senator Patrick J. Leahy, Ranking Member, Senate Appropriations Committee

Senator John Barrasso, Chairman, Senate Committee on Environment and Public Works

Senator Thomas R. Carper, Ranking Member, Senate Committee on Environment and Public Works

Congressman Rodney Frelinghuysen, Chairman, House Appropriations Committee

Congresswoman Nita M. Lowey, Ranking Member, House Appropriations Committee

Congressman Kevin Brady, Chairman, House Committee on Ways and Means

Congressman Richard E. Neal, Ranking Member, House Committee on Ways and Means

Congressman Bill Shuster, Chairman, House Committee on Transportation and Infrastructure

Congressman Peter A. DeFazio, Ranking Member, House Committee on Transportation and Infrastructure

## **APPENDIX D**

### **Congressional Letters in Support of the Mississippi River Navigation and Ecosystem Sustainability Program (NESP)**

United States Senate  
WASHINGTON, DC 20510

December 22, 2017

The Honorable Mick Mulvaney  
Director  
Office of Management and Budget  
725 17<sup>th</sup> Street, NW  
Washington, DC 20503

Dear Director Mulvaney,

We write to express our strong support for efforts to increase the competitiveness of our inland navigation system and improve the ecosystem. As such, we respectfully request that you include sufficient funding to continue preconstruction engineering and design (PED) for the Navigation and Ecosystem Sustainability Program (NESP) in the Administration's fiscal year 2019 budget request. In addition, we request that this amount be included in the Army Corps of Engineers' (the Corps) 2018 Work Plan so that work can begin immediately.

In 2007, Congress recognized the national significance of the Upper Mississippi River System (UMRS) and authorized NESP to ensure that the nation continues to benefit from this vital resource. Further investment in NESP would strengthen infrastructure and navigation for the entire river and recognize the significance of the UMRS ecosystem to surrounding communities and wildlife. With appropriate funding, many NESP projects could be ready for construction within a year, immediately improving the economy and environment, and affirm the importance of the program.

Our inland waterways are key to U.S. competitiveness in the global economy. With the expansion of the world food and energy needs, the Mississippi River is poised to be more important than ever. The river already moves large volumes of agricultural and energy products between U.S. markets and ports, and serves as the country's busiest waterway. However, the overwhelming majority of UMRS infrastructure was constructed in the 1930s and has exceeded its design life by decades, causing closure and limiting overall capacity. Improvements are necessary.

NESP has widespread bipartisan support from multiple states as well as the support of industry, labor, and environmental interests. We urge you to include sufficient funding for NESP in the Administration's fiscal year 2019 budget request and to prioritize construction in the Corps' 2018 Work Plan in order to ensure that this project moves forward.

Thank you for your attention to this matter. We look forward to hearing from you.

Sincere Regards,

  
\_\_\_\_\_  
Roy Blunt  
United States Senator  
\_\_\_\_\_  
Tammy Baldwin  
United States Senator



*Bill Cassidy, M.D.*

Bill Cassidy, M.D.  
United States Senator

*Tammy Duckworth*

Tammy Duckworth  
United States Senator

*Dick Durbin*

Richard J. Durbin  
United States Senator

*Chuck Grassley*

Charles E. Grassley  
United States Senator

*John Kennedy*

John Kennedy  
United States Senator

*Amy Klobuchar*

Amy Klobuchar  
United States Senator

*Claire McCaskill*

Claire McCaskill  
United States Senator

*Roger Wicker*

Roger F. Wicker  
United States Senator

cc: Mr. Ryan A. Fisher, Acting Assistant Secretary of the Army (Civil Works), U.S. Army Corps of Engineers

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

November 29, 2017

The Honorable Mick Mulvaney  
Director  
Office of Management and Budget  
725 17<sup>th</sup> St, NW  
Washington, DC 20503

Dear Director Mulvaney,

We write to express our strong support for efforts to improve inland navigation infrastructure and ecosystem restoration. As you finalize the Administration's Fiscal Year 2019 budget request, we respectfully request that you include \$10 million to continue preconstruction engineering and design (PED) for the Navigation and Ecosystem Restoration Program (NESP). Further, we request that this amount also be included in the Army Corps of Engineers' (the Corps) 2018 Work Plan.

Congress recognized the importance of the Upper Mississippi and Illinois Rivers in the Water Resources Development Act (WRDA) of 1986 by designating it as nationally significant ecosystem and a nationally significant commercial navigation system. In 2007, Congress authorized NESP, which integrates the needs of both navigation infrastructure improvement and ecosystem restoration into a single, dual-purposed program. It is imperative that funding for NESP be included in the Administration's Fiscal Year 2019 budget and the Corps' 2018 Work Plan so that implementation of this crucial program, aimed at creating a sustainable Upper Mississippi River System (UMRS), can continue.

Our nation's inland navigation system provides a key strategic advantage to our nation's agriculture and manufacturing sectors. Unfortunately, the reliability of these locks and dams—constructed in the 1930s—will continue to decrease. Shippers have legitimate concerns about increases in planned and emergency lock outages due to the age and status of this infrastructure. With 60 percent of our nation's grain exports traveling on the UMRS, we cannot afford to let this situation worsen. NESP provides the opportunity to address these reliability issues and protect this infrastructure from catastrophic failure.

NESP will also ensure the UMRS ecosystem thrives for future generations. As a dual-purposed program, NESP will provide comparable investment in restoration measures that are critical for fish and wildlife along the entire Mississippi River. This will include efforts to reconnect floodplain habitat, reconnect side channels and backwaters, and rebuild lost island and shoreline habitat that compliment commercial navigation.

NESP positively impacts multiple states, has the support of industry, labor, and environmental interests, and enjoys wide bipartisan support. Funding NESP will result in both immediate and long term benefits to our communities, the UMRS, and our nation. We therefore urge you to include \$10 million in the President's Fiscal Year 2019 budget and in the Corps' 2018 Work Plan to ensure this project moves forward.

Thank you for your consideration of this important request.

Sincerely,



Rodney Davis  
Member of Congress



Cheri Bustos  
Member of Congress

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Daniel W. Lipinski  
Member of Congress



Mike Bost  
Member of Congress



Randy Hultgren  
Member of Congress



Mark Pocan  
Member of Congress



Dave Loebsack  
Member of Congress



Sam Graves  
Member of Congress



Tim Walz  
Member of Congress



Robin L. Kelly  
Member of Congress



Adam Kinzinger  
Member of Congress



Ron Kind  
Member of Congress



Ann Wagner  
Member of Congress



Steve King  
Member of Congress



Bruce Westerman  
Member of Congress



Jason Smith  
Member of Congress



Mike Quigley  
Member of Congress



Rod Blum  
Member of Congress



Rick Nolan  
Member of Congress



Bill Foster  
Member of Congress



Bob Gibbs  
Member of Congress



James Comer  
Member of Congress



Blaine Luetkemeyer  
Member of Congress



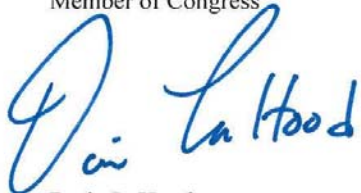
Raja Krishnamoorthi  
Member of Congress



John Shimkus  
Member of Congress



Brett Guthrie  
Member of Congress



Darin LaHood  
Member of Congress



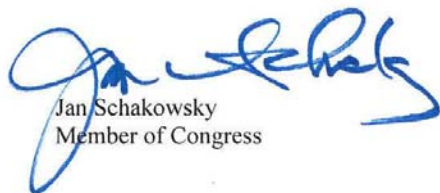
Danny K. Davis  
Member of Congress



Wm. Lacy Clay  
Member of Congress



Andy Barr  
Member of Congress



Jan Schakowsky  
Member of Congress



Betty McCollum  
Member of Congress



David Kustoff  
Member of Congress



Gregg Harper  
Member of Congress



Bill Johnson  
Member of Congress



Bennie G. Thompson  
Member of Congress



Emanuel Cleaver, II  
Member of Congress



Bobby L. Rush  
Member of Congress



Trent Kelly  
Member of Congress



Peter Roskam  
Member of Congress