

**Summary Minutes
Inland Waterways Users Board Meeting No. 59
November 18, 2008
Chicago, Illinois**

Inland Waterways Users Board No. 59 was called to order by Mr. Mark Pointon, Executive Secretary of the Inland Waterways Users Board (the Board) at 9:00 A.M. Mr. Pointon made introductory remarks, and then called on Brigadier General John Peabody, Division Commander of the Great Lakes and Ohio River Division of the U.S. Army Corps of Engineers (the Corps). BG Peabody began his remarks by welcoming Board Chairman Royce Wilken and the other members of the Board, the Executive Director of the Board and Deputy Commanding General for Civil Works and Emergency Operations, Major General (MG) Bo Temple, Assistant Secretary of the Army for Civil Works, the Honorable John Paul Woodley, Jr, to the Great Lakes and Ohio River Division. BG Peabody offered his perspective on the status of features of the inland waterways system in the Great Lakes and Ohio River Division. In BG Peabody's words "We are simply managing a continuing crisis, and the crisis is deepening with every day. The chances that we will face catastrophic failure increase every day. It's difficult to quantify exactly what those chances are with any great precision; but the fact that it will happen someday, unless we do something to reverse course, is inevitable, in my view."

BG Peabody offered the case of Lock and Dam 6 on the Allegheny River as an example. During part of a recent routine maintenance inspection the Corps discovered a significant scour hole underneath a portion of the dam. The Corps has awarded a contract for emergency repairs to this lock and dam.

BG Peabody appealed to the members of the Board to find a way forward to get out of this crisis. BG Peabody noted that it is the Corps responsibility to manage the system so that we have acceptable risk. In BG Peabody's judgment that risk is beyond acceptable.

In conclusion, BG Peabody indicated that unless the Division receives the funding that it requires to efficiently fund all of the projects that it currently has under construction, that he would recommend the Corps go forward with orderly closure on some of those projects.

Chairman Royce Wilken then introduced MG Temple, the new Executive Director of the Board who welcomed the Federal Observers who were in attendance at the meeting. In attendance were the Honorable John P. Woodley, Jr., Assistant Secretary of the Army for Civil Works, Mr. Alan Bunn of the National Oceanic and Atmospheric Administration (NOAA), Mr. Nicholas Marathon of the U.S. Department of Agriculture (USDA) and Mr. Robert Goodwin of the U.S. Maritime Administration (MARAD).

MG Temple gave an update on the status of the Corps FY 09 appropriations (the Corps is operating under a Continuing Resolution through the first week of March 2009 which allows the Corps to spend at the same expenditure level as FY 08) and the possible

legislative action on an economic stimulus bill. At the request of Congress the Corps has provided a statement of its general capability, which due to its large backlog of maintenance, repair and rehabilitation projects, is in the order of \$7 billion.

MG Temple made brief remarks regarding the status of the Inland Waterways Trust Fund. FY 08 tax receipts totaled \$87.6 million; interest earned totaled \$4.8 million; total revenue equaled \$92.4 million; fund expenditures totaled \$171 million; beginning FY 08 fund balance was \$209.4 million; year end balance was \$130.8 million. The Department of the Treasury reports that \$102.9 million has been obligated, leaving \$27.9 million available for new obligations.

MG Temple also discussed the effort underway within the Corps to move forward to address the subject of the Inland Waterways Trust Fund projects. MG Temple briefly discussed that development of a project management team collaborating with industry to look at best practices and amending, changing or improving the Corps practices in the prosecution of civil works requirements; establishing the groundwork for a forward looking strategy of a 20 year capital investment plan; and reexamining and reviewing what the Corps currently working on and the way forward.

Mr. Bunn of NOAA expressed the appreciation of NOAA leadership for the opportunity to attend the meetings of the Board and spoke about the cooperative efforts of the Gulf of Mexico hurricane task force, comprised of members from the Corps, NOAA, the Coast Guard, industry personnel and the Gulf Intracoastal Canal Association (GICA) in addressing the response to the many hurricanes that impacted the Gulf Coast from Key West, Florida to Brownsville, Texas during the 2008 hurricane season. Due to the hurricane response plan developed by the GOM hurricane task force which was already in place, the task force members were able to respond quickly to survey needs and were able to get the ports and waterways open and commerce going in a quick and orderly fashion.

Mr. Bunn stressed the cooperative efforts of the many agencies involved and the members of the private sector and appreciated the efforts of each of the members that assisted in the response.

Mr. Marathon of the USDA, Agriculture Marketing Service, expressed his appreciation for the opportunity to attend the meeting of the Board and indicated the importance of a reliable waterway system to U.S. agriculture.

Mr. Goodwin of the U.S. Maritime Administration expressed his appreciation for the opportunity to attend this meeting of the Board and discussed the recently published Nation Strategy for the Marine Transportation System and the Maritime Administration recent "America's Marine Highway" initiative, which is designed to move some of the freight which is currently moving over highways (which are often congested) onto waterways (which have capacity to handle the additional cargo).

Secretary Woodley began his remarks by saying that this will be his last time being at the meeting of the Board in his capacity as the Assistant Secretary of the Army for Civil Works, and he wanted to recognize the people who volunteer their time to advise the Secretary and the Congress on the needs of the inland waterways system, and the seriousness and insights that they bring to the Board and expressed his gratitude to all the members of the Board, the staff and the former members of the Board.

Secretary Woodley encouraged the Board to work with the new Administration in informing them of the importance of the inland waterways system and work closely with them in understanding the needs of the system and the benefits associated with the system and the risks of not maximizing those benefits; and the need to explain to people at every level of government and in every community of the risks of potential failure of features of the system because there is no community in the country that is not touched by the activities of the Board and the benefits of the inland waterway system.

Chairman Wilken thanked Secretary Woodley for his service to the Board and noted that the Secretary attended all but one meeting of the Board during his four and a half year tenure as Assistant Secretary of the Army for Civil Works.

Chairman Wilken then asked for a motion to approve the minutes from Inland Waterways Users Board meeting No. 58, held on July 31, 2008, in Walla Walla, Washington. The minutes were approved unanimously.

Mr. David Grier of the Corps Institute for Water Resources (IWR) presented a report on the status of the Inland Waterways Trust Fund (IWTF). In terms of the status report, the IWTF began the prior year, 2007, with a balance of \$268 million, revenues of \$91 million, interest of \$10.5 million, and transfers to the Corps of \$160 million, leaving a year end balance of \$209.4 million. Revenues for FY 08 were about \$88 million, with interest of nearly \$5 million for total receipts of \$92.4 million, a decline of about nine percent of the total receipts in FY 07. Transfers to the Corps were \$171 million, leaving a balance of \$131 million. Of the balance, \$103 million is considered as transfer authority already committed to the Corps and not available for new obligations; which leaves approximately \$28 million available that's not already encumbered as a commitment for operations.

Ms. Mary Anne Schmid from the Corps Headquarters, Programs Integration Division, presented the most recent financial data on Inland Waterways Trust Fund projects and studies. Ms. Schmid indicated that the Corps is operating under a Continuing Resolution (P.L. 110-329), which is in effect until March 6, 2009, unless an appropriations bill is passed before that date. Section 128 of the Continuing Resolution exempts major rehabilitation projects from cost sharing with the Inland Waterways Trust Fund during the CRA period.

Ms. Schmid indicated that the Corps is currently allotting funds on a monthly basis to ensure that it does not overdraw the fund. A total of \$5.846 million has been deposited into the trust fund so far this fiscal year (reflecting deposits through the first deposit in

November.) The Corps has allotted about \$21 million so far this fiscal year and that will take the Corps through December.

After Ms. Schmid's presentation, Mr. Gary Loew, Chief of the Programs Integration Division at Corps Headquarters gave a presentation on the efforts of the Corps of Engineers to move from being a "good" organization to becoming a "great" organization, utilizing the concepts and ideas presented in the book, *Good to Great* by Jim Collins.

Mr. Loew gave a detailed presentation on the recent expenditure pattern of the Trust Fund and the current financial status of the Trust Fund and noted that contract payments were being handled on a monthly basis. Very few new contracts can be awarded in the present revenue situation and ongoing contracts at Chickamauga, Kentucky, Lower Monongahela River 2, 3, and 4, and Inner Harbor Navigation Canal (IHNC) Lock will be brought to an orderly close and construction halted without an increase in IWTF revenues. Current receipts of about \$85 million annually will support the completion of Marmet and McAlpine, which are essentially done (Marmet is open; McAlpine will open in the spring of 2009). Olmsted Locks and Dam on the lower Ohio River will continue at a level permitted by Trust Fund receipts. Congress has provided a one-year exemption for major rehabilitation projects from cost-sharing requirements from the Trust Fund, but the FY 2009 Continuing Resolution conference report language suggests Congress wants to see a quick resolution of Trust Fund revenue situation.

The Board expressed reluctance to consider higher fuel taxes or other fees without some assurance of better project management and more reliable cost estimates, noting that Olmsted was authorized at less than \$800 million and is now over \$2 billion. Mr. Loew committed the Corps to improving cost estimates, including a detailed assessment of fully funded project cost at the last stage before a commitment to proceed with construction is made, and for the Board to be part of that go or no-go decision.

At Mr. Loew's direction an Inland Navigation Program Management Team was established to develop common ground on a way forward for the Trust Fund and the inland navigation modernization program. The first step of the Program Management Team will be to prepare a white paper and Project Management Plan (PMP) to address questions from the Board, lay out options, and set milestones.

Following Mr. Loew's presentation, Mr. Larry Bibelhauser of the Corps Louisville District, Project Manager for the Olmsted Lock and Dam project, gave an update on the Olmsted Lock and Dam project, located on the lower Ohio River.

After Mr. Bibelhauser's presentation, Chairman Wilken opened the meeting for public comments. There were two public statements given by members of the audience.

After closing remarks by MG Temple, Chairman Wilken thanked everyone for attending the meeting and then adjourned the meeting at 12:20 P.M.