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PROPOSALS FOR A WATER RESOURCES DEVELOPMENT ACT OF 2008

(110–123)

HEARING

BEFORE THE

SUBCOMMITTEE ON
WATER RESOURCES AND ENVIRONMENT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

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April 25, 2008

SUMMARY OF SUBJECT MATTER

TO: Members of the Subcommittee on Water Resources and Environment

FROM: Subcommittee on Water Resources and Environment Staff

SUBJECT: Hearing on Proposals for a Water Resources Development Act of 2008

PURPOSE OF HEARING

On Wednesday, April 30, 2008, at 2:00 p.m., in Room 2167 Rayburn House Office Building, the Subcommittee on Water Resources will receive testimony from the Department of the Army (Civil Works), and representatives of industry, conservation organizations, and other stakeholders on issues and proposals for a Water Resources Development Act of 2008.

BACKGROUND

The Subcommittee on Water Resources and Environment has jurisdiction over the U.S. Army Corps of Engineers' Civil Works program – the nation's largest water resources program. The Corps of Engineers ("Corps") constructs projects for the purposes of navigation, flood control, hurricane and storm damage reduction and shoreline protection, hydroelectric power, recreation, water supply, environmental infrastructure, environmental protection, restoration and enhancement, and fish and wildlife mitigation.

General Procedures:

The first step in a Corps water resources development project is a study of the feasibility of the project. If the Corps has done a study in the area before, the new study can be authorized by a resolution of either the Committee or the Senate Committee on Environment and Public Works. If the area has not been previously studied by the Corps, then an Act of Congress is necessary to authorize the study. The majority of studies are authorized by Committee resolution.

The Corps first performs a reconnaissance study at Federal expense, at a cost not to exceed $100,000. Reconnaissance studies determine whether there is a Federal interest in addressing a given

water resource problem or opportunity, identify the non-Federal interest that will participate in cost-sharing of the project, and typically take one year to complete. If a reconnaissance study indicates that there may be a viable Federal project and that a more detailed study should be undertaken, the Corps prepares a feasibility report, the cost of which is shared 50 percent by the Federal Government and 50 percent by the non-Federal interest.

After a feasibility study is completed, the results and recommendations of the study are submitted to Congress, usually in the form of a report of the Chief of Engineers. If such results and recommendations are favorable, the next step is authorization. Project authorizations are contained in water resources development acts which are traditionally enacted on a biennial schedule.

After a project is authorized, it would still require an appropriation of Federal funds to proceed to construction.

Continuing Authority Programs for Small Projects:

The Corps of Engineers also has certain authorities to construct small projects without specific authorization by the Congress. These authorities, collectively known as the "continuing authorities program," include (1) beach erosion control projects with a Federal cost of not more than $3 million, (2) navigation projects with a Federal cost of not more than $7 million, (3) flood control projects with a Federal cost of not more than $7 million, (4) streambank and shoreline protection for public facilities projects with a Federal cost of not more than $1.5 million, (5) projects to mitigate shoreline damages from Federal navigation projects with a Federal cost of not more than $5 million, (6) projects of snagging and clearing for flood control with a Federal cost of not more than $500,000, (7) projects modifying the structure and operation of existing projects for improvement to the environment with a Federal cost of not more than $5 million, and (8) projects for the restoration and protection of aquatic ecosystems and estuaries (including dam removal) with a Federal cost of not more than $5 million.

Since the continuing authorities program entails an abbreviated approval process, it offers an attractive alternative to specifically authorized work when project costs are relatively small. However, of recent, the Corps continuing authorities have been oversubscribed relative to annual appropriations, and have resulted in fewer projects being efficiently funded in any one year.

Cost Sharing:

The Water Resources Development Act of 1986, P.L. 99-662, as amended, contains the cost sharing provisions, which are generally applicable to Corps of Engineers water resources projects.

Harbor navigation projects:

For harbor navigation projects, non-Federal interests are required to pay 10 percent of project construction costs to depths 20 feet or less; 25 percent of project construction costs for depths greater than 20 feet but not more than 45 feet; and 50 percent of project construction costs for depths greater than 45 feet. Since 1996, project construction costs include costs associated with dredged material disposal facilities. In addition, the non-Federal interest must pay 10 percent of the

cost of general navigation features over a period not to exceed 30 years with interest as well as provide all lands, easements, rights of way, and relocations necessary for project construction and maintenance. The cost of the lands, easements, rights of way, and relocations is credited against the additional 10 percent repaid following construction.

Operation and maintenance costs are 100 percent Federal for work associated with depths not greater than 45 feet and 50 percent Federal for additional costs of maintaining depths greater than 45 feet. The Federal share of operation and maintenance is appropriated from the Harbor Maintenance Trust Fund. That fund was created in 1986 and consists of receipts from a 0.125 percent tax imposed on the value of cargo loaded or unloaded at U. S. ports. On March 31, 1998, the Supreme Court ruled that the tax on cargo that supports the Harbor Maintenance Trust Fund is unconstitutional insofar as it applies to exports. The tax on imports and domestic cargo continues to be collected. The balance in the Harbor Maintenance Trust Fund has been growing in recent years and totaled $4.7 billion at the end of fiscal year 2007.

Inland waterways transportation projects:

The construction and major rehabilitation of inland waterways transportation projects is funded 50 percent from the Inland Waterways Trust Fund, with the balance from general revenues. This trust fund consists of revenues generated from a tax on inland waterways fuel. The tax rate for the trust fund has been 20 cents per gallon since January 1, 1995. Operation and maintenance of the inland waterways system are 100 percent Federal from general revenues.

The Inland Waterways Trust fund has become depleted over recent years and the administration has proposed phasing out the existing tax on waterways fuel and establishing a lock user fee.

Flood damage reduction projects:

For flood damage reduction projects (previously called flood control projects), structural alternatives require a minimum non-Federal share of 35 percent (25 percent for projects authorized before October 12, 1996) and a maximum of 50 percent. Non-structural projects require a fixed 35 percent non-Federal share. The non-Federal interest must pay at least 5 percent in cash of the costs of each project assigned to flood damage reduction during construction and provide lands, easements, rights of way, relocations and disposal areas necessary for flood damage deduction. Additional cash is required to be paid during construction if the local non-cash contribution of lands, easements, rights of way, relocations and disposal areas, and the mandatory 5 percent cash contribution do not equal 35 percent (or 25 percent, depending on the date of project authorization), but the non-Federal contribution is always limited to 50 percent of project costs assigned to flood damage reduction.

With the exception of the main-line levees within the Mississippi Rivers and Tributaries program, operation and maintenance of flood damage reduction projects are a non-Federal responsibility.

Hurricane and storm damage reduction and shoreline protection projects:

The cost of initial construction for hurricane and storm damage reduction and shoreline protection projects that protect public lands or privately owned lands with appropriate public access is cost-shared at 35 percent from non-Federal interests. The cost of construction on non-Federal public lands used for parks and recreation is cost shared at 50 percent, and on Federal lands, the cost is 100 percent Federal.

The costs of periodic nourishment of projects on privately owned lands ranges from 35 percent non-Federal costs for projects authorized on or before December 31, 1999 to 50 percent non-Federal costs for projects authorized after this date where the periodic nourishment is carried out after January 1, 2003.

Environmental restoration and protection projects:

For projects whose purpose is environmental (ecosystem) restoration and protection, the non-Federal share of construction is 35 percent of total project costs. Operation and maintenance of such projects is a non-Federal responsibility.

Water supply, recreation, and aquatic plant control:

For municipal and industrial water supply (drinking water), the non-Federal share of project costs is 100 percent, repaid over the life of the project, but not to exceed 30 years. For agricultural water supply (irrigation), the non-Federal share is 35 percent, repaid over time. For recreation features, the non-Federal share of the cost of construction is 50 percent of the separable costs allocable to recreation, and for recreational navigation 50 percent of joint and separable costs. Operation and maintenance of water supply and recreation projects are a non-Federal responsibility.

The Corps may also participate with other Federal and non-Federal agencies for aquatic plant control of major economic significance. The costs of site-specific aquatic plant control efforts are shared with non-Federal interests at 50 percent.

Environmental infrastructure:

Since 1992, the Corps of Engineers has been involved in the planning, design, and construction of environmental infrastructure projects for drinking water and wastewater. Environmental infrastructure projects constructed by the Corps are cost-shared with the non-Federal interest responsible for 25 percent of the total costs.

Credit:

During the development of prior Water Resources bills, the Committee received numerous requests for project-specific credit for individual projects. While requests for credit typically received favorable consideration, the Committee concluded that a general provision allowing credit under specified conditions would minimize the need for future project-specific provisions and, at the same time, assure consistency in considering future proposals for credit.

Section 2003 of the Water Resources Development Act of 2007 (Pub. L. 110-114) amended section 221 of the Flood Control Act of 1970 to statutorily authorize the Secretary of the Army to provide credit towards the non-Federal share of the cost of a project, including a project

implemented without specific authorization in law (i.e., continuing authorities program), the value of in-kind contributions made by the non-Federal interests that the Secretary determines are integral to the project. Examples of in-kind credit include the costs of planning, design, management, mitigation, construction and construction services, and the value of materials and services provided before or after the execution of partnership agreement with the non-Federal interest.

Section 2003 also required that eligible credit be limited to those materials or services outlined, in writing, within the partnership agreement with the non-Federal interest.

ADMINISTRATION PROPOSALS FOR A WATER RESOURCES BILL

From time to time, Presidential administrations have sent Congress legislative proposals for inclusion in a water resources bill. While the current administration has never sent Congress a comprehensive water resources proposal, on April 4, 2008, Secretary John Paul Woodley, the Assistant Secretary of the Army (Civil Works) transmitted a legislative proposal for modification of the funding source for the Inland Waterways Trust Fund. *(attached)*

This legislation would phase out the current source of funding for the Inland Waterways Trust Fund, which is a tax of 20 cents per gallon on diesel fuel, by fiscal year 2010, and in its place, implement a lock user fee. Under the administration's proposal, the new lock user fee would begin at the start of fiscal year 2009 and gradually increase until fiscal year 2012. Thereafter, the proposal would allow for an automatic adjustment (either upward or downward) based on the end-of-year balance of receipts in the Fund.

WATER RESOURCES DEVELOPMENT ACT OF 2008

On March 14, 2008, Chairman James L. Oberstar, Chairwoman of the Subcommittee on Water Resources and Environment, Eddie Bernice Johnson, Ranking Member John Mica, and Ranking Member of the Subcommittee on Water Resources and Environment, John Boozman, sent a "Dear Colleague" requesting proposed Corps project and study submissions for the formulation of a Water Resources Development Act of 2008.

The Committee places a high priority on developing and enactment of a Water Resources Development Act of 2008.

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

APR 04 2008

Honorable Nancy Pelosi
Speaker of the House of Representatives
U.S. Capitol Building, Room H-232
Washington, D.C. 20515-0001

Dear Madam Speaker:

Enclosed is a legislative proposal to address the declining balance in the Inland Waterways Trust Fund (IWTF). The IWTF finances one-half of the Federal capital investment in the inland and intracoastal waterways of the United States. Congress established the IWTF in the Inland Waterways Revenue Act of 1978 and revised this authorization in section 1405(a) of the Water Resources Development Act of 1986.

This legislation is needed to cover the 50 percent share derived from the IWTF of the costs that the Army Corps of Engineers (Corps) incurs to construct, replace, expand, and rehabilitate the locks and dams and other features that make commercial transportation possible on these waterways.

This legislation also will promote better use of the Nation's overall economic resources. Through prices that are more closely aligned with the true costs of providing for waterborne commerce, it will encourage the use of efficient modes and routes to move the Nation's freight. This will lead over time to a more productive use of our national transportation system and thereby will improve national economic welfare.

The legislation would phase out the current source of funding for the IWTF, which is a tax of 20 cents per gallon on diesel fuel used in commercial transportation on inland and intracoastal waterways. The legislation would phase out this tax by FY 2010. In its place, the legislation would establish a lock user fee.

The prompt enactment of such legislation is needed. The balance in the IWTF has been declining since 2002, and the revenue from the diesel fuel tax is not sufficient to keep pace with the cost of the current or projected Federal capital investments in inland and intracoastal waterways projects.

Through the diesel fuel tax, the commercial users of the inland and intracoastal waterways now pay approximately $90 million annually. By comparison, the amount appropriated from the IWTF, reflecting their share of the work, was $205 million for fiscal year (FY) 2007 and $216 million for FY 2008. The Corps estimates that the IWTF will be depleted around the end of the 2008 calendar year unless revenues are increased. Spending restraint alone will not address this problem. To ensure that both the Corps and the users are carrying out their respective responsibilities, measures must be undertaken before then to generate more revenue.

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The legislation would begin the user fee at the start of FY 2009 and gradually increase the user fee until FY 2012. Thereafter, it provides for the automatic adjustment of the user fee (either downward or upward) based on the end-of-year balance of receipts in the IWTF, which will depend upon the level of Federal capital investment in these waterways. The automatic adjustment provision is a key feature of the proposal. It will tie the amount that the users pay more closely to future spending and will help inform future Federal authorizing and funding decisions.

The President's Budget proposes to spend $326 million for capital investment in the inland and intracoastal waterways for FY 2009, which is a reduction of $134 million (29 percent) below the FY 2008 enacted level. This is a responsible level of spending for the coming fiscal year and reflects available revenues under the proposal. Furthermore, FY 2009 spending constraints are necessary, as the Administration has proposed, in order to introduce the new user fee in stages and thus lessen its impacts on current inland and intracoastal waterways users.

The annual receipts from the existing diesel fuel tax cover less than 10 percent of the total costs that the Corps incurs each year to support commercial navigation on the inland and intracoastal waterways, when taking into account the operation and maintenance costs paid by the general taxpayer.

This legislation would not alter current cost-sharing for these waterways. It is needed, however, to sustain and preserve current cost-sharing. It would do so by increasing the amount that the users pay to the extent needed to cover their 50 percent share of the capital costs under existing law. Although the users would be paying significantly more, they would only be paying about 20 percent of the total costs that the Corps incurs on their behalf. As a percent of the total costs, this is much less than our other non-Federal partners pay under the Corps flood and storm damage reduction, coastal navigation, aquatic ecosystem restoration, and hydropower programs.

The Army looks forward to working with Congress on this proposal. The Office of Management and Budget advises that there is no objection to the presentation of this proposal to the Congress and that its enactment would be in accord with the program of the President.

Very truly yours,

John Paul Woodley, Jr.

John Paul Woodley, Jr.
Assistant Secretary of the Army
(Civil Works)

Enclosures

AN ACT

To provide for a fee for the use of locks located on inland and intracoastal waterways of the United States and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE. — This Act may be cited as the "Lock User Fee Act of 2008".

SEC. 2. LOCK USER FEE. — (a) IN GENERAL. — There is hereby imposed on barges designed to carry commercial cargo a user fee for each passage through a lock located on the inland and intracoastal waterways of the United States. The applicable towboat operator shall be responsible for paying this lock user fee to the Secretary of the Army in accordance with the following criteria:

(1) If the main lock chamber at a site is equal to or greater than 600 feet in length, the lock user fee at that site shall be —

If the use occurs:	The lock user fee per barge is:
From October 1, 2008 – September 30, 2009	$50.00
From October 1, 2009 – September 30, 2010	$60.00
From October 1, 2010 – September 30, 2011	$70.00
From October 1, 2011 – December 31, 2012	$80.00
After December 31, 2012	As provided for in subsection (b).

(2) If the main lock chamber at a site is less than 600 feet in length, the lock user fee at that site shall be —

If the use occurs:	The lock user fee per barge is:
From October 1, 2008 – September 30, 2009	$30.00
From October 1, 2009 – September 30, 2010	$36.00
From October 1, 2010 – September 30, 2011	$42.00
From October 1, 2011 – December 31, 2012	$48.00
After December 31, 2012	As provided for in subsection (b).

(b) AUTOMATIC ADJUSTMENT TO FEE. —

(1) If the balance of receipts in the Inland Waterways Trust Fund at the end of

fiscal year 2012 or any subsequent fiscal year is less than $25,000,000, or is less than $50,000,000 and has declined from the level of such balance at the end of the preceding fiscal year, then the lock user fee shall increase for the following calendar year:

(A) by $10.00 for sites where the main lock chamber is equal to or greater than 600 feet in length; and

(B) by $6.00 for sites where the main lock chamber is less than 600 feet in length.

(2) If the balance of receipts in the Inland Waterways Trust Fund at the end of fiscal year 2012 or at the end of any fiscal year thereafter is greater than $75,000,000 and has increased from the level of such balance at the end of the preceding fiscal year, then the lock user fee shall decrease for the following calendar year:

(A) by $10.00 for sites where the main lock chamber is equal to or greater than 600 feet in length; and

(B) by $6.00 for sites where the main lock chamber is less than 600 feet in length.

(3) For purposes of this subsection, the balance of receipts shall be the amount of collected lock user fees in the Inland Waterways Trust Fund that have not yet been made available for obligation or that will not become available for obligation until the following fiscal year or thereafter.

(c) DEPOSIT IN INLAND WATERWAYS TRUST FUND. — The Secretary of the Army shall deposit the amounts collected from the lock user fee imposed by this section in the Inland Waterways Trust Fund.

SEC. 3. EXEMPTION. — The lock user fee imposed by section 2 shall not be imposed on barges for transiting a lock when used by, or on behalf of:

(a) the Department of Defense in connection with the work of its military programs in support of the national defense;

(b) the Army Corps of Engineers civil works program or the Tennessee Valley Authority in connection with their work on the locks, dams, channels, and related structures that support commercial navigation; or

(c) the Coast Guard.

SEC. 4. REVISION TO INLAND WATERWAYS FUEL TAX. — Title 26 U.S.C. § 4042 is amended by —

(a) striking the table set forth in subsection (b)(2)(A) in its entirety and inserting the following in lieu thereof:

"If the use occurs:	The tax per gallon is:
From January 1, 1995 – September 30, 2008	20 cents
From October 1, 2008 – September 30, 2009	10 cents
From October 1, 2009 – September 30, 2010	5 cents
On or after October 1, 2010	0 cents."; and

(b) inserting the following language immediately after the phrase "Inland Waterways Revenue Act of 1978" in subsection (d)(2):

"as in effect prior to the enactment of the Lock User Fee Act of 2008".

SEC. 5. INLAND AND INTRACOASTAL WATERWAYS OF THE UNITED STATES. — (a) Section 206 of the Inland Waterways Revenue Act of 1978, as amended (33 U.S.C. §1804), is amended —

(1) by striking in its entirety all statutory language preceding the first colon and inserting the following in lieu thereof:

"The following waterways constitute the inland and intracoastal waterways of the United States"; and

(2) by adding at the end of that section the following:

"(28) Barataria Bay Waterway, Louisiana: From Gulf Intracoastal Waterway to Gulf of Mexico with side channel to Grand Isle, 41.3 miles.

(29) Barkley Canal, Cumberland and Tennessee Rivers, Kentucky: Canal connecting Barkley Reservoir and Kentucky Reservoir, 1.75 miles.

(30) Bayou LaFourche and LaFourche-Jump Waterway, Louisiana: From mile 3 above the mouth at the Gulf of Mexico to Lockport, Louisiana, 47 miles.

(31) Bayou Teche and Vermilion River, Louisiana: From Vermilion Bay 52 miles to General Mouton Avenue Bridge at Lafayette, Louisiana.

(32) Bayou Teche, Louisiana: From mouth to Arnaudville, Louisiana, 106.5 miles.

(33) Bayou Terrebonne, Louisiana: From Bush Canal 24.1 miles to Houma, Louisiana.

(34) Big Sandy River, Kentucky and West Virginia: From junction with Ohio River to mile 26.8.

(35) Black River, Wisconsin: From junction with Mississippi River to mile 1.4.

(36) Canaveral Barge Canal, Florida: The shallow draft barge channel from the deepwater turning basin 11.5 miles to the Intracoastal Waterway.

(37) Channel to Aransas Pass, Texas: From the junction with mile 534 of the Gulf Intracoastal Waterway for 7 miles to Aransas Pass.

(38) Channel to Victoria, Texas: From junction with Gulf Intracoastal Waterway to mile 35.8, Victoria, Texas, and the Tributary Channel to Seadrift, Texas, 2 miles.

(39) Chocolate Bayou, Texas: From junction with Gulf Intracoastal Waterway to mile 13.4.

(40) Clinch River, Tennessee: From junction at mile 567.7 with Tennessee River through mile 61.5 on the Clinch River.

(41) Colorado River and Flood Discharge Channels, Texas: From the junction with the Gulf Intracoastal Waterway to mile 15.6.

(42) Columbia River between Vancouver and The Dalles: Columbia River for 85 miles between Vancouver, Washington, and The Dalles, Oregon.

(43) Elk River Harbor, West Virginia: From the junction with the Kanawha River to mile 2.5.

(44) Escambia and Conecuh Rivers: From the mouth at Escambia Bay, Florida to mile 7.

(45) Freshwater Bayou, Louisiana: From the junction with the Gulf Intracoastal Waterway 23.1 miles to the Gulf of Mexico.

(46) Gulf County Canal, Florida: From entrance at Gulf of Mexico to Gulf Intracoastal Waterway.

(47) Gulf Intracoastal Waterway, Morgan City-Port Allen Route: From Morgan City, Louisiana to Port Allen, Louisiana, 64.1 miles.

(48) Hiwassee River, Tennessee: From junction with Tennessee River to mile 20.5.

(49) Inland Waterway from Franklin to the Mermentau River, Louisiana: From Bayou Teche at Franklin to Mermentau River with locks at Hanson Canal and in Schooner Bayou.

(50) Intracoastal Waterway, Caloosahatchee River to Anclote River, Florida: From mouth of Caloosahatchee River to Anclote River, 160 miles.

(51) Licking River, Kentucky: From the junction with mile 470 of the Ohio River to mile 8.

(52) Little Kanawha River, West Virginia: From the junction with the Ohio River to mile 14.5.

(53) Mermentau River, Bayous Nezpique and Des Cannes, Louisiana: Mermentau River from Gulf Intracoastal Waterway to mile 71.5; Bayou Nezpique from mouth to mile 25; Bayou Des Cannes from mouth to mile 8.5.

(54) Mermentau River, Louisiana: Lower Mermentau River from Gulf Intracoastal Waterway to Gulf of Mexico; Inland Waterway from Vermilion Bay to the Mermentau River; and waterway from White Lake to Pecan Island.

(55) Minnesota River, Minnesota: From the junction with the Mississippi River for 25.6 miles to Shakopee, Minnesota.

(56) Mouth of Yazoo River, Mississippi: From Mississippi River for 9.3 miles to junction of Old and Yazoo Rivers.

(57) Okeechobee Waterway, including St. Lucie Canal to Intracoastal Waterway: From junction with Intracoastal Waterway, Jacksonville to Miami, Florida, to Gulf of Mexico via Clewiston and

channel across Lake Okeechobee, 154.6 miles; south shore levee channel from Port Mayaca to Clewiston, 36.7 miles; natural channels along northerly shore of the lake from Port Mayaca to Moore Haven Lock, 57.3 miles; Taylor Creek to Town of Okeechobee, Florida, 4 miles.

(58) Old River, Louisiana: From junction with Mississippi River to junction with Red River at mile 7.

(59) Pamlico River, North Carolina: Mouth to Washington, North Carolina.

(60) Petit Anse, Tigre and Carlin Bayous, Louisiana: Bayou Petit Anse from Gulf Intracoastal Waterway to head of Avery Island, 6.1 miles; Bayou Carlin from mouth to Lake Peigneur, 7.6 miles; Avery (McIlhenny) Canal from Gulf Intracoastal Waterway to Vermillion Bay, 2.7 miles.

(61) San Bernard River, Texas: From the junction with the Gulf Intracoastal Waterway to mile 26.0.

(62) St. Croix River, Minnesota and Wisconsin: From the junction with the Mississippi River 24.5 miles to Stillwater, Minnesota.

(63) St. Marks River, Florida: Mouth to Newport, Florida.

(64) Tributary Arroyo Colorado, Texas: From the junction with the Gulf Intracoastal Waterway for 26 miles to Port Harlingen, Texas.

(65) Waterway from Intracoastal Waterway to Bayou Dulac, Louisiana (Bayous Le Carpe and Grand Caillou): From Gulf Intracoastal Waterway at Houma, Louisiana through Bayous Le Carpe, Pelton, and Grand Caillou to Bayou Dulac, 16.3 miles.

(66) Wolf River, Tennessee: From junction with Mississippi River to mile 3.

(67) Yazoo River, Mississippi: From Old River, Mississippi, 161 miles to mouth of Yalobusha River.".

SEC. 6. REGULATIONS. — The Secretary of the Army may prescribe such regulations as may be necessary to carry out this Act, including the time, manner, and place of payment of the lock user fee imposed by section 2.

SEC. 7. CONFORMING AMENDMENT. — Title 26 U.S.C. § 9506 is amended in subsection (c)(1) by striking the phrase "this section" and inserting the following language in lieu thereof:

"the Lock User Fee Act of 2008".

SECTIONAL ANALYSIS

The purpose of this legislation is to replace the current funding source for the Inland Waterways Trust Fund (IWTF) with a user fee. The Congress established the IWTF in the Inland Waterways Revenue Act of 1978 and revised the authorization for the IWTF in section 1405(a) of the Water Resources Development Act of 1986. The new funding source would consist of a fee imposed on commercial barges for using a lock located on an inland or intracoastal waterway of the United States.

Section 1 provides that the proposed legislation may be cited as the "Lock User Fee Act of 2008".

Section 2 establishes the user fee and provides for its collection by the Secretary of the Army. The operator of the towboat is responsible for paying the user fee on a per barge basis, whether or not the barge contains cargo. The amount of the user fee varies depending on the length of the main lock chamber at each lock and dam site through which a barge passes, and the fiscal or calendar year when it passes through that lock.

Section 2(a)(1) applies to sites where the main lock chamber has a length of 600 feet or more. Section 2(a)(2) applies to sites where the main lock chamber is less than 600 feet in length. The per barge user fee paid at sites where the main lock chamber is less than 600 feet in length would be 60 percent of the fee at sites with the larger locks.

The user fee would be phased in, beginning October 1, 2008. The fee would be $50.00 per barge lockage from October 1, 2008 through September 30, 2009 at sites to which section 2(a)(1) applies. The fee would increase $10.00 for each of the following two one-year periods, and, then from October 1, 2011 through December 31, 2012, the fee would be $80.00 per barge lockage. For sites covered under section 2(a)(2), the fee would be $30.00 from October 1, 2008 through September 30, 2009. The fee would increase $6.00 for each of the following two one-year periods, and, then from October 1, 2011 through December 31, 2012, the fee would be $48.00 per barge lockage.

Section 2(b) authorizes automatic adjustments to the user fee beginning January 1, 2013. Adjustments will be made based on the balance of receipts in the IWTF at the end of the fiscal year and on whether this amount has been increasing or decreasing. The

automatic adjustment feature is designed to ensure that sufficient funding is available over time to finance the IWTF share of the capital costs of inland waterways projects. This subsection continues the two-tiered system of charges established in section 2(a), by providing for a smaller adjustment at sites where the main lock chamber is less than 600 feet in length.

Section 2(c) requires the Secretary of the Army to deposit the amounts collected from the lock user fee into the IWTF.

Section 3 provides for a limited governmental exemption from the requirement to pay the user fee. The exemption would apply only to the movement through a lock of a barge that is being used by, or on behalf of, the Department of Defense, the Army Corps of Engineers, or the Tennessee Valley Authority for certain purposes, or of a barge that is being used by, or on behalf of, the Coast Guard.

Section 4(a) provides for the incremental phasing out of the IWTF financing rate component of the existing diesel fuel tax on the inland and intracoastal waterways, which is the portion that now funds the IWTF. The IWTF financing rate component would remain at its current level of 20 cents per gallon through September 30, 2008. It would decline to 10 cents per gallon for Fiscal Year 2009 and 5 cents per gallon for Fiscal Year 2010, after which time the IWTF financing rate component of the tax would be zero. Section 4(b) clarifies that commercial transportation on the inland and intracoastal waterways listed in section 5(a)(2) would continue to not be subject to the diesel fuel tax.

Section 5 modifies section 206 of the Inland Waterways Revenue Act of 1978, as amended, to provide a comprehensive list of the inland and intracoastal waterways of the United States. The provisions of the Lock User Fee Act of 2008 regarding the new user fee would apply to all locks on the inland and intracoastal waterways of the United States, including the waterways listed in section 5(a)(2).

Section 6 authorizes the Secretary of the Army to issue regulations to carry out the Lock User Fee Act of 2008. The legislation includes the time, manner, and place of payment as an example of a subject that would be within the scope of the Secretary's regulatory authority.

Section 7 modifies 26 U.S.C. 9506(c)(1) to clarify that the amounts in the IWTF may be made available to finance one-half of the capital costs on all inland and intracoastal waterways, including those listed in section 5.

PROPOSALS FOR A WATER RESOURCES DEVELOPMENT ACT OF 2008

Wednesday, April 30, 2008

HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT,
Washington, DC.

The Subcommittee met, pursuant to call, at 2:03 p.m., in Room 2167, Rayburn House Office Building, Hon. Eddie Bernice Johnson [Chairwoman of the Subcommittee] presiding.

Ms. JOHNSON. The Committee will come to order.

Good afternoon. This hearing of the SubCommittee on Water Resources and Environment will come to order as we begin to work on the Water Resources Development Act of 2008. The enactment of a new water resources bill is a high priority of mine and to, I am certain, all of our Committee Members.

Last year, this Committee, on a bipartisan basis, was successful in clearing out close to 7 years' worth of project studies, new authorizations and project modifications. This was an historic achievement and one that had been ellusive since the year 2000. In fact, I believe that the Presidential veto that occurred last year was the first veto of a Water Resources Development Act and only the 107th veto override in the history of this Nation.

I thank my colleagues on both sides of the aisle—I am short of breath. I have been running to get here—for their hard work and dedication to investing in the water-related infrastructure of the Nation.

I want to take this opportunity again to recognize my former Subcommittee colleague, Mr. Baker, for efforts in resolving some of the last-minute sticking points on the Water Resources and Development Act of 2007.

I also look forward to working with our newest Ranking Member, Mr. Boozman, whom I consider a very good friend, cordial and bipartisan. I thank him for his work in putting together this water resources bill.

Water-related infrastructure should not be a partisan issue. These flood control, navigation, environmental restoration, and other water-related projects are far too important to our constituents, to our local economies and to American people's lives and livelihoods.

This afternoon, we will receive testimony from distinguished Members of Congress, from the Administration and from interested stakeholders regarding projects and policies for consideration in the upcoming Water Resources Development Act. Our intent today is

to receive testimony and to gather information on individual project requests over the next several weeks so that we can be in a position to move a new bill later in the summer. This is no small task, but, given the growing needs and opportunities to improve our water transportation infrastructure and to restore the environment, we must rise to the challenge and move forward without delay.

As noted by Secretary Woodley in his testimony today, public policy is much improved when the congressional authorization and oversight processes are robust and effective. I agree with his statement, and I believe that it is consistent with this Committee's efforts to have a water resources bill signed into law this year. It is my hope that, after seeing the strong bipartisan and bicameral support for investment in our Nation's water-related infrastructure, should the President be presented with a new water resources bill later this year, he will sign it.

I yield to my Ranking Member, the gentleman from Arkansas, Mr. Boozman, for any comments he would like to make.

Mr. BOOZMAN. Thank you very much, Madam Chair. I thank you and appreciate your leadership as we move forward on this very important water resources bill.

Today, the Subcommittee is meeting to hear testimony from Members of Congress, from the Administration and from industry stakeholders regarding their requests for the Water Resources Development Act of 2008.

During the first session of the 110th Congress, the Subcommittee developed legislation authorizing the Army Corps of Engineers' projects that was enacted in November, 2007. WRDA 2007 was essentially a catch-up legislation, since most Members were only allowed to request projects that were included in previous water efforts.

In 2008, Members of Congress will have an opportunity to update their project requests and to make new requests to the Committee. This legislation reaffirms our commitment to developing the Nation's water resources by responding to the request of Members of Congress related to projects in their districts and policy issues affecting the entire Corps programs.

The Water Resources Development Act provides authority for the Corps of Engineers to carry out its missions of navigation, improvement at harbors and at waterways, flood damage reduction in our communities, and environmental restoration at our lakes, rivers and wetlands. These projects reduce transportation costs, save lives, homes and businesses from the ravages of floodwaters. They improve the quality of life.

These projects also provide jobs and stimulate the economy. Our integrated system of highways, railways, airways, and waterways has sufficiently moved freight in this Nation, but increased trade and increased production is already leading to congestion that slows our economy as it slows the movement of goods. I am not prepared to punch the panic button yet, but I do believe that we as a Congress need to address this issue if we want to remain competitive in world markets.

For instance, American farmers, like the rest of the economy, depend on modern and efficient waterways and ports to get their

products to market. Recently, improved transportation systems in South America have allowed South American farmers to keep their costs low enough to underbid U.S. grain farmers for customers located in this country. Currently, 16 to 18 percent of the Nation's freight tonnage moves by water. With outdated locks, shower channels and other obstacles, congestion in our waterways is causing transportation costs to increase; and goods transported by barge may switch to other, more costly modes of transportation.

If the cargo transported on inland waterways each year had to be moved by another mode, this would equal 6.3 million additional railcars or 25.2 million additional trucks. With today's overcrowded highways, like the I-95 corridor, we should be looking to water transportation to shoulder more of the load. When done responsibly, it is the safest, most fuel-efficient and most environmentally friendly way of moving goods.

We also must update and maintain our ports, which handle 95 percent of the Nation's imports and exports. For example, ocean carriers are investing heavily in megaships to meet growing demands and to drive down operating costs. These vessels are capable of carrying 4,500 to 6,500 20-foot containers, compared with today's containerships that carry between 2,000 and 4,000. Few ports are equipped to handle both the larger vessels and the increase in freight tonnage, leading to more congestion. Unless the issue of congestion is addressed, the reliability and responsiveness of the entire intermodal system will slow economic growth and will threaten national security.

The Army Corps of Engineers is a very different and unique agency. Since the Continental Congress ordered the construction of fortifications at Bunker Hill in 1775, the Corps of Engineers has been the only multidimensional and integrated Federal agency that supports economic and national security through its civilian and military functions.

The current system works very well. With its integrated water resource missions, including navigation and flood control, the Corps helps improve the Nation's economy. Having a civil works mission, the U.S. Army also provides a ready-made team of experienced engineers, scientists and other professionals that we can call upon in times of national emergencies and threats. For example, the Corps has undertaken reconstruction efforts in Iraq, the World Trade Center and elsewhere.

The most effective and efficient way to maintain this capability in a state of readiness is by keeping the Corps within the Department of Defense so the functions and capabilities can contribute to both the military and civil works missions.

Today's hearing allows the Administration and the industry stakeholders to explain the water resources needs of the Nation. I look forward to hearing the testimony of the witnesses today.

I yield back, Madam Chair.

Ms. JOHNSON. Thank you very much, Mr. Boozman.

The Chair now recognizes Mr. Kagen.

Mr. KAGEN. Thank you, Madam Chairwoman.

Also, thank you, Ranking Member Boozman, for your active interest in this area and for holding this important hearing on the Water Resources Development Act.

I would also like to thank all of the members of the panels for appearing here today, in particular, before the Water Resources and Environment SubCommittee.

Additionally, I would like to personally thank Mr. James Weakley, President of the Lake Carriers' Association, for recently testifying before the Subcommittee hearing held in Green Bay, Wisconsin, concerning the decreasing water levels in the Great Lakes. That hearing was held in Green Bay. It was also attended by Congressman, the Honorable Tom Petri.

As we are all aware, the Water Resources Development Act provides important support for commerce along the Nation's rivers and coasts. It also funds critical conservation habitat, restoration and environmental proposals. This legislation affords the U.S. Army Corps of Engineers the necessary resources to undertake hundreds of flood control, navigation and ecological mitigation measures, including the accelerated dredging of the Great Lakes over the past several years.

In particular, I look forward to working collaboratively with Chairwoman Johnson and with her staff, with Chairman Oberstar and with the Army Corps to address the adverse economic impact caused by declined water levels in the Federal channel which approaches Washington Island in the tip of Door County because that island depends upon that channel for its survival.

Lake Michigan's water levels are declining, and the current channel depth surrounding the Washington Island area in Door County have become nearly impassable. If Lake Michigan levels remain at or near their current levels, the island's very existence will be at risk. At present, the Washington Island Ferry operates a 4.5-mile route between the Door County peninsula and the island. The people living on this island are now engaged in dredging outside the Federal channel in order to import all of their daily necessities, including their food and medical supplies.

The Washington Island channel is a Federal waterway first dredged in 1939. There has been a great deal of silting since then, yet the area has not been dredged since 1939. It is the hope of everyone who enjoys living and visiting Washington Island that this channel be considered for harbor depth improvements.

I will yield back my time.

Thank you very much for being here, everyone.

Ms. JOHNSON. Thank you very much.

Mr. Latta, you are recognized. Do you have a statement? No?

Mr. Salazar.

Mr. SALAZAR. Thank you, Madam Chair.

Today, I look forward to working with the Water Resources Development Act. I know I share the same frustration that many of us do from the last bill that took 7 years to pass, but I am hopeful that we will be able to do a better job on it this time. The projects in this bill are critical to our Nation's infrastructure.

Among the projects that I submitted last week was a request that the Corps be allowed to work on environmental infrastructure projects in Colorado. The Corps has the authority in a number of other States, and I believe that Colorado should be among those that are allowed to receive Corps assistance for non-Federal water-related infrastructure projects.

Throughout my district in the State, there are communities whose water supplies are in need of immediate attention. One in particular is the City of Alamosa. Much of their infrastructure was built in 1920. These cities are dealing with pollutants, aging infrastructure, a lack of facilities and resources for stormwater vents and environmental restoration demands.

I think many of you recall in the national media a couple of weeks ago the town of Alamosa in Colorado, the town next to where I live, where the salmonella outbreak actually contaminated the municipal water distribution system. Thankfully, there was only one person who died, but there was near 400 cases of people getting sick just from drinking their tap water.

Alamosa needs a new water storage facility, but, like many other small, rural communities, funding is a problem. While these communities have some ability to finance the efforts to address these needs, the benefit of the Federal financial and technical support is critical to most of them.

So, Madam Chair, I would ask you and the Members of this Committee to support not only this request but other requests, like Mr. Buyer's request.

I wanted to also welcome Mr. Buyer, the Ranking Member of the Veterans' Affairs Committee and a good friend, to this Committee.

Thank you, Madam Chair. I yield back.

Ms. JOHNSON. Thank you very much.

Ms. Matsui.

Ms. MATSUI. Thank you, Madam Chair.

I am very pleased to be here today, and I thank you for calling a hearing on such an important issue.

Since coming to Congress, I have made protecting my citizens from flooding one of my top priorities. I am encouraged that the Committee is further examining this issue. I am also thankful that this Committee has such tremendous leadership. Both Chairman Oberstar and Chairwoman Johnson have been leaders and advocates for flood protection. Thank you both.

Congratulations to Mr. Boozman on his new leadership position.

My district sits at the confluence of two great rivers. Sacramento is considered to have the highest flood risk of any major metropolitan city in the United States, with more than 440,000 people, 110,000 structures. The capital of the State of California and up to $58 billion are at risk. Yet my district has truly been a positive poster child in its efforts to bolster our flood control system since our near-catastrophic flood in 1986.

We have investigated our levies, have planned our projects, have assessed ourselves millions of dollars, have pushed our State to be a full partner, and have begun to build projects that would get us to a greater than 200-year level of protection. In fact, our latest assessment commits over $400 million of local dollars to this effort. We are fully committed to flood protection. I am very proud of the flood control work we have accomplished. We know we still have a long way to go.

I am pleased that the Committee is working to bring water bills up, as they are designed, every 2 years. I am looking forward to continuing the good work we accomplished in last year's bill to continue to increase public safety, to provide a comprehensive ap-

proach to flood protection and to create efficient policy. I also want to ensure that we craft policy which recognizes the good work that States such as California are doing.

When you have a State like mine that is pouring enormous financial resources into flood protection, I want to make sure that the Federal Government meets their commitment. We cannot take months and months to review permits while literally tens of thousands of taxpayers are sitting at risk. The Federal Government must make sure that it does everything to meet the infrastructure needs of States and that it does nothing to impede progress.

Madam Chair, I thank you for your constant leadership and for your commitment to this issue.

I yield back the balance of my time.

Ms. JOHNSON. Thank you very much.

Mr. Carnahan.

Mr. CARNAHAN. Thank you, Madam Chairman and Ranking Member.

I would like unanimous consent to put my entire statement in the record, but I do want to make a few remarks.

I want to commend Chairman Oberstar and Chairwoman Johnson for their dedication to passing another reauthorization this year. This is really the first step, what we did last year in addressing the backlog, but there is much more that we need to do.

I am deeply concerned about the Inland Waterways Trust Fund that has become depleted over the last several years. In my own State of Missouri, we have two major rivers, the Mississippi and the Missouri. These two waterways are a major contributor to the economy of our State and to the surrounding region. The depletion of the funds in the Inland Waterways Trust Fund will prevent the Army Corps of Engineers from making the necessary repairs to the lock and dams. They are also vital for effective transportation of commercial goods, for flood protection and for environmental stewardship.

So, again, I look forward to working with the Committee, and I appreciate the witnesses for being here today.

Ms. JOHNSON. Thank you.

Mr. Boustany.

Mr. BOUSTANY. Thank you, Madam Chair. I want to thank you and the Ranking Member, Mr. Boozman, for holding this hearing. This is a very important hearing.

There are so many issues as we go forward. We saw that with the last water bill, and there are still many unresolved issues that we are dealing with.

For instance, just recently, I confronted the situation where we needed emergency dredging on the Mississippi River because of all of the sediment coming down; and funds—valuable funds—were reprogrammed from critical projects, maintenance projects down in my district, such as the Calcasieu ship channel, which is a vital shipping lane for that that serves our refineries and liquefied natural gas.

I fail to understand that when we have a Harbor Maintenance Trust Fund that has over $4 billion in it that we have to go after supplemental funds or reprogram funds from other vital projects.

So I think this is an issue as we go forward and work on this next water bill that we need to address, among many others.

So, with that, I look forward to hearing the testimony of and the questioning of the witnesses. Thank you.

I yield back.

Ms. JOHNSON. Thank you very much.

Mr. Hall.

Mr. HALL. Thank you, Madam Chair.

First of all, I would like to thank you and Ranking Member Boozman for coming to New York's 19th District and holding a field hearing of the Subcommittee to address the issues of TCE contamination in our groundwater, among other things.

My district is split by the Hudson River, which is navigable all the way up and tidal all the way up to Troy, north of the City of Albany, and is bounded on the west by the Delaware and on the east by the Ten Mile River, which runs over into the Housatonic and eventually into Long Island Sound.

We have many concerns, not least among them flooding. We have had three 50-year floods in the last 5 years. The Corps of Engineers is currently doing feasibility studies in both the west of Hudson part of my district of the 19th District and on the east of the Hudson side of the district. It is important that we work to keep water funded and tuned up to the needs of our time when water is becoming, as predicted by some far-seeing people, more and more important and a crucial resource for all of us for many, many reasons.

With that, I yield back, Madam Chair.

Ms. JOHNSON. Thank you very much, Mr. Hall.

Ms. JOHNSON. We are pleased to have a very distinguished Member of the House here. He will be our first panelist. We welcome now the Honorable Steve Buyer, representing Indiana's 4th Congressional District.

STATEMENT OF THE HON. STEVE BUYER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. BUYER. Thank you, Madam Chairwoman and Ranking Member, Dr. Boozman. Congratulations to you on your new position.

Members of the Committee, I thank you for this opportunity to discuss an important project under way in Indiana. I commend you for holding this hearing and for reauthorizing the Water Resources Development Act. I look forward to working with you in this process, and I enjoin with you with the great hope that this bill that you are working on does not take 5 years like the last bill. I also want to share a little insight with you.

In the 16 years I have been here in Congress, I have worked on the Armed Services, Judiciary, Energy and Commerce, and Veterans' Affairs. These are Committees that work in a holistic approach toward policy issues for the country. This is truly the first time I have had the opportunity to listen to my colleagues speak passionately about issues within their own districts.

Now, sure, Mr. Salazar, we talked about your cemetery issues. We worked on that in Veterans' Affairs, but this is the first time I have really had an opportunity to do that.

So, Madam Chairwoman, you are absolutely right. This is a bipartisan bill that has worked over the years whereby Members who are in close proximity to whatever issues within their district—we bring them and work cooperatively and collaboratively together to assist these Federal, State, local projects. So it was a real treat to listen to all of you articulate these concerns. I also have one that I bring to the Committee.

Over the last century, the cities of Lafayette and West Lafayette, Indiana, have been working cooperatively to improve the quality of life for area residents. Caring for the Wabash River has been a key component in their efforts. So cutting through these two cities is the Wabash River. You hear Jim Nabors sing the song ″On the Banks of the Wabash″ before the start of the Indianapolis 500. He sings that song about the glistening sycamores in the sunlight.

This is the Wabash River to which I am referring. It is the most significant natural resource of the dual cities. Over 183,000 Hoosiers call the Corps area of Lafayette and West Lafayette their home, and they are presently in need of assistance in giving the River's ecosystem the attention it deserves. Local efforts to improve and to care for the riverfront have been ongoing. They have earned both local and State support, but much more work remains to be done.

Please note that the project fulfills the goals of the Chairwoman, that it has broad bipartisan support from county commissioners and from the two mayors of the respective cities. Therefore, I am respectfully requesting that language be included in the 2008 Water Resources Development Act which would authorize a reconnaissance study of the Wabash River Corridor Enhancement Project in Tippecanoe County, Indiana.

The Army Corps of Engineers' involvement in the project has been ongoing since fiscal year 2006 when the Wabash River riverfront became the subject of two hydraulic studies by the Corps' Louisville division. Having determined the hydraulic studies to be in the best interests of the area and of the River, I requested the funds from the Army Corps of Engineers to complete these intricate studies for fiscal year 2006 planning assistance to the State's moneys. Again, illustrating their support for the project, the local community worked to provide matching funds for the planning assistance to State dollars. The Army Corps of Engineers has continued to show interest in the River, and the time has come to move forward to maximize the potential while wisely caring for this natural resource.

Progressing logically, the next consistent step is to authorize the project under the Army Corps of Engineers' General Investigations Program, section 905(b), and to commence a reconnaissance study to assess and to address water quality improvement, flood risk reduction, ecosystem restoration, and recreation issues with the objective of developing a master plan for the corridor. The cities sit astride the River without fully enjoying the benefits of such a resource in an environmentally responsible way. The Committee will gain insight and guidance through the Corps' further involvement.

We seek a healthier Wabash River and a more pleasurable and respected resource for the citizens of the greater Lafayette area. Developing the riverfront will maintain and preserve the Wabash

River and will assist the community with a few recreational waterfront areas and developing a space for locals and visitors to enjoy and preserve the natural beauty of Indiana.

A reconnaissance study is necessary to confirm the necessity of the Corps' further involvement. By authorizing this logical progression, Congress can expand the Corps' already established involvement and can assist the community in caring for this vital natural resource. Authorizing the study in the Water Resources Development Act of 2008 would allow the project to move forward as the process intends.

I urge the inclusion of language authorizing the Wabash River Enhancement Project through the Army Corps of Engineers' general investigations program. This exemplary endeavor will simultaneously address the environmental conditions of the urban section of the Wabash River, while aiding residents in their goal to improve the community's quality of life and while protecting the riverfront.

The cities of Lafayette and West Lafayette, Indiana, present a worthwhile location for the Army Corps of Engineers' efforts. State and local financial support have illustrated the necessity of attending to the current condition of the riverfront.

In the interests of propelling the project forward with the utmost organization and efficiency, local funds were used to form the Wabash River Enhancement Corporation. By working with local, State and Federal agencies, the corporation has brought a high level of organization and efficiency to this endeavor. For the past 3 years, the community, in cooperation with Purdue University, which is located in West Lafayette, has been working to secure local moneys in preparation for the Corps' development. A total of $3,017,840 has been appropriated from the local area, including $475,000 in local government funding and $2.54 million from the community.

Additionally, the State legislature recently during its most recent session secured 10 percent of the revenue from annual county innkeepers' tax to contribute to the funding of the project. That will occur year after year until the project is completed. This money can be used for matching dollars and for making the most of any of the Federal funds directed to the meaningful project.

Residents of the community are acutely aware of the important part the riverfront plays in the area's vitality. The need for this project, combined with the financial and local support, has earned local and State levels, along with positions of the Wabash River, as an ideal choice for the Army Corps of Engineers' study.

I also would like the Committee to know that your counterpart, Pete Visclosky, on Appropriations is in support of this project.

Madam Chairwoman, I would request to be included in the record my written statement, along with the proposed language to be included in the bill, also an overview of the project, also a letter and testimony to be submitted to the Committee by the Mayor of Lafayette, Tony Roswarski.

Also to be included in the record is a letter and testimony from the Mayor of the city of West Lafayette.

I also would submit for the record a letter from the County Commissioner, Ruth Shedd; a letter from community leader and President of Henry Poor Lumber, Jim Andrew; and a letter of support

from John Gams, who is a board member of the Tippecanoe County Parks Board; along with a board member of the Enhancement——

Ms. JOHNSON. Thank you very much. We will make all of that a part of the record. Thank you for your valuable testimony.

Mr. BUYER. Thank you. Thank you very much.

Ms. JOHNSON. Our second panel of witnesses consists of the Honorable John Paul Woodley, Assistant Secretary of the Army for Civil Works, better known as the Corps of Engineers.

Secretary Woodley, you have been here before. We will put your entire statement in the record. I will not fail to say that Mr. Buyer took almost twice as much time, so if you could——

STATEMENT OF SECRETARY JOHN PAUL WOODLEY, JR., ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS, WASHINGTON, DC.

Mr. WOODLEY. You are very kind, Madam Chair. I have a very short statement that just summarizes the statements I make in the written remarks.

It is such a pleasure and a privilege to appear before you again and also to greet your new Ranking Member, Mr. Boozman. I appreciate this opportunity to speak with you as you craft legislation to improve the ways in which the Corps of Engineers can serve the Nation in the future.

Last year, the Corps was facing a large backlog of authorized but unconstructed projects. WRDA 2007 has added somewhat to that backlog. We should in 2008, I think, establish our priorities.

Among these existing authorizations are priorities that favor those projects within the Corps' main mission areas and those projects with a very high net economic or environmental return per dollar invested or which invest in the highest priority human safety issues. We should avoid waivers or reductions in non-Federal cost-sharing requirements, should avoid shifting Federal responsibilities and cost share among Federal agencies and should avoid the shifting of non-Federal responsibilities onto the Federal taxpayer for existing projects.

I think it is very important as we go forward to work together with the Administration to develop and to execute a disciplined WRDA process that is fiscally responsible and that is based upon sound and enduring principles that reflect Corps' values. We need to invest and not simply spend. We should never sacrifice national interests for special interests nor ignore the long-term costs in pursuit of short-term payoffs or allow preferences to strangle our principles. Without principles and without discipline, any process will produce little and waste much.

It was not long after I was appointed and confirmed as Assistant Secretary that the gulf coast region was ravaged by Hurricanes Katrina and Rita. I can assure you that those events helped focus my thinking on the principles that should guide the way in which the Corps' projects are authorized and implemented. In particular, I want to mention the significance of the systems approach, the importance of public safety and life-cycle management and the opportunities afforded by modernized funding mechanisms.

In the systems approach, there has been a great increase in data collection and in scientific knowledge. We have learned much about

the need to incorporate the broadest possible consideration of water resources systems when planning and implementing our projects.

Our water resources are defined by watersheds, but watershed boundaries do not typically correspond to political boundaries and jurisdiction. For this reason, the project planning process should prioritize and evaluate the efficiency of those projects whose development and implementation reflect the broadest possible participation by political jurisdiction and interests within watersheds.

Next, public safety and life-cycle management. Recurring floods, hurricanes and other circumstances have increased public concern about the levels of protection and risk reduction provided by levees, dikes, dams, and drainage systems. The advancing age of many of our public works has resulted in concerns about the safety and soundness of the structures themselves. All levels of government must give greater consideration to the risk to public safety in the resource allocation for operation, maintenance and the life-cycle management of flood and storm damage reduction infrastructure.

Finally, I believe we should work on modernizing our financial mechanisms. I believe we should work harder to better align the true cost of providing services with the prices.

Earlier this month, the Administration submitted to Congress a legislative proposal to address the declining balance of the Inland Waterways Trust Fund. This proposal would establish a user fee for each barge transiting a Corps lot. This user fee would be phased in over several years. The existing fuel tax would be phased out. Revenues for the new user fee would be deposited into the Trust Fund, which has been severely depleted by essential work that the Corps has completed with full support of the Administration and of Congress over recent years. It has been used to finance one-half of the cost of the capital investment.

I hope this proposal is favorably received by the Congress as a necessary reform. I certainly look forward to working with you as you go forward with this important process.

Ms. JOHNSON. Thank you very much, Mr. Secretary.

The Chair of the Full Committee, Mr. Oberstar.

Mr. OBERSTAR. Thank you, Madam Chair and colleagues.

Secretary Woodley, we have achieved a landmark in this Congress, accumulating in one bill 6 years worth of water resources projects that were not passed by Congress in those previous three Congresses. In the year 2000, since the Congress moved the Water Resources Development Act, not for lack of effort under Chairman Young and with my participation and, of course, with all of the Members of this Committee, we three times moved the water resources bill from Committee. We just never got to it.

So I find it disingenuous, Mr. Secretary, for you to come to this Committee and to say this is the biggest spending bill in the history of water resources. You can take up any 6 years of the 44 years I have served on this Committee, add up any 6 years, fast forward the dollar value, and you can say that. I want to know what spending in our legislation is not investment, huh?

I have never had an Assistant Secretary of the Army for Civil Works come before this Committee during the 12 years I have served on staff or in the 34 years I have served as a Member and make a statement like that. It shows you either do not understand

or that you have been directed to say something that you do not believe in. I am offended by that.

That is stern language for me. I will tell you what. We are just going to excuse you and give you absolution, and we are going to go on and do the public's business, which I think, in your heart, you know is the right business to do. We are going to move on to another water resources bill. If you have any objections about the ones we have already passed, lay them out in the public record. Let us hear what your objections are to those that are already law.

But I find it offensive, secondly, that this Administration, having heard the will of the people in the override, overwhelming vote, then turned around and stuck a thumb in the eye of Congress and said we are not going to put any of those projects, not a single one of the 920, in our fiscal 2009 budget. That, too, is a dereliction of duty, frankly.

What are you going to say to the farmers in the upper Midwest? We are not going to expand the locks in the Mississippi River? We are not going to reduce the transportation costs of moving your goods to market?

Are we going to allow Brazil, which has a 2,500-mile advance start from the Port of Santos—in that part of Brazil that sticks out in the South Atlantic Ocean, they have got a 2,500-mile, 6-day sail advantage over goods moving out of the most important grain export facility in the world, New Orleans. We are going to let them take a march on us and not improve the transit time from Clinton, Iowa, to New Orleans? This Administration is not going to put a dime into the rebuilding of the wetlands protection and the hurricane protection provisions that we have in this bill for East Texas, Louisiana, Mississippi, Alabama, and the Florida Panhandle? Come on. I have never heard that before.

I characterize the whole thing as unwarranted, inappropriate, undisciplined. Reconsider. Baloney. Without being specific about it, I just find that offensive.

Again, I have never—everyone who has been in that position that you hold has come to this Committee with a sense of public duty, of public responsibility of water resources investment. Seventy-five percent of the population of our country lives along the water, either along the saltwater coasts, the east, the gulf, the west coast, or the freshwater coast of the Great Lakes or along the rivers. Most of our great cities were ports before they were cities. Our economy depends on waterborne transportation. One barge tow is equivalent to 670 railcars.

What do you mean you do not want to invest? You call that spending wasteful? Nonsense. These are projects that come to us from the people, from the businesses, from the interests that are dependent upon them, from those who have been devastated by the floods, by the hurricanes, by the vicissitudes of weather, by drought or by the overabundance of water, floods.

So fix it. Do it. That is our responsibility.

From the very first Congress in 1789, the very first act of this Committee or of its predecessor, the Rivers and Harbors Committee, was to authorize the construction and maintenance of a lighthouse at Hampton Roads.

The second act of the first Congress was like the first, to authorize the construction and maintenance of a lighthouse at Cape Henry and the entrance at Chesapeake Bay in recognition that America was founded on the water, by the water, that our goods moved by the water.

The third act of that first Congress was to authorize the establishment of the Revenue Cutter Service to collect tariffs on inbound goods to pay off the debt to the Revolutionary War.

We did it, this Congress, this Committee, its predecessor. We have continued to make those investments in America, in its mobility, in its goods movement in a more efficient way.

So I want you to take a history lesson today. Take it back to those who sent you.

Thank you, Madam Chair.

Ms. JOHNSON. Thank you very much.

Mr. Boozman.

Mr. BOOZMAN. Thank you very much.

You were not here earlier, Mr. Chairman, when Mr. Buyer was here testifying, I do not think, but he said that one of the things that he enjoyed was hearing the Members talk with passion about their projects. So he would have really enjoyed hearing your talking with passion about the whole thing.

Secretary Woodley, what will the impact of the new lockage fees on the inland waterway system have on the use of the system? Do you expect a drop in traffic? The inland waterways are operating below capacity now, mostly due to a lack of operation and maintenance. So how is a toll proposal supposed to lure shippers to use our waterways instead of other congested modes of transportation?

Mr. WOODLEY. Well, Mr. Boozman, I think our view is that there would be, as with any other economic good, if you increase its cost, however slightly, you are going to have a tendency by that means to decline or to decrease its use in commerce. I think we regard it as a marginal matter and as a very, very small burden, relatively speaking.

We also consider that the significant thing that would be difficult in this context would be the delay of ongoing projects and necessary projects for the rehabilitation and new construction of facilities on the waterways. That would be a problem far in excess of any problems that would be caused by the change to the user fee.

Mr. BOOZMAN. There is a 2008 GAO report of substantive reviews needed to align port-related fees with the programs they support. Their concern was, again, with the Harbor Trust Fund, that it was not being spent. I think Congressman Boustany made a very important point, that not only is it not getting spent, but if it is not getting spent and then you have emergency situations that come up within that sphere and you are transferring money and resources into that, then, theoretically, you are putting more pressure on the rest of the program. Does that make sense?

Mr. WOODLEY. Yes, sir. All of the Trust Fund matters are subject to appropriation.

Mr. BOOZMAN. No. I understand.

I guess the second part is, though, would you and the Administration—you know, would you be in favor—you know, because of that, are you going to get more aggressive in asking for more?

Mr. WOODLEY. I think we should ask for as much as we can economically justify, and that has been my effort over the last 2 or 3 years. Our tools that we have for doing that are improving, and I hope in the future years that we will be able to make a stronger case for more resources from that Trust Fund.

I think that we do not have a position in the Administration today on the question of taking the Trust Fund off budget and for making it not subject to appropriation. As Mr. Boustany suggests, there is, I think, a good case to be made on that, but, at the same time, it would have to be carefully done so that the Congress felt that it was still fully apprised of the uses that were made with public funds.

Mr. BOOZMAN. Let me ask one more thing, and then we will move on.

As we enter the 21st century, demands for water are growing, and we are outstripping supplies in many areas, both in the West and in the East, leading to disputes among our States. We have had hearings, you know, concerning that over water supply allocation. How can the Corps of Engineers play a role in helping to ensure an adequate water supply for the Nation?

Mr. WOODLEY. I think that the Corps has a very important role to play in that, but one that is clearly, and should remain clearly, subject to the dispensation of the States. I do not want to see the Corps of Engineers transgressing upon the prerogatives of localities and States when it comes to water allocation. That question, therefore, necessarily calls on our colleagues at the State and local levels to step forward.

Where the waterways are interstate in character, it will be imperative to arrive at reasonable and just and fair agreements among each other as to those allocations. Where that does not take place, then the Corps of Engineers finds itself in the very unenviable position of having to make dispensations because of the necessity of merely operating a system of reservoirs on a given watershed. It is a most uncomfortable position and not one that I want to put the Army or the Corps in.

Mr. BOOZMAN. Thank you, Madam Chair.

Ms. MATSUI. [Presiding.] Thank you.

Mr. Woodley, Secretary Woodley, it is great to see you here. I know you are supposed to be in Sacramento today, but it is great to see you here.

Mr. WOODLEY. I am delighted to be in either place but, certainly, especially to see you.

Ms. MATSUI. Thank you.

I have a couple of questions specific to Sacramento. The City of Sacramento has initiated its own effort to evaluate the needed improvements in the Natomas section of Sacramento. I think you are aware of that area. We are working to provide at least 100-year flood protection as quickly as possible, as you well know.

I would like to ask you for your commitment to expedite Federal actions, including technical, regulatory and environmental reviews. I would also like to ask for your commitment to expedite approvals and a request for credit by non-Federal interests.

As you know, we are advance-funding this here because we realize the importance of working as quickly as possible. So I am won-

dering, can you help the people who are living in that area with this?

Mr. WOODLEY. Yes, ma'am. We have been paying very close attention to the issues in the Sacramento area, and we will be doing everything we can to expedite the approvals necessary to accomplish that work.

Ms. MATSUI. You know, I have long felt that, in order to make our communities get the highest level of protection in the quickest time possible, we really need to localize some policy. I know that the district folks have been really quite helpful, and we have a very good relationship with them, and they understand what is happening on the ground.

Specifically, I am talking about the 408 permit process. By allowing the local Corps districts to approve 408 permits in certain circumstances—obviously not in all but in certain circumstances—so that work can be done quickly to upgrade levies, a commitment to public safety will be demonstrated. Can you tell me what the Corps is doing to quickly address 408 permits?

You realize that the Corps and the local authorities and the State have been working very closely together, particularly in the area of Natomas. The Corps understands what is happening there, and we have been working as quickly as we can. On the other hand, sometimes there is a concern that we may have to wait for the national here in Washington to make some decisions, and then we will have to wait. So can you tell me if there is a possibility in certain circumstances to quickly address this at the local level?

Mr. WOODLEY. Yes, ma'am, there is.

The section 408 process is not one that we have used very often, but it is becoming more and more common, particularly in that part of California. My instruction to the Corps—as you know, that is a secretarial authority. I have delegated it to the Chief of Engineers with authority to subdelegate, and I have instructed him to subdelegate that as soon as he has the standards in place that can govern the exercise of the discretion by his subordinates.

I believe that we are also exploring specific subdelegation in the case that you mentioned of Natomas. I believe that is under active consideration. I would expect that—well, I do not know if they are going to do that or not, but they have not yet told me they are going to do it. I know they are seriously thinking about it, and I have encouraged it.

Ms. MATSUI. Okay. Thank you, Secretary Woodley. I hope you will follow up with this so I can go back and let them know that this is something that is going to be occurring as quickly as possible. So thank you very much.

Mr. Brown.

Mr. BROWN OF SOUTH CAROLINA. Thank you, Madam Chair.

Mr. Secretary, I represent the coast of South Carolina, and we are very concerned about the intercoastal waterway. I know as we talk about reauthorizing not only the water bill but also the transportation bill that there is a connect because we are talking about the short sea shipping lines which we want to utilize in the intercoastal waterway. That is becoming a major project of ours, because it has continued to silt in. Each year, we have to ask for appropriations which we call ″earmarks″ in order to be able to supple-

ment the funding for that intercoastal waterway, and I am just concerned—in fact, we have some numbers I was going to share with you, and I know you know pretty much what they are.

The Corps actually requested some $1.3 million from 2004 to 2008. During that time, we have been able to plus that up some $6.4 million or $7.4 million just to be able to do the bare maintenance of that waterway to continue to at least keep the depth within some passable range. You know, not only is South Carolina concerned about it. It is the whole eastern seaboard. Because that waterway is extended from, I guess, New York down to Miami. At the same time, the needs of that project were some $42 million. So it shows that during that 4-year period to 5 years that we had some $33 million shortfall.

My question to you is, what commitment does the Corps have in order to continue to maintain the waterways so it could be used as short sea shipping and to be able to take some of the traffic off of the busy highways and actually put it in the intercoastal waterway? What are your thoughts along those lines?

Mr. WOODLEY. Mr. Brown, our allocations that we have to maintain the inland waterways for maintenance dredging are extremely limited. So I know that we have put as much into the Atlantic intercoastal waterway as possible. I am very concerned about its condition. But I believe that as long as our maintenance continues to be constrained in the way it has been, that we will continue to budget for a caretaker situation and then will certainly execute to the best of our ability and in the most efficient manner any amounts that Congress allocates to the purpose.

Mr. BROWN OF SOUTH CAROLINA. Well, that gets me back to the topic at hand.

As we go through the reauthorization for the next water bill, we want to incorporate some language in there to enhance not only just the intercoastal waterway in South Carolina but the intercoastal waterway throughout the whole system. We would need some cooperative effort from the Corps to help us partner in order to be able to address that problem, particularly in light of the new requirements that we are going to be placing upon the intercoastal waterway to help move some inland freight.

Mr. WOODLEY. I would be delighted to cooperate with that. That would be a very important effort.

If, for instance, you look at the waterway segments in the State of Florida, they are very active and well-maintained, and they are doing something in Florida that we are not doing elsewhere. Let me find out what it is and find out if it works elsewhere.

Mr. BROWN OF SOUTH CAROLINA. Well, I think they are using some kind of user fee. I guess this is kind of the way that the Administration is moving towards all transportation. They want us to use some kind of a user fee as we build new roads.

So I guess my point is to try to find out exactly what we could expect from the Federal Government to address some of the, you know, interconnecting needs like the interstate highway. I sense the intercoastal waterways are an interconnecting road, just like the interstate highway, and it is pretty difficult if one segment is going to be fixed and the other segment is not going to be fixed.

So at least we need some coordinated effort to be able to accomplish the whole route and not just one segment.

Mr. OBERSTAR. Would the gentleman yield?

Mr. BROWN OF SOUTH CAROLINA. Yes, sir.

Mr. OBERSTAR. I found the Secretary's response to your comment puzzling. Puzzling, not confusing.

I am pretty clear on what I think he means, but there is a $4.7 billion surplus in reserve in the Harbor Maintenance Trust Fund, is there not, Mr. Secretary?

Mr. WOODLEY. I don't know the exact figure, Mr. Chairman, but it is a very substantial amount of money.

Mr. OBERSTAR. Yes. And it is being held in reserve, I say to the gentleman from South Carolina and our colleagues, so it will make the deficit look smaller by that amount.

Now, every President has been doing that ever since Lyndon Johnson in 1968. The Harbor Maintenance Trust Fund didn't exist then, but the Highway Trust Fund did. The Aviation Trust Fund came in 1970, and every Administration, Democrat or Republican, has held money back until we, in 1998 in the T21 legislation, walled off the Highway Trust Fund with fire walls so that reserves couldn't be built up to make deficits look smaller; and we—under the leadership of the gentleman from Pennsylvania, Mr. Shuster, with me as Ranking Member, we restored trust in the trust fund.

We need to restore trust to the Harbor Maintenance Trust Fund—same way, the Aviation Trust Fund. And I hope that the gentleman will join in an effort that we launched in 1998—didn't fully succeed, but in taking the trust fund off budget. Aviation Trust Fund, the Highway Trust Fund, the Harbor Maintenance Trust Fund so that future residents of the other end of Pennsylvania Avenue can't mess with the people's money.

I thank the gentleman for yielding.

Mr. BROWN OF SOUTH CAROLINA. Mr. Chairman, I appreciate very much the insight on this. And, in fact, I know it has been an ongoing battle for a long time. And I have a copy of an article, back in 1892 that was placed in the New York Times, about the Charleston Harbor. It said, "Fortunate for the Nation, the Congress did not fall into the error of deeming the recent call for $2.178 million as an appropriation solely for the city of Charleston. The advantage of a 21-foot channelway into the Port of Charleston can properly be viewed only from a national standpoint. There is hardly any doubt of the advisability of such expenditures when, in like proportion, the whole Nation is to be benefited."

And that has been the argument since 1892 on earmarks, Mr. Chairman. But thank you very much.

Mr. OBERSTAR. Let me go back 44 years earlier. Forty-four years earlier, in 1848, when President James K. Polk proposed a toll for—proposed a toll to raise the revenues to build the canals, and a first-term Member of Congress rose in our body and said that he opposed this idea that we should first build the—we should first build the waterway so that we will have product in it to raise the revenue from which we can then pay for the canal.

That was Abraham Lincoln. Congress listened to Lincoln, not Polk.

Mr. BROWN OF SOUTH CAROLINA. Well, I am listening to Chairman Oberstar. I think he has got a great idea.

Ms. MATSUI. [Presiding.] Thank you. I didn't realize we were going to have a history lesson today. But I have to be prepared the next time I bring some facts about 1849 and the Gold Rush and what happened to our riverways because of that.

But, nevertheless, I would like to call upon the gentlelady from California, Ms. Napolitano.

Mrs. NAPOLITANO. Thank you, Madam Chair. And I do enjoy the history lesson from Mr. Oberstar. Every time I hear him I learn something new.

Secretary Woodley, I certainly want to thank the Army Corps for working with one of my cities and the county in regard to the Whittier Narrows, and hope that continued support will be there to be able to do that assessment of the Whittier Narrows and do it expeditiously so we don't lose time.

I know that we have had some discussions on this before, but I want to continue to impress upon the Army Corps how important this is to that whole area, not just to my community; and I thank you for your staff being there with us in getting that done.

Mr. WOODLEY. Yes, ma'am. You are more than welcome.

Mrs. NAPOLITANO. The question I have is, in southern California it is adapting to the shortage of traditional water sources by tapping more into groundwater and alternative water sources.

What do you think about recycling, reuse, desalination and other alternative approaches? What role should that play in the additional supply of water in our next Water Resources Development Act? And I say that very facetiously because as Chair of the Sub-Committee on Water and Power, every single water recycling bill that we propose, the Bureau of Reclamation has found fault with it and the Administration does not support it.

And to me, as you have heard, we all think water is going to be one of our most precious resources, to be able to not only take care of it, but continue to evolve ways of being able to clean the water, to be able to recycle the water, et cetera, et cetera.

So what do you think? Which of those alternative approaches would play?

Mr. WOODLEY. Ms. Napolitano, I wish I understood how anyone could express opposition to water recycling concepts. It is a concept I have strongly championed ever since my time at State government in Virginia. It is astonishing to me that we don't have more. And I know, for instance, that one of the ways we have managed the Santa Ana Project is to make releases into designated recharge areas.

Mrs. NAPOLITANO. Right.

Mr. Secretary, I am sorry, but—my time is very limited, but my concern is that the Bureau has almost 400 million worth of backlog, and they are asking for 9 million for next year's budget. So at that rate there is not going to be any help for any of our constituents' communities to be able to help themselves and be able to face this global warming issue that we are all looking at coming down on us.

So would there be a new and innovative way the Corps could help out to assess some of these water issues?

Mr. WOODLEY. I am sure there is, and I would be delighted to explore that with you.

Mrs. NAPOLITANO. I would be delighted to sit with you, sir.

And then warmer temperatures will alter the hydrological cycle and intensify flooding and drought conditions, as we have seen throughout the country.

What is the Corps doing or what will they do to address the potential impact of climate change on our water resources throughout the country? And I know Water for America is trying to do that. But from the Army Corps of Engineers' standpoint, what do you see?

Mr. WOODLEY. I can refer you to the specific testimony at the hearing that was held on that particular point by Major General Don Riley of the Corps of Engineers, who gave a detailed explanation. But I can tell you, in general, in the very short time we have, that we are keeping a very close watch on the science and the reality of climate change on the ground as it changes hydrology. We are operating in it with interagency Committees, with the Bureau of Reclamation and others to make sure that all of our projects are implementing the most current understanding of the effects of climate change on hydrological resources.

Mrs. NAPOLITANO. I really, truly appreciate it.

And I ask the Subcommittee Chair and also the Chair of the Transportation, Water, as well as my Committee, that we would be delighted to work with the Administration and the agencies; and we have yet to hear from any of them.

Thank you, Madam Chair.

Ms. MATSUI. Thank you.

I would like to call upon the gentleman from Louisiana, Mr. Boustany.

Mr. BOUSTANY. Thank you, Madam Chair.

First of all, Secretary Woodley, let me thank you and General Van Antwerp and everyone with the Corps for the fine work that is being done in Louisiana. We appreciate everything that is being done, particularly in the aftermath of both hurricanes.

Chairman Oberstar, my esteemed friend and the Chairman of the Committee, and our Ranking Member on the Subcommittee, Mr. Boozman, both brought up the Harbor Maintenance Trust Fund, and Mr. Boozman, in particular, referenced the February 2008 GAO report. And so I have a follow-up question.

That is, if the Army Corps of Engineers had access to all the annual revenues generated by the Harbor Maintenance Trust Fund, which is by my calculation just in excess of $1.3 billion last year, would this allow the Army Corps of Engineers to reduce or eliminate over a sustained period of time the backlog of dredging required to maintain all Federal channels at their authorized width and depth?

Mr. WOODLEY. Yes, sir, I believe it would.

Mr. BOUSTANY. Because it is my understanding that as we go through the appropriations process, we are appropriating substantially less than that. So perhaps as we look at ways to create efficiencies in the use of the Harbor Maintenance Trust Fund, should we look at walling off the annual revenue coming in to make sure

that we are taking care of those ongoing operations and maintenance needs to meet the authorized programs?

Mr. WOODLEY. Well, that would certainly be one approach that could be taken, yes, sir.

Mr. BOUSTANY. All right. Thank you.

Just last week we had a situation that arose in my district whereby, because of the emergency needs for the Mississippi River that I alluded to in my opening comment that funds, vital funds, over $11 million were going to be reprogrammed from vital projects in my district to deal with the emergency situation—and I mentioned the Calcasieu ship channel which has vital implications for energy in this country, that was going to be put in really dire straits to the point where shipping traffic, if that funding were not there for dredging, shipping traffic would come almost to a halt.

And so it seemed to me that in reprogramming funds to deal with this emergency, we were not really looking, or at least those making the decisions to reprogram were not looking, at the real consequences of what was going to happen. And I was told that perhaps, you know, those funds were not going to be used in the fourth quarter; but realistically, we know how hard it is once funds do get reprogrammed.

So with the surplus we have got in the Harbor Maintenance Trust Fund, wouldn't it make more sense to be able to find ways to tap into it for real emergency needs without affecting those operations and maintenance issues that are ongoing? And I am just looking for ways of how can we reform the way this Harbor Maintenance Trust Fund is being used to make it more efficient.

Mr. WOODLEY. I think you make a very good point. And I can assure you that the people in the Corps making the decision with respect to the shifting of dredging funds from Calcasieu to Southwest Pass are deeply and profoundly concerned about the effect of that, and are working throughout, wherever they can within the system, to find ways to mitigate that impact and to find other surplus funds that are able to be devoted to Calcasieu and the other projects.

Or, indeed, I think it may—and this is something I don't have approval on, so I am going to have to be very tentative—I think it is something that might be considered appropriate for a supplemental action in the midyear context on the appropriations side. But—as I said, I can't advocate for that because I don't have any clearance to do so, but certainly it is the type of emergency—and the approach that you described for the trust fund would certainly sound like a valid concept to me because of the nature of dredging.

We try to predict it when we do our budgeting, but essentially we are now predicting for the 2010 submission. Well, it is only 2008, and so I don't have really—I have historical information and averages over time and that sort of thing that I can use; but water resources are dynamic, and I don't know what the needs are going to be in 2010. So I agree that a maximum degree of flexibility within strict limits would be extremely valuable for the program.

Mr. BOUSTANY. I appreciate that answer.

Dealing with the specific situation with Calcasieu, last week I spoke with Steve Stockton, director of civil works, and Gary Lowe, chief of program integration; both were very helpful. And subse-

quent to that, they found a way or some other pool of money so as not to have to, you know, reprogram funds away from Calcasieu and, I think, the Freshwater Bayou project.

But it just struck me, there are some things we can do with this Harbor Maintenance Trust Fund that would expedite and make more efficient the use of those funds without draining the entire surplus. I mean, simply just using the annual revenue coming in to meet the operations and maintenance budget and having a mechanism to tap into it for emergency needs without having to go—have Congress act upon another supplemental for something like this would be steps that, at least I have thought of so far, might be useful. And there may be others. And I would be interested in working with the Corps in finding a way to make this trust fund work more efficiently.

I see my time has expired, and I thank you.

Mr. WOODLEY. Yes, sir.

Mr. BOUSTANY. Thank you, Madam Chair.

Ms. MATSUI. Thank you, Mr. Boustany.

I recognize the gentleman from Washington, Mr. Baird.

Mr. BAIRD. I thank the Chair.

Mr. Woodley, can you talk a little bit about the perspective on the Minimum Dredge Fleet in the Pacific Northwest? I happen to be a supporter of it. We have Columbia River and its various tributaries.

Mr. WOODLEY. Yes, sir, the Essayons and the Yaquina.

Mr. BAIRD. Yes, sir.

Mr. WOODLEY. I have visited each of them. They are marvelous vessels, and our intent is to continue them in service as busy as they can be for the indefinite future.

Mr. BAIRD. That is very good to hear. Prior folks have not always seen it that way; and I tell you, we need those, all the shipping that travels the Columbia River and the various other things. So thank you for that.

I also represent a number of small harbors. Many of these are very rural, small, fishing communities; and oftentimes the fish processor or the port or the fishing fleet is about the main game in town in terms of the income, and yet—it is increasingly difficult in Corps budgets to find funding to maintain small harbors, and yet if those harbors close, the economic impact is dramatic for that community. The community itself doesn't have the money to maintain it.

I wonder if you could share with us your thoughts about that issue, about small harbor maintenance dredging.

Mr. WOODLEY. They are very similar to the thoughts that I shared with Mr. Brown concerning the relatively low-use inland waterways; and that is that in our current posture, our ability to reach them with the funds we are given is very minimal, and as a result, I believe that we need to seek out new mechanisms and new partnerships to better leverage our funds and to get the ability to manage these on a more rational basis.

The idea of just letting them silt in and then waiting and hoping that somebody else will show up and do the work is not very satisfactory to me. But I can tell you, that is the policy we are now undertaking.

And so it is not satisfying to me, but I have so far not been able to attract much attention to the need to implement a different concept.

Mr. BAIRD. Well, I appreciate your sensitivity to it. Because if you can visit, as you probably have, some of these communities, and the fishing fleet can't get in, that is it: Game over for those communities.

And once the fleet can't get in, they will find another place to go. And it is not just game over this year, it is probably game over for a long time to come.

One of the challenges that puzzles me perpetually is, you know, we have—at least I think it is—Corps-wide policy, but there is such a frequent rotation of the commanders in our regions. I believe it is about every 2 years or so folks rotate out. And my impression has been—we get top-flight people. Goodness gracious, the Corps has fine people working for it.

But, you know, it seems like it takes a 6-month period—no matter how good they are, there is about a 6-month start-up period, and then there is about a year or so of productivity where they are really game on, and then they are getting ready to be replaced by the next person.

Have you ever thought about extending the tours? What is the rationale for this short rotation? You just don't want them to go native and care about us, or——

Mr. WOODLEY. Sure. Actually, it is much more complicated than that. There are 38 engineering districts; of those, six are regarded as smaller districts. They are commanded by Lieutenant Colonels—Charleston, Nashville, that size of operation. The others are considered major districts or larger districts; they are commanded by full Colonels. And that is a command slot.

The officers are not civil works officers. They are engineer officers. They are combat soldiers who are trained engineers and have sometimes served before in civil-works-related positions; sometimes not, often not. And what we benefit from is their decisiveness, their organizational skills, their leadership capacity.

And they are some of the best public servants in the country. As military officers holding command positions, the DOD-wide policy, or at least Army-wide policy—I should speak of what I know; I think it is DOD-wide, but it is certainly Army-wide—is that a command tour in the grade of Lieutenant Colonel is a 2-year tour. A command tour in the grade of full Colonel is a 3-year tour. Any change on that would put the people that are assigned to those positions at a disadvantage. If we had one rule and the rest of the Army had a different rule, the people that were then assigned to our positions would be at a disadvantage with respect to their peers in the Army hierarchy and in the progression of promotion and assignment within the Army.

And so it is not something that is related to the civil works program. It is a function of having the civil works program in the Army. We take all the good of that—and it is very, very good—we take some of the constraints and things that are not necessarily so good. So if we were in a position like another agency, Fish and Wildlife Service, we would have a senior civilian who might stay there for 20 or 30 years.

Now, in every case we do have a senior civilian in the deputy role who, if you look at them, you will find that they had been serving in that district or in sister districts usually for decades.

And so we rely on the civilians for the continuity and for the intimate, local knowledge. We rely on the military for the drive, enthusiasm, leadership and organizational skills and can-do attitude that only—not only, but certainly that military men and women do represent.

And I think the Nation has been well served, on balance.

Mr. BAIRD. I think they do a great job and they are remarkable human beings. I appreciate your praise of them.

I have nothing but praise. It is just that I represent a large district, but that is just one district out of the broad scope that they have got to cover. Just getting up to speed on that is tough. So thank you for your answer.

Madam Chair, thank you for your time.

Ms. MATSUI. Thank you.

And I have a final question for you, Mr. Woodley. As you know, prior Administrations have forwarded comprehensive legislative proposals to Congress containing recommendations for water resources bills. The last one that we here could remember was submitted by Assistant Secretary Joseph Westphal during the Clinton Administration; and other than the new lock fee proposal that you discussed in your testimony, is this Administration going to put forward a comprehensive legislative proposal for the 2008 water resources bill?

Mr. WOODLEY. Ms. Matsui, I believe that we do not now have a plan to do so.

Ms. MATSUI. There is no way we can give you some suggestions?

Mr. WOODLEY. I am always open to suggestions.

Ms. MATSUI. Okay. But at this time you have no plans?

Mr. WOODLEY. At this time, we have no plans to do so.

Ms. MATSUI. Thank you. Secretary Woodley, thank you for your testimony.

And I suggest that all Members of the Subcommittee may have some follow-up questions for the record. And we would all expect a timely response to any questions forwarded to you. And thank you very much for being here.

Mr. WOODLEY. Certainly. I am delighted.

Ms. MATSUI. Our next panel consists of Mr. James H.I. Weakley, President of the Lake Carriers' Association; Mr. Nat Williams, State Director of The Nature Conservancy, Maryland, and Acting Director of Government Relations for The Nature Conservancy; Mr. Stephen Little—Steven or Stephen?

Mr. LITTLE. Stephen.

Ms. MATSUI. Stephen Little, President and CEO of Crounse Corporation, and General Counsel of Waterways Council, Inc.; Mr. Chad Berginnis, Chief of the Ohio Emergency Management Agency Mitigation Branch, testifying on behalf of the Association of State Floodplain Managers, Inc.; Mr. Warren ″Dusty″ Williams, General Manager and Chief Engineer of the Riverside County Flood Control and Water Conservation District, testifying on behalf of the National Association of Flood and Stormwater Management Agencies;

and Mr. Richard Brown—is he here? Okay—President of the National Federation of Federal Employees.

And as we noted to previous panels, your full statements will be placed in the record.

TESTIMONY OF JAMES H.I. WEAKLEY, PRESIDENT, LAKE CARRIERS' ASSOCIATION; NAT WILLIAMS, ACTING DIRECTOR, U.S. GOVERNMENT RELATIONS AND STATE DIRECTOR, MARYLAND CHAPTER, THE NATURE CONSERVANCY; STEVE LITTLE, PRESIDENT AND CEO, CROUNSE CORPORATION, GENERAL COUNSEL, WATERWAYS COUNCIL, INC.; CHAD BERGINNIS, CFM, CHIEF, OHIO EMA-MITIGATION BRANCH, STATE HAZARD MITIGATION OFFICER; WARREN D. ″DUSTY″ WILLIAMS, GENERAL MANAGER AND CHIEF ENGINEER, RIVERSIDE COUNTY FLOOD CONTROL & WATER CONSERVATION DISTRICT, ON BEHALF OF THE NATIONAL ASSOCIATION OF FLOOD AND STORMWATER MANAGEMENT AGENCIES; AND RICHARD N. BROWN, PRESIDENT, NATIONAL FEDERATION OF FEDERAL EMPLOYEES IAM

Ms. MATSUI. Mr. Weakley, please proceed.

Mr. WEAKLEY. My name is Jim Weakley. I am President of the Lake Carriers' Association, an organization of U.S. Flag vessel operators on the Great Lakes, and an officer of the Great Lakes Maritime Task Force, a coalition of Great Lakes maritime interests.

Madam Chairwoman, I again want to thank Chairwoman Johnson and Congressman Kagen for holding a field hearing in Green Bay 2 weeks ago.

Today, I am here testifying on behalf of a national coalition that is very concerned about the impacts on Federal ports and harbors that cannot be fully maintained with existing Corps funding levels. We advocate an initiative to seek full access to the annual revenues generated by the Harbor Maintenance Trust Fund. I would like to build on the comments by Chairman Oberstar regarding this fund.

In 2007, the trust fund collected from shippers more than 1.4 billion, yet only 751 million was spent from the fund. Ports and harbors were not able to be dredged to their authorized project dimensions.

I don't need to convince this Subcommittee of the importance of a vibrant maritime industry and efficient waterways. My written testimony contains many statistics which you are all well aware of regarding the economic benefits of our ports. Jobs are at stake. In addition, the U.S. Military depends on our ports to deploy troops and equipment during national emergencies.

America's navigation system is at a crossroads. The future hinges on much-needed Federal attention to unresolved funding needs. Most ports and harbors must be dredged regularly. The Corps reports that almost 30 percent of the 95,000 vessel calls at U.S. Ports are constrained by inadequate channel depths. We are losing existing business and potential new business to ports outside the U.S., and once lost, it is rarely regained.

In many parts of the United States we face a dredging crisis. On the Great Lakes, as Chairman Oberstar knows, decades of funding for dredging have left a backlog of $231 million. Some lakes' ports have actually shut down due to inadequate dredging.

There are similar examples of dredging problems in ports and harbors nationwide. Vessels must load light because of dredging shortfalls. The economic implication of light loading is enormous. On the Great Lakes, vessels lose between 50 to 270 tons of cargo for each inch that they must reduce their draft. In some areas the loss is measured in feet, not inches.

The Harbor Maintenance Trust Fund was established in WRDA 1986. The trust fund applies an ad valorem tax on the value of cargo loaded or unloaded on vessels using federally maintained channels. The trust fund is designed to pay for 100 percent of the Army Corps of Engineers O&M expenditures at ports and harbors. Would it surprise you to know that the trust fund revenues significantly exceed trust fund expenditures by an increasing margin? The fund is being held hostage to pay for other things.

In 2007, the trust fund began with a $3.3 billion surplus, collected an additional 1.4 billion, resulting in a $4.7 billion balance, while only 751 million was utilized for maintenance dredging. Incredible. We must solve this problem. We must use the trust fund for its intended purpose, maintaining Federal ports and harbors.

Other modes of transportation have faced similar problems. Although we are in the early stages of addressing this problem, our coalition believes Congress should consider an approach similar to the Highway Trust Fund and the Aviation Trust Fund. Congress legislatively enacted fire walls, essentially guaranteeing minimum levels of spending that could be only used to support eligible projects. A fire wall ensures that moneys from a tax will be used for its intended purpose, and not for deficit reduction.

Thank you, Madam Chairwoman, for your interest in this important issue. My message is simple. Use the Harbor Maintenance Trust Fund for its intended purpose, to address our Nation's dredging crisis. It is time to put the trust back in the trust fund.

Ms. MATSUI. Thank you, Mr. Weakley.

Ms. MATSUI. Mr. Williams?

Mr. NAT WILLIAMS. Thank you, Madam Chairwoman. Madam Chairwoman, Members of the Subcommittee, thank you for the opportunity to testify on proposals for the Water Resources Development Act of 2008.

I am Nat Williams, the State Director for The Nature Conservancy in Maryland, and the Acting Director of The Nature Conservancy's Government Relations Department. I am here today before the Subcommittee with The Nature Conservancy's perspective on some successes in ecosystem restoration and to offer suggestions for improving current efforts.

Before I begin my comments on WRDA 2008, I would like to applaud you, Madam Chairwoman, and Members of the Subcommittee for passing WRDA 2007 last year. The long-awaited bill included a number of important provisions to help advance ecosystem restoration efforts across the country. And we also appreciate the Subcommittee's plans to return to a biennial reauthorization schedule for this important legislation.

The Nature Conservancy's conservation work is carried out in all 50 States and in 32 countries. The Corps of Engineers has been a key conservation partner as the Conservancy has expanded its efforts to restore large ecosystems such as the upper Mississippi

River and the Everglades, and carrying out numerous smaller-scale restoration projects. Drawing on this experience, I will offer a few ideas on how we can improve efforts to restore our Nation's ecosystems.

The Nature Conservancy has spent more than a decade developing regional assessments to guide investments in conservation and restoration. By evaluating conservation needs across geographically similar areas, these assessments provide data and information that allow agencies and conservation organizations to set priorities for actions and funding.

Based on this experience, we believe it is important to invest in efforts to determine how multiple needs in a watershed, river basin, or coastal area can be met, and use that information to guide our investments in ecosystem restoration and infrastructure development. The newly reauthorized Navigation and Ecosystem Sustainability Program for the upper Mississippi River, known as NESP, provides a good model for such an approach.

NESP has unique authority that brings together both navigation and environmental interests to create and implement a shared vision for the Mississippi River. NESP, as authorized in WRDA 2007, will engage a broad array of Federal agencies, industry, and nongovernmental stakeholders to ensure the long-term economic and environmental sustainability of the river. It is a critical addition to the Corps' authority because it allows the Corps to manage the system for multiple purposes and evaluate river-wide processes and functions as projects are selected and implemented.

We urge the Subcommittee to explore similar regional approaches to ecosystem restoration and seek to balance multiple needs within a river basin, set science-based priorities for restoration.

The second issue I would like to discuss briefly is how to improve the Corps' ecosystem restoration authorities and, in particular, sections 1135 and 206. The Conservancy has been the lead non-Federal sponsor on 17 section 1135 and 206 projects, ranging from dam removal to floodplain and coastal restoration.

Our experience suggests there have been many worthwhile and successful 1135 and 206 projects being implemented around the country; however, the demand for these programs has created a backlog that stymies progress. In Maryland, my own State, for example, we have been seeking section 1135 funding for over 4 years for a new project that would modify a 1920s-era Corps facility on the Potomac River, right upstream here in D.C. Despite strong local congressional support and significant ecological benefits, including the protection of multiple endangered species, the project has been unable to garner any funding.

In Illinois, The Nature Conservancy has been the non-Federal sponsor on two projects, Spunky Bottoms 1135 project and Emiquon 206 project, that seek to restore thousands of acres. In light of our experience in Illinois and Maryland and in light of the fact that demand for Corps restoration dollars will always exceed available funding, it is important that 1135 and 206 programs are administered in a way that focuses on the projects resulting in the highest ecological and financial return on the dollars invested. Therefore, we recommend setting objective and transparent ecologi-

cal criteria to evaluate projects for funding and giving priority to those projects that form broad partnerships and attract funding beyond the required cost share.

And lastly, I would like to highlight some important work the Corps and Conservancy are doing for the Sustainable Rivers Project, aninnovative partnership to define the water flow needs of river ecosystems and use that information to update Corps reservoir operating plans. Our work, to date, at pilot projects in eight river basins nationwide has demonstrated that modest adjustments to reservoir operations can yield substantial improvements in ecosystem health while minimally affecting other dam functions.

In closing, we urge Congress to make the restoration of ecosystems that contribute to the safety, welfare and livelihoods of local communities one of the Nation's top water resources priorities.

I would like to thank the Chairwoman and the entire Subcommittee for the opportunity to provide some suggestions on how Congress can support and improve ongoing restoration efforts and build upon the important work already taking place. Thank you.

Mrs. NAPOLITANO. [Presiding.] Thank you for your testimony, Mr. Williams.

And now we will have Mr. Little give his testimony.

Mr. LITTLE. Thank you, Madam Chair, Members of the Subcommittee. I am Stephen Little, the President and CEO of Crounse Corporation in Paducah, Kentucky. We own and operate 27 towboats, over 900 barges, move about 35 million tons a year. I am also General Counsel of the Waterways Council, the national organization that advocates for a properly funded and well-maintained system of inland waterways and ports.

Waterways Council educates government decision makers, the news media, and the general public about the critical importance of the Nation's inland waterways and the need to sustain and increase their reliability. The Council's 240 members include carriers, shippers, labor associations, suppliers, and ports that use, operate and maintain the Nation's 12,000 miles of navigable waterways.

Madam Chair, I am also a member of the Inland Waterways Users Board.

Thank you for providing WCI with this opportunity to testify in opposition to the Administration's significant tax increase, which is really what the barge lockage fee proposal is, and in support of a far superior alternative.

First and foremost, no one should be fooled by the Administration's label. While calling it a lock user fee, the Administration proposes to approximately double the amount that the Federal Government collects each year from barge companies in order to support inland waterways system modernization.

It is no secret that the Nation's economy has slowed precipitously, and we may already be in a recession. The very last thing that anyone should propose at this time is a tax increase which will increase consumer costs and further depress the economy. Yet that is precisely what the Administration proposal will do.

Also, doubling the amount of revenues extracted from the inland waterway industry will drive commerce off the waterways and onto congested highways and railroads, exactly the opposite of what na-

tional transportation policy should seek to do. National policy should be incentivizing barge transportation instead of penalizing it, as the Administration proposes.

The Administration's barge lockage fee will adversely impact economic interests throughout the country in an uneven and, in some cases a punitive manner. States like Pennsylvania, West Virginia, Kentucky, Ohio, Tennessee, Indiana, Illinois, Missouri, Iowa, Wisconsin, and Minnesota will be particularly hard hit.

Some barge companies and shippers will see the amount of taxes they pay skyrocket. The imposition of new taxes at this time is counterproductive and contrary to the public interest.

The Administration says that the proposal is to address the declining balance in the trust fund. That is true, the balance is declining. That is a positive thing in WCI's view, in that the surplus in the trust fund is finally being spent more for its fully intended purpose.

The previous ballooning balance reflected a government failure to abide by what this Committee, Madam Chair, your colleagues have described in your Views and Estimates Report, and I quote, "a contract between the government and the user," whereby the waterways industry pays its diesel fuel taxes and, in return, the government pledges to use those receipts to modernize the navigation system.

Today, we unfortunately face another government failure because projects supported by trust fund expenditures are not being built in a timely and cost-effective manner. The first seven projects authorized by WRDA 1986 established the current cost-sharing formula, and those projects were completed, on average, in just 6 years over schedule, for just 30 percent more than what Congress authorized.

Now, today, five projects currently under way are forecast to take 17 years and at a completion cost that is more than double the authorized amount. Not just the cost overrun, but even more so the excessive time to complete projects, make the current cost-sharing bargain unfair to the users, whose benefits from the projects are so reduced.

Madam Chair, instead of raising the industry's taxes, what is needed is an intense, focused effort to examine why it takes so much longer and costs so much more to do this work today. This effort must identify the structural and process changes both within the Corps' control and external to it that are required to get more project for the dollars that are currently being contributed by the industry.

WCI and others believe that the most appropriate policy response at this time is to adjust the cost-sharing formula applicable to the trust fund. Instead of requiring that one half of the costs to construct a project come from the diesel fuel taxes that the industry currently pays into the trust fund, WCI recommends that one-fourth of the funds be drawn each year from the current diesel fuel taxes for that year, and the remainder be drawn from general revenues.

When comparing amounts designated in each of the last few years in appropriations acts for the trust fund projects with the barge diesel tax revenues deposited into the trust fund each year,

the adjusted cost-sharing formula which I alluded to would not be much different from the actual funding results we've experienced.

Mrs. NAPOLITANO. Would you wrap it up, please?

Mr. LITTLE. And in conclusion, Madam Chairman, thank you again for the opportunity to present this testimony. And I would be pleased to respond to any questions you may have. Thank you.

Mrs. NAPOLITANO. Thank you so much. Your submission will be entered into the record, so thank you very much.

We now go to Mr. Chad Berginnis.

Mr. BERGINNIS. Good afternoon, Madam Chair, Ranking Member Boozman, and distinguished Members of the Subcommittee. I am Chad Berginnis, Mitigation Policy Coordinator for the Association of State Floodplain Managers, and Board Member of the Ohio Floodplain Management Association, a chapter ASFPM. I am honored to present ASFPM's views on a WRDA 2008.

The mission of the ASFPM is to reduce flood losses in the United States and to preserve and enhance the natural functions of floodplains. Our 26 chapters and 11,000 members work in all aspects of floodplain management and are the Federal Government's partners in implementing flood loss reduction programs.

In this respect, ASFPM facilitates policy discussions on flood-related issues. One such venue, the Gilbert F. White National Flood Policy Forum, brought together senior Federal agency staff and many experts to explore floodplain management in 2050. The forum challenged attendees to think broadly about the adjustments we will need to undertake to successfully manage flood risk and flood losses in the not-so-distant future. Overall, it was concurred that in the next 40 years we will be characterized by unprecedented changes in flood risk and rapid acceleration and threats to water-based ecosystems.

Consider that the Nation will add between 100 and 150 million people, 40 percent more buildings than we have today, and experience increased pressure to build in high-risk areas. Proper actions taken now could lead to a safer future and sustainable communities. This is where WRDA 2008 comes in.

I would be remiss if I didn't highlight three very important provisions of WRDA 2007 that will serve the Nation well into the future: The establishment of a Committee on Levee Safety, with the purpose of creating a national levee safety program; a requirement to update principles and guidelines; and the establishment of an independent peer review mechanism. We urge the Committee to monitor the implementation of these provisions, and appreciate the Committee's wise judgment in passing these provisions.

Our first suggestion for a WRDA 2008 is the implementation of a sliding cost share for flood loss reduction projects. States and communities share responsibility for flood loss reduction efforts and should therefore take proactive measures to reduce or eliminate losses. Any community, even those seeking assistance from the Corps, can undertake an array of activities to reduce flood losses.

Wouldn't it make sense from a policy perspective that those communities who undertake these proactive measures could receive a more favorable cost sharing? Currently, all communities, even those that do nothing, pay the same cost share. ASFPM believes that a sliding cost share could be a powerful incentive for States

and communities to undertake flood loss reduction activities on their own.

Our second recommendation for a WRDA 2008 is to take measures to eliminate bias against nonstructural floodplain management projects. One such measure would be to change the cost share for nonstructural flood loss reduction projects to a 75/25 from a 65/35. Nonstructural projects do not have costs related to the failure and subsequent repairs like structural projects do. Also, a 75/25 cost share is consistent with FEMA's nonstructural flood mitigation programs.

Another measure is to allow for the offer of preflood market value in the Corps' nonstructural flood acquisition programs. Such a change in policy would encourage this mitigation measure and would also be consistent with the FEMA mitigation programs.

Our third recommendation for WRDA 2008 is to implement measures which foster better interagency coordination with FEMA. Our written testimony lists several items where this is possible.

In a very significant way, existing programs such as floodplain management services and planning assistance to States could be beneficial. Currently, these programs can be used to meet technical assistance needs of small communities that might not otherwise qualify for large Corps projects. Also there is potential for expansion. For example, the FPMS program could assist communities and States to evaluate existing levees and assist with certification of those as safe, providing a specific level of flood protection. ASFPM believes that the demand and potential of the FPMS and PAS programs justify an increased authorized amount.

Finally, a WRDA 2008 should include provisions for the establishment or reestablishment of a national flood hazards coordinating entity. One trend that we cannot ignore is that of increasing demand of nondiscretionary programs. As we move forward, competition for our limited resources will increase. Federal agencies who are involved in flood loss reduction programs must coordinate their efforts to achieve effective and efficient results. In considering and ultimately adjusting policy-oriented provisions in a WRDA, this Committee can take positive steps in reducing our Nation's flood losses.

This concludes my testimony, and I will be happy to answer any questions. Thank you.

Mrs. NAPOLITANO. Thank you very much. I appreciate you staying within the time frame. I didn't have to gavel you. Thanks.

I would like to move on to Mr. Warren "Dusty" Williams.

Mr. WARREN WILLIAMS. Thank you, Madam Chair, Members of the Committee. I am the General Manager/Chief Engineer of the Flood Control District of Riverside County in southern California.

I am appearing before you today representing NAFSMA, the National Association of Flood and Stormwater Management Agencies. NAFSMA is a 30-year-old organization which represents more than 100 local and State flood control agencies, serving more than 76 million citizens from across the Nation. I am pleased to have the opportunity to address this Committee on priorities for the Water Resources Development Act of 2008, an issue of strong interest to all of those I represent.

NAFSMA wishes to thank the leadership on both sides of the aisle for all the assistance to move WRDA 2007 forward. This was an enormous effort, as the legislation was long overdue and, as a result, there was much to be considered. NAFSMA greatly appreciates all of the efforts and contributions made by Members and staff to enact this legislation.

We also support many of the policy changes enacted in the 2007 legislation and look forward to their implementation as Corps headquarters moves forward on guidance and development on these new initiatives.

Recognizing that a good number of very positive steps were also taken to improve the non-Federal sponsor/Federal relationship in WRDA 2007 and to address critical levee safety issues, NAFSMA recommends a number of issues be addressed as part of WRDA 2008.

In the interests of brevity, I will refer the Committee to my written testimony, submitted earlier, for a comprehensive list of our recommendations, but I would like to take just a few moments to highlight a couple of our issues.

First, we support the enactment of WRDA 2008. It is critical that biennial reauthorization of the Water Resources Development Act occur. Not only does this necessary legislation provide an opportunity to review and shape the policies, programs, and projects of the Army Corps of Engineers, it is needed to strengthen the partnerships necessary to achieve the flood damage reduction goals of this Nation.

Local and regional agencies depend on WRDA's reauthorization. In many cases, needed flood damage reduction projects face significant cost increases while waiting for authorization. These added costs hit both Federal and non-Federal partners alike.

New construction of flood damage reduction projects needs to be included in WRDA. Many existing and potential non-Federal sponsors and their congressional delegations held critical projects back from consideration in WRDA 2007 at the request of this Committee. The projects now need to be considered.

The establishment of the Levee Safety Committee: Although authorizing language was enacted in 2007 WRDA to establish a national Levee Safety Committee with the charge of assisting in the development of a national levee safety program, the Committee has yet to be established. NAFSMA strongly urges this body to enact the needed language through WRDA or another legislative vehicle so this critical initiative can move forward.

During this interim period, though, NAFSMA urges the Corps to move forward with the selection of the Levee Safety Committee members and to begin dialogue with Congress and stakeholders to shape the goals and outline a work plan for the Committee. WRDA should authorize the Corps to accept local funds to carry out levee certification work.

NAFSMA understands the importance of the Thomas amendment, but is very concerned that in the area of levee certification there needs to be a mechanism for local sponsors to provide funds for the Corps to carry out certification activities. NAFSMA offers to work with the Committee to develop a workable approach to this issue.

Cost sharing for strengthening and retrofits of federally partnered projects should be addressed. NAFSMA recommends that since most of these projects were cost shared with a 65/35 local contribution, all work and costs, including mitigation that is needed to retrofit and strengthen levees, should be cost shared using this same formula. The Corps of Engineers should be encouraged to coordinate with other Federal entities and State and local agencies to streamline permits needed for operation and maintenance activities.

NAFSMA strongly supports language to place the Corps in a lead facilitation role in the environmental permitting process for federally partnered flood damage reduction ecosystem restoration projects.

The need for recognition of local expertise and responsibility in flood damage reduction: NAFSMA urges that the Corps be authorized to research and develop a program that recognizes qualified local and regional expertise and capability to accelerate the Corps' process for areas facing significant aging infrastructure and public safety risks.

Finally, NAFSMA urges the inclusion of the Corps in the Federal climate change research effort.

I thank you for the opportunity to address this Committee, and would be happy to answer any questions you may have.

Mrs. NAPOLITANO. Thank you, sir.

Mr. Boozman?

Mr. BOOZMAN. Thank you, Madam Chair. Our next witness is Mr. Richard Brown, President of the National Federation of Federal Employees, International Association of Machinists.

Thank you for being here.

Mr. BROWN. Thank you, Madam Chair, distinguished Members, I am here on behalf of a coalition of unions, including IBEW, IFPTE, Laborers International, and AFGE, representing over 2.5 million workers, including Federal lock and dam employees. We have been working together to address the wasteful, unnecessary reorganization of the lock and dam function of the Army Corps of Engineers.

A little background first: In 2005, the Corps began planning what would have been one of the largest, most expensive A-76 privatization studies ever conducted. Under review would have been approximately 2,000 full-time positions located over 230 locks and dams across the country. The study would have conservatively cost tens of millions of dollars to conduct. It would not haveensured any promise of savings.

At stake in this study would have been a crucial piece of our national infrastructure. Our economy is dependent on being able to utilize our 12,000 miles of commercially navigable channels across the United States. And the proper functioning of the Federal locks and dams are a key component of its capability—excuse me, of our homeland security and defense operations. An accident at a lock along one of our river systems could jeopardize our economy and/or hamper our rapid response capability to our military.

Regarding this potential A-76 study, our position is that the lock and dam function is too important for our national infrastructure to risk moving this function to government contractors. We also

maintain the work lock and dam employees perform should be classified as inherently governmental and, therefore, improper for privatization review. Thankfully, Congress agreed that a privatization study was a bad idea and has defunded the lock and dam A-76 study in the appropriations process for fiscal years 2006 through 2008.

In 2006, the Corps of Engineers announced they were longer actively pursuing an A-76 study of the lock and dam workers. While we considered this a good thing for the agency and our Nation, our satisfaction was short lived. The Corps of Engineers shortly thereafter announced they would be conducting a High Performance Organization, or HPO, reorganization study instead of an A-76. At the current moment, the Corps of Engineers is in the process of developing an HPO plan despite being stripped of all funding to implement it.

Before I could begin to discuss the merits of the lock and dam HPO itself, I feel compelled to ask whether it makes sense to spend millions of dollars to develop a plan the agency is prohibited from implementing today or possibly in the years to come. To us, it seems like a waste of taxpayers' dollars. This money is being spent on consulting fees in Washington, D.C., when it would be better spent on going to the districts to address the $1 billion-plus operations and maintenance backlog.

The HPO is a specific kind of reorganization, and the agencies are increasingly conducting alternatives to the standard A-76 studies. They are being used to end run around the intentions of Congress and carry out nonstrategic privatization agenda of the OMB at a great cost to the American taxpayer. The most wasteful example of this lock and dam HPO currently is being planned at the Corps of Engineers.

The first thing you should know about the HPO as it is currently being planned is, there is no particular guidance for the agencies to follow in devising their HPO reorganization plans. As much as unions sometimes object to the A-76 studies, at least they have a process in place that Congress is informed about and the agency employees can count on. For HPOs, no such process exists. In fact, we have been told by the Corps of Engineers that their guidance for an HPO fits on a single sheet of paper.

This agency is conducting a multimillion dollar reorganization of our critical waterways infrastructure, and yet neither we nor Congress knows anything about the process they are using.

The second most important thing to know about the HPO is that they are not being used in a strategic sense as they should be. Rather, agencies are arbitrarily conducting HPO studies on functions that have enough FTEs to meet quotas placed on them by OMB. Although Congress has repeatedly and emphatically opposed OMB's imposing numerical quotas on agencies, it is clear that OMB pressure is the catalyst for the rise in popularity.

Madam, I notice my time is short to expire, but I would just like to conclude that while permanent authorizing language ensuring reshaping of the locks and dams functions would be the best solution, in our opinion, our coalition would also be supportive of more incremental reform at a bare minimum; and we would like to see

language in the WRDA that would require the Corps of Engineers to disclose how much money they are spending on HPOs.

And, in addition, we believe Congress should authorize each HPO before it is implemented. This would give Congress an opportunity to examine the HPO before it would go into effect.

And, finally, in lieu of permanent authorizing language previously suggested, we would like to see language making lock and dam workers inherently governmental.

I thank you for the opportunity to speak before you today.

Mrs. NAPOLITANO. Thank you for your testimony, Mr. Brown.

And thank you for being here, to all the panel. And I would like to begin the questioning by having Mr. Boozman start.

Mr. BOOZMAN. Thank you, Madam Chair.

Mr. Weakley, I think you heard a lot of support for your testimony today and a lot of concern about the way that the fund is being handled. Your testimony describes a substantial backlog of maintenance dredging.

Can you give the Subcommittee some sense of proportion as to how far behind the Corps is on maintenance dredging due to inadequate funding?

Mr. WEAKLEY. Yes, sir. You could literally double the Corps' operation and maintenance budget for several years, and that is what it would take to catch up.

If I could put that into perspective on how that compares with the trust fund on the Great Lakes perspective, $231 million behind, 6 percent. So from the Great Lakes perspective, we are asking for 6 cents to restore the Great Lakes to its authorized depths. We are not talking about improving, just maintaining.

Mr. BOOZMAN. Very good.

Mr. Williams, again I want to congratulate The Nature Conservancy in my State in the sense that, you know, you said that you used science-based facts; and I think that is true. And I think along with that, as importantly, the best I can tell, a lot of common sense is thrown in there. You know, you get the information and then you have to use the common sense to use it.

One of the things that the Subcommittee has been dealing with is the fact that because of a lot of different reasons, the expanding population—in fact there was an article today that by the end of the century we are talking about a billion people or something—something just wild; but I see that as something that is really going to put a lot of pressure on our natural resources.

Can you describe a little bit how you all are dealing in that situation as far as—you know, how you are working with the States and different entities.

Mr. NAT WILLIAMS. Yes, Congressman. Very briefly, I would reinforce that our approach is the same approach we talked about in our testimony here, to take a look at landscapes in a holistic manner, to recognize that the ecological connections are not necessarily—are not going to be geopolitical, they are going to be ecological. And you have to look at the landscape in all of its entirety so that the actions that you can take to preserve certain parts of it have an effect in other parts of it.

And that context just keeps growing and growing. As we learn more and more from conservation biology, that context just is growing and growing.

So I think the way to deal with the growing population question is also to put it in that larger context and try not to deal with it piecemeal. And those are the same recommendations we are making in regards to WRDA 2008, as far as Corps authorities were concerned as well.

Mr. BOOZMAN. I don't disagree at all. Again, I think that is something I hope you as an entity—you know, that really is going to be a significant factor as we move on.

It is already becoming that now. I think that most people agree that perhaps that is going to be our next oil crisis in the not-too-distant future.

Mr. Berginnis, do States need financial incentives from the Federal Government to undertake levee safety programs? Some would say that that means that we are basically giving financial incentives to the States to take care of, you know, their populations, their citizens. Why do we need to provide Federal incentives for States to do the right thing?

Mr. BERGINNIS. Well, I think that you can look at a dam safety program as perhaps an example. As was stated many times today, our national waters are truly natural resources, and ASFPM has always had the perspective that flood loss reduction efforts are really a Federal, State, and local partnership. Certainly, there are costs at all levels of government if we fail to act and do those things.

So, in line with that principle, incentives to help States develop levee safety programs would not only leverage State dollars but would also leverage State resources to assist local communities as well as—you know, even States have fairly large inventories of their own levees in doing that. Again, it is based on the partnership principle of the Federal, State and local where we would come up with that recommendation.

Mr. BOOZMAN. Very good.

One last thing, Mr. Williams. What types of land use planning is required by the Corps of Engineers prior to the construction of Federal flood damage reduction projects? Are the requirements adequate? Are these requirements being enforced?

Mr. WARREN WILLIAMS. You saved the hard question for me, did you?

There are no direct land use requirements that I am aware of, other than the Corps' cost-benefit ratio for any Federal project. It has to show a positive number. In that context, the land use is considered, both the existing and the future.

Mr. BOOZMAN. Okay.

Mr. WARREN WILLIAMS. Does that answer your question, sir?

Mr. BOOZMAN. Yes.

Thank you, Madam Chair.

Mrs. NAPOLITANO. Thank you.

We will be having votes. I think they will be calling soon, so I will make mine pretty short.

Mr. Berginnis, you made a suggestion that the Committee should encourage the use of nonstructural approaches for floodplain man-

agement. Could you provide examples to the Subcommittee of such success stories?

Mr. BERGINNIS. Certainly.

In my home State of Ohio, as a matter of fact, when I was a local official, I had a small community experience of a significant flood event that damaged or destroyed more than 70 percent of the buildings in that village. A nonstructural approach to flood management there was that we implemented a program of acquiring and demolishing homes, paying owners the market value of those properties, elevating some of those homes in place for folks who wanted to stay connected with the community, and retrofitting—or flood proofing—some of those homes and buildings to make them watertight or flood-resistant where the flood waters were not so deep.

So those would be three different techniques of nonstructural floodplain management measures.

Mrs. NAPOLITANO. Thank you.

Mr. Williams, you discussed the need to prioritize Corps cap projects. Does the Corps have any sort of ecological criteria for the project prioritization? How do you think the Corps should prioritize those projects if not using a benefit-cost test?

Mr. NAT WILLIAMS. I am not aware that they have a system that currently prioritizes them ecologically. I can provide the Committee with some recommendations about how we would do such a thing, but I am not aware that they have that system now.

Mrs. NAPOLITANO. I would appreciate any input that you would have, sir.

Mr. NAT WILLIAMS. Thank you.

Mrs. NAPOLITANO. Again, for Mr. Berginnis, in your testimony, you suggested that Congress should address what you call a perverse incentive that allows communities to develop floodplains but to externalize their cost to the Federal taxpayer. Can you suggest how this Committee would address this concern as it develops the water bill?

Mr. BERGINNIS. Well, I think it relates back to the concept of, really, a sliding cost share in the sense that where you have communities that are doing—and I believe Ms. Matsui mentioned Sacramento and some of the proactive things that they are doing. In a sense, Sacramento could be seen as a community that is really leveraging the Federal resource because they are taking actions to make them safer down the road in doing that.

You contrast that with, perhaps, a community that is absolutely unwilling to do anything for themselves from the long-term perspective and requesting Federal assistance in that way. Perhaps they get a project and they continue to develop behind that with no standards or anything else. So, in a sense, what is happening is that the project may be inducing some unsafe development. We are not necessarily saying that is good or bad, but a community should look at it comprehensively and should have land use codes and those kinds of measures in addition to the Federal Corps resources.

Mrs. NAPOLITANO. What about those communities that would find it hard to—where they struggle even under the cost share?

Mr. BERGINNIS. Yes, absolutely.

You know, again, I will go back to my local experience in working in a—the county I worked in was an Appalachian Ohio county. It was a small village of less than 1,000 people and no resources really locally that they could use. Yet there are certain things they could do—land use control measures, those kinds of things—to actually help their community from a long-term perspective. So, if that community were to have gotten Corps assistance and, let us say, were to do those things, in addition to the protection provided by that Corps structural project, they are also doing things that from a long-term perspective are going to make their community more sustainable.

Mrs. NAPOLITANO. But would you not think then that maybe those communities that are allowing development in areas where there might be flood should then be advised that they will not be covered not only by flood insurance but will not be able to apply for it to the extent that everybody else could?

I am talking specifically Sacramento, the Bay Delta, because there are areas where you have developments at the floodplain level, where you look at the levy and there is a ship going by up there. Well, if those levees ever give, the whole area is going to go. Those elected officials are going to be long gone, and the taxpayers—you, me and everybody else—are going to have to end up paying for that.

How do we address that to be able to then say to those individuals you need to understand what you are getting into and why it is a necessity for you not to allow that development to occur?

Mr. BERGINNIS. Well, I think there are a couple ways that could be addressed.

One way that the Association has advocated in the past, actually, in areas protected by levees, no matter how high those levees are, is that there be something like a mandatory purchase of flood insurance even if it were at a lower cost, based on the reduced risk, actually, even though there is a catastrophic risk.

Mrs. NAPOLITANO. Should this be the Feds telling the State level so then the county can do it and the cities will enforce it?

Mr. BERGINNIS. Correct. We have suggested before that that would be, actually, part of the National Flood Insurance Program as a reform, which is that you would have mandatory purchase even in those areas behind levees. Because what we have found and what I have found day-to-day is that, at least by having something like mandatory flood insurance, it raises the consciousness of that risk in those individual property owners' minds who may be coming in from anywhere.

Mrs. NAPOLITANO. Well, thank you.

One last question very quickly. This is to Mr. Little. Where are you? There you are.

You talk about the costlier, the longer term for being able to get some of these projects done. What are the reasons besides wages and material costs that you feel that this is happening or that it has happened?

Mr. LITTLE. That is a very good question, Madam Chair. The users board has asked and the Waterways Council has asked that same question.

As you see in our prepared statement, we looked at earlier projects that were delivered, basically, on an average of 6 years past their scheduled completion and at about 30 percent over cost.

Mrs. NAPOLITANO. Any findings?

Mr. LITTLE. We compared that group to the current group, which is about 17 years past scheduled delivery and at about 100 percent over cost. We asked that question of the Corps. The Corps is doing a comparative analysis as to where those discrepancies are, why this will take longer and is more costly to deliver this group versus the other group.

This is a very good question. We are still waiting for that analysis from the Corps of Engineers. Maybe as a policy we need to get someone else to look at that question. Perhaps GAO or someone outside the government—to go into this program and to identify the inefficiencies internal to the Corps, external to the Corps, and where do we need to fix this model so that we can get the most bang for our buck as taxpayers.

Mrs. NAPOLITANO. Anything else?

Mr. BOOZMAN. No. Thank you, Madam Chair.

Mrs. NAPOLITANO. Well, we thank the panel. With that, we will dismiss the panel. We thank you very much for being in this hearing and for sharing your testimony with this Committee.

We stand adjourned.

[Whereupon, at 4:10 p.m., the Subcommittee was adjourned.]

Congressman Tim Bishop (NY-01)
Statement for the Record
Subcommittee on Water Resources and the Environment
Committee on Transportation and Infrastructure
April 30, 2008

Madame Chair, I would like to thank you for your leadership and dedication to the important issues we are discussing today, and I look forward to working with you to develop and pass the Water Resources and Development Act of 2008. I am hopeful that we can work with our friends in the other body to adopt this legislation in a timely manner.

My district encompasses 300 miles of Eastern Long Island's coastline, which includes some of this country's most popular and beautiful beaches and waterways that I am very proud to represent. Maintaining our coastal resources is an integral objective not only in my district but to the tourist and fishing economies of our states that rely on clean, navigable waterways.

Long Island benefits from the good work that the Army Corps does for coastal communities by helping small towns deal with everything from erosion to longstanding environmental concerns. The Corps is currently working on several projects on Eastern Long Island that will dredge inlets, study coastal health and restore damaged ecosystems.

I am very proud to see this subcommittee consider several pieces of legislation, including this new WRDA bill, that will benefit Long Islanders and everyone who visits public beaches throughout the country.

I again thank the Chairwoman for her hard work on this issue, and I look forward to working with my colleagues to make sure that we get a WRDA bill back on the two year cycle rather than the better part of a decade.

Testimony of Congressman Steve Buyer
Indiana's Fourth Congressional District

Before a Hearing of the Subcommittee on Water Resources and Environment
Committee on Transportation and Infrastructure

Wednesday, April 30, 2008

Thank you, Mr. Chairman and Members of the Committee for the opportunity to discuss an important project underway in Indiana. I commend you for holding this hearing on reauthorizing the Water Resources Development Act, and look forward to working with you as this process continues.

For over twenty-five years, the cities of Lafayette and West Lafayette, Indiana, have been working to improve the quality of life for area residents. Caring for the Wabash River has been a key component in their efforts. Cutting through them, the Wabash River is the most significant natural resource of the dual cities. Over 183, 340 Hoosiers call the core area of Lafayette and West Lafayette home, and need assistance in giving the river's ecosystem the attention it deserves. Local efforts to improve and care for the riverfront have been ongoing, earning both local and State support, but more remains to be done.

Please know that this project has broad bipartisan support from the County Commissioners, to the mayors of the respective cities. Therefore, I am respectfully requesting that language be included in the 2008 Water Resources

Development Act which would authorize a Reconnaissance Study of the Wabash River Corridor Enhancement project in Tippecanoe County, Indiana.

The Army Corps of Engineer's involvement in the project has been ongoing since Fiscal Year 2006 when the Wabash Riverfront became the subject of two hydraulics studies by the Corp's Louisville division. Having determined the hydraulics studies to be in the best interest of the area and the river, I requested the funds for the Army Corp of Engineers to complete these intricate studies in Fiscal Year 2006 Planning Assistance to States monies. Again illustrating their support for the project, the local community worked to provide matching funds for the Planning Assistance to States dollars. The Army Corp of Engineers has continued to show interest in the River, and the time has come to move forward to maximize its potential while wisely caring for this natural resource.

Progressing logically, the next consistent step is to authorize the project under the Army Corp of Engineers' General Investigations program (Section 905 B), and to commence a Reconnaissance Study to assess and address water quality improvement, flood risk reduction, ecosystem restoration, and recreation issues with the objective of developing a Master plan for the corridor. The Cities sit astride the river without fully enjoying the benefits of such a resource in an environmentally responsible way. The community will gain insight and guidance through the Corp's further involvement, leading to a healthier Wabash River, and a more pleasurable and respected resource for the people. Developing the

riverfront would not only maintain and preserve the Wabash River; it would assist a community with few recreational waterfront areas in developing a space for locals and visitors to enjoy and preserve the natural beauty of Indiana. A Reconnaissance Study is necessary to confirm the necessity of the Corp's further involvement. By authorizing this logical progression, Congress can expand on the Corp's already established involvement and assist a community in caring for a vital natural resource. Authorizing the study in the Water Resources Development Act of 2008 would allow the project to move forward as the process intends. I urge the inclusion of language authorizing the Wabash River Enhancement project through the Army Corps of Engineers' General Investigations program. This exemplary endeavor will simultaneously address the environmental conditions of the urban section of the Wabash River while aiding residents in their goal to improve community quality of life and protect the riverfront.

The Cities of Lafayette and West Lafayette, Indiana, present a worthwhile location for the Army Corps of Engineers' efforts. State and local financial support have illustrated the necessity of attending to the current condition of the riverfront. In the interest of propelling the project forward with the utmost organization and efficiency, local funds were used to form the Wabash River Enhancement Corporation. By working with local, State and Federal agencies, the Corporation has brought a high level of organization and efficiency to the endeavor. For the past three years, the community, in cooperation with Purdue

University, has been working to secure local money in preparation for the corridor's development. A total of $3,017,840 million has been appropriated from the local area, including $475,000 in local government funding, and $2.554 million from the community. Additionally, the State Legislature during its most recent session secured 10 percent of the revenue from the annual County Innkeepers Tax to contribute funding, year after year, until the project is complete. This money can be used for matching dollars, making the most of any Federal funds directed to the meaningful project. Residents of the community are acutely aware of the important part the riverfront plays in the area's vitality. Need for the project, combined with the financial and vocal support it has earned on the local and state level, positions the Wabash River as an ideal choice for an Army Corps of Engineers Reconnaissance Study.

Concluding, I would like to thank you again for the opportunity to bring this project to your attention. Along with a written copy of my testimony, I am respectfully submitting suggested authorization language for the Wabash River Reconnaissance Study to the Subcommittee for consideration, along with letters of support from local residents and officials, testimonies from the two mayors, and an in-depth overview description of the Wabash River Corridor Enhancement project. I ask that these be included in the record. My staff and I look forward to working with you to include this important language.

Gambs Mucker & Bauman

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April 30, 2008

The Honorable Congressman Steve Buyer
2230 Rayburn House Office Building
Washington, DC 20515-1405

Dear Congressman Buyer:

I am writing as a long time river advocate and Tippecanoe County Park Board member to strongly support the Request in the FY 08 Water Resources Development Act for Authorization to conduct a Reconnaissance Study of the Wabash River Corridor in Tippecanoe County in cooperation with the United States Army Corps of Engineers.

The Lafayette –West Lafayette Community is united in support of this project. Since the community identified Wabash River Corridor Enhancement as its top community development project in the recent Vision 2020 process, it has initiated several significant steps to prioritize and focus community resources on corridor enhancement. LWL's governmental and community leadership (public and private sector) created a not for profit agency, the Wabash River Enhancement Corporation (WREC), to spearhead the multi-jurisdictional project; a leading local endowment committed to funding the agency, and assisting with funding corridor planning and development projects in partnership with local government and community private and public sector partners; local government allocated scarce economic development funds for corridor enhancement planning; and local community leadership worked with local and state government to reallocate 10 per cent of the annual revenue from the County Innkeepers' Tax to river corridor enhancement in perpetuity.

These efforts have generated over 4.25 million dollars for corridor enhancement over the past three years. This funding has been used to create and support WREC; conduct in cooperation with the United States Army Corps of Engineers through its Planning Assistance to States program a two Phase Wabash River Hydraulic Study (FY 06 and 07), and a preliminary rural corridor study (FY 08). In addition to these initiatives WREC has developed a close, ongoing partnership with Purdue University to assist with local preliminary project planning efforts.

Gambs Mucker & Burton

Congressman Buyer
April 30, 2008
Page 2

Most significantly, LWL has committed to funding the urban section of the corridor master plan with 100 per cent local funding. The entire LWL community has coalesced behind enhancement of the Wabash River Corridor due to the fact that it merges two local, state, and national goals to achieve it. Research has demonstrated that these goals – strong, sustainable economic development that focuses on growing the Bio-Life Science and High Technology (B-LS & HT) sector, and improving and maintaining the corridor environment relate to each other due to the priority Quality of Life and Place of Choice play in growing the B-LS & HT sector.

The proposed Reconnaissance Study will incorporate the information from the three, prior USACE - PAS projects and the 100 percent locally funded urban corridor plan to create a comprehensive corridor master plan for the entire 22 plus miles of the Tippecanoe County section of the Wabash River Corridor.

Lafayette-West Lafayette was founded as a river town, and we are now united to re-capture our heritage with the Wabash River once again connecting us economically, environmentally, and culturally to improve our quality of life and create a truly one of a kind place to live, work and play.

We thank you for your hard work and support of this nationally significant, local project.

Very truly yours,

John R. Gambs

APR-29-2008 TUE 03:20 PM HENRY POOR LUMBER CO. FAX NO. 7654746533 P. 02/02

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April 29, 2008

The Honorable Congressman Buyer
2230 Rayburn Building
Washington, DC 20515

Dear Congressman Buyer,

This letter is to thank you for your support of the Wabash River Corridor Master Plan Project and its inclusion in the Water Resources Development Act.

Our Community has been working to enhance and revitalize our only natural resource, the Wabash River, for approximately 25 years; when Tippecanoe County and the State of Indiana authorized funds to construct the Wabash Heritage Trail connecting the historic Tippecanoe Battlefield to Fort Quiatenon. This trail runs for approximately 10 miles along the Wabash River from the battlefield and continues further south toward Profits Rock. The Wabash Heritage Trail was the beginning of the public's realization of our most beautiful resource running through the center of Lafayette, West Lafayette and Tippecanoe County.

The synergies grew from there and we have continued to receive local and state support for our project. Our last two trips to Washington D.C. have included representatives from our Greater Lafayette Chamber of Commerce and Purdue University. We have collectively communicated our vision for maximizing the benefits of the Wabash River while being sensitive to its fragile eco-system.

The Army Corps of Engineer's, from the Louisville office, have made several visits to the site and we realize we need their support and guidance to get this project completed. The entire community is galvanized in support of revitalizing the river. I am impressed with the vision we have from the community and the State of Indiana and what exciting things can happen to help protect and enhance our natural river; it is something we are digging into and won't rest until we see the job done.

Again, thank you for your efforts and I know you will be proud of the teamwork that will continue and with your input and support, will guide this project to a successful completion.

Sincerely,

Jim

James A. Andrew
President

Ruth E. Shedd
KD Benson
John Knochel

TIPPECANOE COUNTY BOARD OF COMMISSIONERS

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20 North 3rd Street
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47901-1214

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The Honorable Congressman Steve Buyer
2230 Rayburn House Office Building
Washington, D.C. 20515 -1405

April 29, 2008

Dear Congressman Buyer,

As President of the Tippecanoe County Commissioners I am writing in strong support of the request by Tippecanoe County and the Wabash River Enhancement Corporation for Authorization in the FY 2008 Water Resources Development Act to conduct a reconnaissance study of the Wabash River Corridor in Tippecanoe County in cooperation with the United States Army Corps of Engineers. The study will develop a master plan to assess and address flood risk reduction, ecosystem restoration, water quality improvement, and recreation; and analyze federal interest in participating in future projects to address these issues.

The three local governments with Purdue University and the Wabash River Enhancement Corporation are working closely to enhance the WRC. We see this as an excellent opportunity to merge our goals to conserve, preserve and improve the corridor environment and improve the quality of life in the corridor. We also hope to develop a unique and vibrant place of choice as a key component of our economic development strategy to address the national and state economic development goal to grow the Bio-Life Science and High Technology sector.

We believe quality of life and place of choice are key components of attracting and retaining the leadership and workforce of this sector. Site location decision research identifies these two as top criteria in work site location decisions of this sector, especially in the start up niche focused on at the Purdue University Research Park.

Enhancement of the Wabash River Corridor provides us with our best opportunity to improve quality of life and create a unique and vibrant place of choice to position us to compete globally to grow the Bio-Life Science and High Technology sector. This is an important step in achieving this national and state goal. We ask for your support. Thank you.

Sincerely,

Ruth E. Shedd

Ruth E. Shedd
Tippecanoe County Commissioner

region economically through a model of sustainability meets two of the State if Indiana's and our nation's top long term goals – sustainable economic development and environmental management.

Recent Unites States Geological Survey research has found that Indiana is one of the top six states contributing to the dead zone at the mouth of the Mississippi river in the gulf of Mexico due to nutrient overload from agrarian, and urban sources and carried down river. Developing and implementing sustainable agricultural and urban management practices have been identified in research as the best solution to address the dead zone issue. Our project to enhance the Wabash River Corridor in Tippecanoe County is uniquely positioned to assess and address this issue in the urban and rural environments that are present in Tippecanoe County, and can then be extended into the larger four county long term project area and beyond.

Additionally, Wabash River Corridor Enhancement in Tippecanoe County is solely situated to maximize the potential of current and future Bio-Life Science and High Technology research funded federally at Purdue University, a global leader in Bio-Life Science and High Technology research. It is vital to Purdue University to attract and retain the best and the brightest research scientists to conduct research in their areas of interest. The university is working hard to attain a position of preeminence in Bio-Life Science and High Technology research. Purdue has recently completed a 1.7 billion dollar fund raising campaign designed to provide state of the art facilities and leadership to conduct research in this sector. Purdue University has successfully developed the nation's largest research park and it is striving to grow it further in partnership with LWL economic development efforts. Locally, West Lafayette is working diligently with our partners the City of Lafayette, Tippecanoe County, Purdue University, the Wabash River Enhancement Corporation, and our corporate citizens including Eli Lilly to position the community to provide a unique and vibrant Place of Choice that will attract and retain the leadership and work force of the Bio-Life Science and High Technology sector through improving Quality of Life. Enhancement of the Wabash River Corridor is the most important local component of the state and national long term strategy to grow the Bio-Life Science and High Technology sector at Purdue University and in LWL.

We look forward to working cooperatively with the federal government and its agencies to develop and implement a model for "Green - Two Sustainable Economic Development" through this project to enhance the Wabash River Corridor in Tippecanoe County.

Thank you for receiving this testimony in support of Wabash River Corridor Enhancement and its **Phase One Project to Conduct a Reconnaissance Study of the Wabash River Corridor in Tippecanoe County.**

John R. Dennis, Mayor
City of West Lafayette, IN

4/29/08
Date

(PAS) projects. These three PAS projects were for a Two Phase Wabash River Hydraulic Study and a preliminary corridor riparian land use study. Information from these PAS projects will be incorporated into the proposed Reconnaissance Study.

The Lafayette-West Lafayette Vision 2020 report identified Wabash River Corridor Enhancement as the top multi-jurisdictional community improvement project facing LWL due to its potential role in economic development through improving Quality of Life (QOL) and creating a unique and vibrant Place of Choice (POC) that successfully and sustain ably attracts and retains the leadership and workforce of the Bio-Life Science and High Technology research and industry sector.

Research of the bio-life science and high technology sector's site location decision making process confirms the importance of QOL and POC in this sector's development planning. The following information is taken from an APA Report on **Parks and Economic Development** by John Crompton, Professor, Texas A & M, in the School of Recreation, Park, and Tourism Sciences.

The bio-life science and high technology sector is known as a "footloose industry" as they are often not as constrained and more flexible in their choice of location compared to traditional manufacturing industry. These smokeless industries are not tied to a natural resource base, transportation network, energy source, market, or a large labor pool necessarily in order to "manufacture their product". Their "product" is INNOVATION; to make their product – they need to be able to attract and retain the "best and the brightest".

Current LWL, Purdue University, and State of Indiana economic development efforts which have all identified **"becoming a hub for bio-life science and high technology research and industry" (B-LS&HT)** as a top economic development goal, serve to re-enforce the strategy to include corridor enhancement as a high priority component of the region's economic development strategy. Targeting the B-LS &HT economic sector means local/state economic development leadership must work to position LWL and the state to meet an additional, and or different set of criteria, from that typically focused on for attracting traditional manufacturing industry. This project creates a new economic development model based around instituting sound, sustainable environmental management strategies as an integral component of economic development. This "Green – Two Strategy" (green environmentally and economically) is even more significant nationally due to the inherent qualities of the Wabash River and water shed and it's scientifically demonstrated impact on the larger Mississippi River water shed and the Gulf of Mexico Dead Zone.

The Wabash River is the nation's 13th largest river flowing 510 miles through three states and encompassing a 33,100 square mile watershed. It contains the longest stretch of free flowing, uncontrolled river (400 miles in length) east of the Mississippi River. As the nation looks to initiate river ecosystem restoration the Wabash River provides a vital model for what a free flowing river ecosystem looks like ecologically. Maintaining and improving the health of the Wabash River's ecosystem and also planning to grow the

PURDUE UNIVERSITY

CITY OF
WEST LAFAYETTE

Office of the Mayor
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Phone: 765.775.5100
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mayor@city.west-lafayette.in.us

To: Sub Committee on Water Resources and Environment of the Transportation Infrastructure Committee

Re: Request for Authorization to conduct a Reconnaissance Study of the Wabash River in Tippecanoe County in cooperation with the United States Army Corps of Engineers.

My name is John Dennis; I am the Mayor of the City of West Lafayette, IN. I am presenting testimony today in support of a joint request by the Wabash River Enhancement Corporation (WREC), Tippecanoe County, the cities of Lafayette and West Lafayette (LWL), and Purdue University for authorization to conduct a Reconnaissance Study of the Wabash River (WR) in Tippecanoe County in cooperation with the United States Army Corps of Engineers (USACE). On behalf of the City of West Lafayette and our partners I would like to thank the Committee and the Congress for considering our project to enhance the Wabash River Corridor in Tippecanoe County. I would also like to thank Congressman Steve Buyer, his staff, and the entire Indiana congressional delegation for their leadership, hard work, and support of our project.

The proposed Reconnaissance Study will assess and address flood risk reduction, ecosystem restoration, water quality improvement, and recreation issues with the intent to develop a corridor master plan to address these issues. The study will also determine federal interest in participating in future corridor enhancement projects. This project request is Phase One of a multi-phase project to enhance the Wabash River Corridor (WRC) in a four county region of Indiana consisting of Fountain, Warren, Tippecanoe, and Carroll counties. The proposed Reconnaissance Study will also incorporate information and data from three prior USACE, Planning Assistance to States Wabash River Corridor planning projects (FY 06, 07, 08).

We have been working locally for three years to prepare for this project. The local LWL community has appropriated $3,017,840 million dollars for this project to date from local public and private sources including $392K in local government funding, and $2.554 million dollars in local community funding. Local government has also dedicated 10 percent of the annual revenue from the County Innkeepers' Tax for river corridor enhancement in perpetuity to assist in funding the project as it moves forward. The City of West Lafayette has also expended 1.25 million dollars in addition to the above amounts on land acquisition in our city's urban riverfront for future riverfront development. Funds appropriated to date have been used to form WREC (a 501c3 not for profit agency) as the lead project agency, hire WREC's FT Executive Director, acquire corridor land, and provided local match for three, USACE Planning Assistance to States

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mayor@city.west-lafayette.in.us

The Honorable Congressman Steve Buyer
2230 Rayburn House Office Building
Washington, D.C. 20515 -1405

April 17, 2008

Dear Congressman Buyer,

As Mayor of the City of West Lafayette, IN I am writing in strong support of the request by the Wabash River Enhancement Corporation and Tippecanoe County for Authorization in the FY 2008 Water Resources Development Act to conduct a reconnaissance study of the Wabash River Corridor in Tippecanoe County in cooperation with the United States Army Corps of Engineers. The study will develop a master plan to assess and address flood risk reduction, ecosystem restoration, water quality improvement, and recreation; and analyze federal interest in participating in future projects to address these issues.

Enhancement of the Wabash River Corridor was identified in the Lafayette-West Lafayette Vision 2020 plan as the top multi-jurisdictional community development project facing Lafayette-West Lafayette (LWL) due to its role in local economic development planning to accomplish the national and state economic development goal to grow the Bio-Life Science and High Technology sector.

Our city is working closely with Purdue University, Tippecanoe County, and the City of Lafayette to accomplish this national and state economic development goal by positioning LWL as a hub for Bio-Life Science and High Technology research and industry. Site location decision research shows that Quality of Life and Place of Choice are the top criteria considered in location decisions by the leadership and workforce of this sector, especially in the start up niche of it. This research is even more significant when considering that the start up niche of this sector is also the development focus of the Purdue Research Park.

The Reconnaissance Study is a vital step towards positioning LWL to compete at the global level and grow the Bio-Life Science and High Technology sector in the United States and locally here in LWL. We look forward to working with you and your staff on this project.

Sincerely,

John Dennis, Mayor
City of West Lafayette

Ruth E. Shedd
KD Benson
John Knochel

TIPPECANOE COUNTY BOARD OF COMMISSIONERS

County Office Building
20 North 3rd Street
Lafayette, Indiana
47901-1214

phone 765.423.9215
fax 765.423.9196

The Honorable Congressman Steve Buyer
2230 Rayburn House Office Building
Washington, D.C. 20515 -1405

April 29, 2008

Dear Congressman Buyer,

As President of the Tippecanoe County Commissioners I am writing in strong support of the request by Tippecanoe County and the Wabash River Enhancement Corporation for Authorization in the FY 2008 Water Resources Development Act to conduct a reconnaissance study of the Wabash River Corridor in Tippecanoe County in cooperation with the United States Army Corps of Engineers. The study will develop a master plan to assess and address flood risk reduction, ecosystem restoration, water quality improvement, and recreation; and analyze federal interest in participating in future projects to address these issues.

The three local governments with Purdue University and the Wabash River Enhancement Corporation are working closely to enhance the WRC. We see this as an excellent opportunity to merge our goals to conserve, preserve and improve the corridor environment and improve the quality of life in the corridor. We also hope to develop a unique and vibrant place of choice as a key component of our economic development strategy to address the national and state economic development goal to grow the Bio-Life Science and High Technology sector.

We believe quality of life and place of choice are key components of attracting and retaining the leadership and workforce of this sector. Site location decision research identifies these two as top criteria in work site location decisions of this sector, especially in the start up niche focused on at the Purdue University Research Park.

Enhancement of the Wabash River Corridor provides us with our best opportunity to improve quality of life and create a unique and vibrant place of choice to position us to compete globally to grow the Bio-Life Science and High Technology sector. This is an important step in achieving this national and state goal. We ask for your support. Thank you.

Sincerely,

Ruth E. Shedd

Ruth E. Shedd
Tippecanoe County Commissioner

CITY OF
LAFAYETTE

TONY ROSWARSKI, MAYOR

The Honorable Congressman Steve Buyer
2230 Rayburn House Office Building
Washington, D.C. 20515 -1405

Dear Congressman Buyer, April 17, 2008

As Mayor of the City of Lafayette, IN, I am writing to strongly endorse the request by the Wabash River Enhancement Corporation and Tippecanoe County for authorization in the FY 2008 Water Resources Development Act to conduct a Reconnaissance Study of the Wabash River Corridor in Tippecanoe County in cooperation with the United States Army Corps of Engineers. This reconnaissance study will prepare a master plan to assess and address flood risk reduction, ecosystem restoration, water quality improvement, and recreation; and analyze federal interest in participating in future projects to address these issues. This study is phase one of a long term project to address the Wabash River Corridor in a four county section of the corridor consisting of Warren, Fountain, Tippecanoe, and Carroll counties.

This project is vital to our local effort to achieve the national and state economic development goal to grow the Bio-Life Science and High Technology (B-LS & HT) sector. Site location decision research on this sector shows Quality of Life (QOL) and Place of Choice (POC) are top criteria considered by the leadership and workforce when determining where to locate. This is especially true for the start up niche of the sector (this niche is also the development priority of the Purdue Research Park). We are working effectively to address local community economic development factors including education, infrastructure, public safety, and housing to improve the QOL. Utilizing the significant potential of the Wabash River to create a unique and vibrant POC will enable our community to maximize the potential existing in the quality assets in place, including world class facilities and resources at Purdue University, to become a national hub for Bio-Life Science and High Technology research and industry.

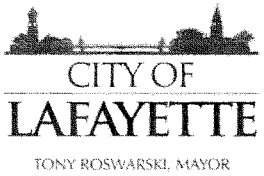
We look forward to working with you and your staff on this important project which was identified in the Lafayette - West Lafayette Vision 2020 plan as the most important multi-jurisdictional community development project facing Lafayette – West Lafayette region. I am available to discuss this project further at your convenience.

Sincerely,

Tony

Tony Roswarski
Mayor, City of Lafayette

City of Lafayette, Office of the Mayor, 20 North 6th Street, Lafayette, Indiana 47901-1411 765-807-1002 Fax 765-807-1024



April 25, 2008

To: Sub Committee on Water Resources and Environment of the Transportation Infrastructure Committee

Re: Request for Authorization to conduct a Reconnaissance Study of the Wabash River in Tippecanoe County in cooperation with the United States Army Corps of Engineers.

My name is Tony Roswarski; I am the Mayor of the City of Lafayette, IN. I am presenting testimony today in support of a joint request by the Wabash River Enhancement Corporation (WREC), Tippecanoe County, the cities of Lafayette and West Lafayette (LWL) and Purdue University for authorization to conduct a Reconnaissance Study of the Wabash River (WR) in Tippecanoe County in cooperation with the United States Army Corps of Engineers (USACE). On behalf of the City of Lafayette and our partners I would like to thank the Committee and the Congress for considering our project to enhance the Wabash River Corridor in Tippecanoe County. I would also like to thank Congressman Steve Buyer, his staff, and the entire Indiana congressional delegation for their leadership, hard work, and support of our project.

The Reconnaissance Study will assess and address flood risk reduction, ecosystem restoration, water quality improvement, and recreation issues with the intent to develop a corridor master plan to address these issues. The study will also determine federal interest in participating in future corridor enhancement projects. This project request is phase one of a multi-phase project to enhance the Wabash River Corridor (WRC) in a four county region of Indiana consisting of Fountain, Warren, Tippecanoe, and Carroll counties.

We have been working locally to prepare for this project for three years. The local community has appropriated $3,017,840 million dollars for this project to date from local public and private sources including $475K in local government funding, and $2.554 million dollars in local community funding. Local government has also dedicated 10 percent of the annual revenue from the County Innkeepers Tax for river corridor enhancement in perpetuity to assist in funding the project as it moves forward. Funds appropriated to date have been used to form WREC (a 501c3 not for profit agency) as the lead project agency, hire WREC's FT Executive Director, acquire corridor land, and provided local match for three, USACE Planning Assistance to States (PAS) projects. These three PAS projects were for a Two Phase Wabash River Hydraulic Study and a

City of Lafayette, Office of the Mayor, 20 North 6th Street, Lafayette, Indiana 47901-1411 765-807-1002 Fax 765-807-1024

preliminary corridor riparian land use study. Information from these PAS projects will be incorporated into the proposed Reconnaissance Study.

The Lafayette-West Lafayette Vision 2020 report identified Wabash River Corridor Enhancement as the top multi-jurisdictional community improvement project facing LWL. Current LWL, Purdue University, and State of Indiana economic development efforts which have identified **"becoming a hub for bio-life science and high technology research and industry"** as an important economic development goal, serve to re-enforce the strategy to include corridor enhancement as a high priority component of the region's economic development strategy. Targeting the B-LS &HT economic sector means local/state economic development leadership must work to position LWL and the state to meet an additional, and or different set of criteria, from that typically focused on for attracting traditional manufacturing industry.

The President of Indiana University summed up the importance of our project in his recent comments regarding a proposed Indiana University – Purdue University partnership focused on bio-life science and high technology research.

"We're in a battle for the best brains in the world. It's the states, countries and institutions that attract them that will be the global leaders."

Enhancement of the Wabash River Corridor is a vital component in this effort to attract and retain the "best and the Brightest" in the Bio-Life Science and High Technology research and industry sector. Indiana and specifically Lafayette-West Lafayette (LWL) are working hard to position our state and nation to be a leader in this sector.

Research of the bio-life science and high technology sector's site location decision making process confirms the importance of Quality of Life (QOL) and Place of Choice (POC) in this sector's development planning. The following information is taken from an APA Report on **Parks and Economic Development** by John Crompton, Professor, Texas A & M, in the School of Recreation, Park, and Tourism Sciences.

> The bio-life science and high technology sector is known as a "footloose industry" as they are often not as constrained and more flexible in their choice of location compared to traditional manufacturing industry. These smokeless industries are not tied to a natural resource base, transportation network, energy source, market, or a large labor pool necessarily in order to "manufacture their product". Their "product" is INNOVATION; to make their product – they need to be able to attract and retain the "best and the brightest".

This difference affects the priorities these companies and entities have when considering their site location decisions. Quality of Life and Place of Choice are at the top of their decision making criteria list. Quality of Life consists of a range of factors including quality of the education system, quality and cost of housing, public safety, community infrastructure, and parks and recreation and public open space/Place of Choice.
When considering these subcomponents of QOL, parks/recreation and public open space/Place of Choice rank high in general for this sector and are at the top of the list for the smaller, and, or start up, companies.

Lafayette – West Lafayette, Tippecanoe County, and Purdue University are working effectively to address many of these QOL factors. Place of Choice/public open space, however, are factors that have not been prioritized within the local economic development effort until now. Corridor enhancement provides an excellent opportunity to create this quality sense of place and position Lafayette – West Lafayette as a Place of Choice to attract and retain the leadership and workforce of the B-LS and HT sector.

Clearly there are other factors along with QOL/POC that are considered in the site location decision making process. Technical knowledge/expertise/resources and infrastructure, along with solid general economic development planning and resources are examples of Purdue University and LWL working successfully to address other important economic development factors, and they are strengths in the local economic development effort. Where we are weaker than our competition is in creating a unique Place of Choice with a high Quality of Life that can attract and retain the B-LS & HT leadership and work force to want to live and work in LWL. Our competition extends beyond Indiana, and includes other existing and potential centers for B-LS & HT research and industry across the nation and the world. We must conduct our economic development efforts from within this national/international context in order to capitalize on the success Purdue University and LWL have achieved to date. These strengths are bringing success now, but can this success be sustained as these start - up companies grow by retaining this growth in – state and in the United States? Can we achieve the national/international level of economic "wins" that Purdue University's technical and research infrastructure is capable of, and it has begun to achieve, with out developing a first class, unique Place of Choice in LWL? These are important questions that must be considered as a part of LWL's and Purdue University's long range economic development planning efforts.

Assessing LWL, the state of Indiana, and the United States the WRC is one of our most viable natural resources that has a growing hub for Bio-Life Science and High Technology Research and Industry along its corridor. The WRC provides the greatest potential to improve Quality of Life, and create a unique Place of Choice in Indiana. It provides a unique natural environment with significant social history, coupled with strategic potential for mixed use development. The corridor is currently under –

developed, and environmentally in distress especially in the LWL urban core. These factors provide LWL, Purdue University, the State of Indiana and our nation with the opportunity to create a Place of Choice built around an enhanced Quality of Life that is first class when taken with all of the other factors present locally. This project enables the nation to create a new economic development model based around instituting sound, sustainable environmental management strategies as an integral component of economic development.

Tony Roswarski

Tony Roswarski
Mayor City of Lafayette, IN

4-25-08
Date

WABASH RIVER ENHANCEMENT CORPORATION
200 North 2nd Street Lafayette, IN 47901

Wabash River Enhancement Corporation Project Overview:

The Wabash River Enhancement Corporation (WREC) was created by three local governments and Purdue University in 2004 to lead the multi-jurisdictional effort to enhance the Wabash River Corridor (WRC). This decision grew out of the Vision 2020 Regional Process (involving 100s of community meetings and over two thousand citizens over a two year process), which identified Wabash River Corridor enhancement as the top multi-jurisdictional community development project facing Lafayette – West Lafayette (LWL). An Executive Director for WREC was hired in mid 2005 and the organization began preliminary planning and organizational formation efforts (approximately 50 public meetings and presentations have been given) to actively begin planning for corridor enhancement. WREC is governed by a nine member board consisting of the mayors of the cities of Lafayette and West Lafayette, a Tippecanoe County Commissioner and Council Person, a representative of the President of Purdue University, a representative of each of the three local park boards, and the Wabash River Parkway Commission. WREC works closely with each of these entities to move the project forward. Tippecanoe County serves as the official local sponsor for Army Corps of Engineers (ACOE) funded projects.

WREC's early accomplishments include development of an organizational Strategic Plan to direct and structure its efforts to enhance the corridor. This plan most significantly calls for development of a Corridor Master Plan (CMP) to guide the physical enhancement of the corridor. Preliminary planning has also included partnering with the United States Army Corps of Engineers (USACE) in FY 2006 through the PAS program to complete Phase 1 of a Hydraulic Study of the WRC focusing on the LWL urban section of the river. Phase 2 of this study to assess the north section of the river corridor in Tippecanoe County was funded through the ACOE PAS program and began in FY 2007. In FY 2008 an ACOE PAS project will conduct a corridor master plan study of the WRC rural section in tandem with a 100% locally funded master plan study of the urban section of the WRC. The proposed FY 2009 request will complete a reconnaissance study to incorporate information and data from the hydraulic studies and the corridor master plan projects to develop an overall Tippecanoe County WRC Master Plan to plan for enhancement of the corridor. The FY 2006, 2007, and 2008 studies have been funded through USACE PAS (50:50) funding and matched locally through a grant from North Central Health Services (NCHS). Fourth District Congressman Buyer and the IN congressional delegation led the efforts to obtain the USACE funding. WREC has also developed an ongoing partnership with Purdue University to assist in preliminary planning and related project initiatives. Foremost in these initiatives is a pending IDEM 319 grant to complete a watershed management plan for the Lafayette-West Lafayette watershed area. A key component of Wabash River Corridor Enhancement is improvement the ecological health of the Wabash River by addressing environmental

issues including flood management, and water quality. This can only be accomplished through a watershed approach to environmental clean up of the river. The watershed management plan is also a key eligibility requirement for various federal grants focused on river corridors. Watershed Management Plan goals and recommendations will be utilized in the CMP to maximize benefits and funding opportunities

WREC has begun the process to develop the CMP by completing a consultant selection process and initiating fund raising to fund the planning process. Development of a Corridor Master Plan is WREC's top priority. A CMP will demonstrate local consensus and commitment to the project and serves as a vital tool to inform prospective partners of the importance and potential corridor enhancement has locally, to the state of Indiana, and the nation. It provides long range structure for local and regional planning for growth to achieve sustainable corridor enhancement.

The Role of Wabash River Corridor Enhancement in LWL Economic Development.

The Lafayette-West Lafayette Vision 2020 report identifying WRC enhancement as the top multi-jurisdictional community improvement project facing Lafayette – West Lafayette, was based on the potential economic development benefit corridor enhancement could generate within LWL. Current LWL, Purdue University, and State of Indiana economic development efforts, which have identified **"becoming a hub for bio-life science and high technology research and industry"** as an important economic development goal, serve to re-enforce the strategy to include corridor enhancement as a high priority component of the region's economic development strategy. Targeting the B-LS &HT economic sector means local/state economic development leadership must work to position LWL and the state to meet an additional, and or different set of criteria, from that typically focused on for attracting traditional manufacturing industry.

Research of the bio-life science and high technology sector's site location decision making process confirms the importance of Quality of Life (QOL) and Place of Choice (POC) in this sector's development planning. The following information is taken from an APA Report on **Parks and Economic Development** by John Crompton, Professor, Texas A & M, in the School of Recreation, Park, and Tourism Sciences.

> The bio-life science and high technology sector is known as a "footloose Industry" as they are often not as constrained and more flexible in their choice of location compared to traditional manufacturing industry. These smokeless industries are not tied to a natural resource base, transportation network, energy source, market, or a large labor pool necessarily in order to "manufacture their product". Their "product" is INNOVATION; to make their product – they need to be able to attract and retain the "best and the brightest".
>
> This difference affects the priorities these companies and entities have when considering their site location decisions. Quality of Life and Place of Choice are at the top of their decision making criteria list. Quality of Life consists of a range of factors including quality of the education system, quality and cost of housing, public safety, community infrastructure, and parks and recreation and public open space/Place of Choice. When considering these subcomponents of QOL,

parks/recreation and public open space/Place of Choice rank high in general for this sector and are at the top of the list for the smaller, and, or start up, companies.

Lafayette – West Lafayette, Tippecanoe County, and Purdue University are working effectively to address many of these QOL factors. Place of Choice/public open space, however, are factors that have not been prioritized within the local economic development effort. Corridor enhancement provides an excellent opportunity to create this quality sense of place and position Lafayette – West Lafayette as a Place of Choice to attract and retain the leadership and workforce of the B-LS and HT sector.

Clearly there are other factors along with QOL/POC that are considered in the site location decision making process. Technical knowledge/expertise/resources and infrastructure, along with solid general economic development planning and resources are examples of Purdue University and LWL working successfully to address other important economic development factors, and they are strengths in the local economic development effort. Where we are weaker than our competition is in creating a unique Place of Choice with a high Quality of Life that can attract and retain the B-LS & HT leadership and work force to want to live and work in LWL. Our competition extends beyond Indiana, and includes other existing and potential centers for B-LS & HT research and industry across the nation. We must conduct our economic development efforts from within this national (even international) context in order to capitalize on the success Purdue University and LWL have achieved to date. These strengths are bringing success now, but can this success be sustained as these start - up companies grow by retaining this growth locally? Can we achieve the national/international level of economic "wins" that Purdue University's technical and research infrastructure is capable of, and it has begun to achieve, with out developing a first class, unique Place of Choice in LWL? These are important questions that must be considered as a part of LWL's and Purdue University's long range economic development planning efforts.

Assessing LWL, the WRC is its most viable community resource, with the greatest potential to improve Quality of Life, and create a unique Place of Choice. It provides a unique natural environment with significant social history, coupled with strategic potential for mixed use development. The corridor is currently under – developed in the LWL urban core. These factors provide LWL and Purdue University with the opportunity to create a Place of Choice built around an enhanced Quality of Life that is first class when taken with all of the other factors present locally.

Enhancing the WRC is a large, complex and costly endeavor. It can not be accomplished solely through local resources. It will take prioritization of public and private sector resources at the local, regional, state, and national levels along with strong support from all levels of government to achieve this goal.

It is important to understand the significance QOL and POC have on achieving successful sustainable economic development. Quality parks, recreation, and open space are essential components present in communities judged to have a high Quality of Life and exhibiting a unique Place of Choice. To provide and improve QOL, and create a vibrant

POC, economic development must include as central components in the overall economic development strategy goals to provide, improve, and maintain quality parks and open space (natural and built) that tie in with economic development based on principles of sustainability.

Improving and maintaining our natural environment must be viewed as a key component of our overall economic development strategy. Strong economic development must be defined as also being strong environmental stewardship also. It must be built on principles of sustainability to be considered strong economic development.

Summary

Enhancement of the Wabash River Corridor will address federal and state economic development and environmental management goals through accomplishing these goals in this overall project to plan and implement a Wabash River Corridor master plan .
This project will implement sound environmental management strategies as essential components of strong, sustainable economic development as corridor enhancement improves Quality of Life and creates a unique, vibrant Place of Choice in Lafayette-West Lafayette that successfully attracts and retains the best and the brightest leadership and workforce in the Bio-Life Science and High Technology in Tippecanoe county, Indiana,, and our nation.

WATER RESOURCES DEVELOPMENT ACT 2008
DRAFT AUTHORIZATION BILL LANGUAGE
21 APRIL 2008

DRAFT WRDA LANGUAGE

WABASH RIVER CORRIDOR ENHANCEMENT PROJECT, INDIANA

Title __, Misc. Provisions

SEC. XXX. Wabash River Corridor Enhancement Project

(a) IN GENERAL.-The Secretary is authorized to conduct a study to determine the feasibility of carrying out a project for ecosystem restoration, recreation, water quality improvement, and bank stabilization of the Wabash River in Tippecanoe County, Indiana.

(b) USE OF EXISTING INFORMATION AND MEASURES.-In preparing the study under subsection (a), the Secretary shall use, to the maximum extent possible, information obtained from:

(1) Two Planning Assistance to States studies for the City of Lafayette and for the Wabash River Corridor, conducted in 2007 and 2008; and

(2) The Wabash Riverfront Master Plan study conducted by the Lafayette Urban Enterprise Association, a non-Federal interest.

OPENING STATEMENT OF
THE HNORABLE RUSS CARNAHAN (MO-3)
WATER RESOURCES AND ENVIRONMENT SUBCOMMITTEE
TRANSPORTATION AND INFRASTRUCUTRE COMMITTEE

Hearing on
Proposals for a Water Resources Development Act of 2008

Wednesday, April 30, 2008 2:00 PM
2167 Rayburn House Office Building

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Chairwoman Johnson and Ranking member Boozman, thank you for holding this hearing to discuss proposals for a Water Resources Development Act.

As you are aware Congress passed the first reauthorization of the Water Resources Development Act in seven years last year. This reauthorization was much overdue as the passage of WRDA last year enabled my home state of Missouri and others to move forward with critical infrastructure projects.

I commend Chairman Oberstar and Chairwoman Johnson's dedication to passing another reauthorization this year as many project authorizations, modifications, and studies that have built up since the reauthorization in 2000. The reauthorization last year was a great first step to addressing this backlog, but there is more that must be done. We are lucky Chairman Oberstar and Chairwoman Johnson recognize the importance of passing another reauthorization this year.

Additionally, I am interested in learning more about the Administration's proposal to make modifications to the funding sources for the Inland Waterways Trust Fund. I am deeply concerned that the Inland Waterways Trust Fund has become depleted over the past several years. In my home state of Missouri, we have two major rivers, the Mississippi and the Missouri. These two waterways are a major contributor to the economy of Missouri. The depletion of funds in the Inland Waterways Trust Fund will prevent the Army Corps of Engineers from making necessary repairs to the locks and dams on both the Missouri and Mississippi Rivers that are vital to effective transport of commercial goods throughout the country, flood protection, and environmental stewardship. Congress must address the funding of inland waterways transportation projects to ensure continued investment in our inland and intracoastal waterways.

In closing, I want to thank our witnesses for joining us today.

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COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
Subcommittee on Water Resources
U.S. HOUSE OF REPRESENTATIVES
U.S. Congressman Jerry F. Costello
Proposals for a Water Resources Development Act of 2008

April 30, 2008
2167 Rayburn House Office Building

Good morning. I want to thank Chairwoman Johnson for calling today's hearing on proposals for a Water Resources Development Act of 2008.

I look forward to hearing from Secretary Woodley on the Administration's proposal to implement a lock user fee. The Administration has been proposing controversial user fees across the transportation industry and they have been soundly defeated each time. I continue to have concerns with raising the costs of shipping goods, given the amount of congestion on our roads, the capacity crunch on our rail lines and the high cost of fuel.

Water infrastructure projects help to restore and enhance the Nation's environmental and water infrastructure. Further, they provide vital public safety and economic benefits to our constituents. Finally, I have submitted projects and look forward to working with Chairman Oberstar and Chairwoman Johnson as we move forward in crafting a final bill.

Thank you.

Statement for the Record of the Honorable Doris O. Matsui
House T&I Subcommittee on Water Resources
Hearing on Water Resources Development Act
Wednesday, April 30, 2008
Approximate Time: 2 minutes

M. Chairman, I am very pleased to be here today. Thank you for calling a hearing on such an important issue. Since coming to Congress I have made protecting my citizens from flooding one of my top priorities. I am encouraged that the Committee is further examining this issue.

I am also thankful that this committee has such tremendous leadership. Both Chairman Oberstar and Chairwoman Johnson have been leaders and advocates for flood protection. Thank you both. And congratulations to Mr. Boozman on your new leadership position.

My district sits at the confluence of two great rivers. Sacramento is considered to have the highest flood risk of any major metropolitan city in the United States. More than 440,000 people...110,000 structures...the Capitol of the State of California...and up to $58 billion...are at risk.

Yet, my district has truly been a positive poster-child in its efforts to bolster our flood control system since our near-catastrophic flood in 1986. We have investigated our levees...planned our projects...assessed ourselves millions of dollars...pushed our state to be a full partner...and begun to build the projects that will get us to a greater than 200 year level of protection. In fact, our latest assessment commits over $400 million of local dollars to this effort. We are fully committed to flood protection.

I am very proud of the flood control work we've accomplished. We know we still have a long way to go...and I am pleased that the Committee is working to bring WRDA bills up as they were designed...every two years.

I am looking forward to continuing the good work we accomplished in last year's bill to continue to increase public safety...provide a comprehensive approach to flood protection...and create efficient policy.

I also want to ensure that we craft policy which recognizes the good work that states...such as California...are doing. When you have a state like mine that is pouring enormous financial resources into flood protection...I want to make sure that the Federal government meets their commitment. We cannot take months and months to review permits while literally tens of thousands of taxpayers are sitting at risk. The Federal government must make sure that it does everything to meet the infrastructure needs of states and does nothing to impede progress.

M. Chairman, I thank you for your constant leadership and your commitment to this issue. I yield back the balance of my time.

1 Harry E. Mitchell

Statement of Rep. Harry Mitchell
House Transportation and Infrastructure Committee
Subcommittee on Water Resources and Environment
4/30/08

--Thank you Madame Chairwoman.

--As you know, water projects are absolutely critical to Arizona.

--With such a limited water supply, our state's economy depends on our ability to reliably and efficiently control our precious resources.

-- In this regard, the Army Corps of Engineers is absolutely critical to Arizona.

--Take the Rio Salado project in my home town of Tempe. It has already become an essential engine of economic development, as well as a signature recreation destination.

--At the same time, the Army Corp is working to restore fragile desert ecosystems lost to development and urbanization.

2

--As a result of last year's Water Resources Development Act, the Army Corps is moving forward with the Va Shlyay Akimel (Va Shi-lay Ah-ki-mel) ecosystem restoration project.

--The project will restore and improve approximately 1,487 acres of habitat, including 200 acres of wetlands, and 24 acres of Sonoran desert scrub shrub.

--Restoration in this kind of urban setting is important because riparian areas represent only 1 percent of the Southwestern landscape, yet 75-90 percent of Western wildlife depends on them.

--In Arizona, over 90 percent of riparian areas have been lost due to impacts from European settlement and urbanization.

--I am grateful for this subcommittee's work on last year's bill, and I look forward to our work on this year's bill.

--At this time, I yield back.

ASSOCIATION OF STATE FLOODPLAIN MANAGERS, INC.
2809 Fish Hatchery Road, Suite 204, Madison, Wisconsin 53713 www.floods.org
Phone: 608-274-0123 Fax: 608-274-0696 Email: asfpm@floods.org

TESTIMONY

Association of State Floodplain Managers, Inc.

before the
House Committee on Transportation and Infrastructure
Subcommittee on Water Resources and the Environment

Proposals for a Water Resources Development Act of 2008

presented by:
Chad Berginnis, CFM, Mitigation Policy Coordinator & Past Chair

April 30, 2008

INTRODUCTION

The Association of State Floodplain Managers, Inc. (ASFPM), and its 26 Chapters represent over 11,000 state and local officials and other professionals who are engaged in all aspects of floodplain management and hazard mitigation, including management, mapping, engineering, planning, community development, hydrology, forecasting, emergency response, water resources, and insurance. All ASFPM members are concerned with working to reduce our nation's flood-related losses. Our state and local officials are the Federal government's partners in implementing programs and working to achieve effectiveness in meeting our shared objectives. Many of our members are designated by their governors to coordinate the National Flood Insurance Program (NFIP), many others are involved in the administration of and participation in the Federal Emergency Management Agency's (FEMA's) mitigation programs, while others are involved in the array of flood loss reduction programs/projects made available through the U.S. Army Corps of Engineers (USACE). For more information on the Association, please visit http://www.floods.org.

While it has only been a few months since the 2007 Water Resources Development Act (WRDA) was passed, it is never too early to look ahead. This past fall, the ASFPM Foundation, in conjunction with the ASFPM held the second Gilbert F. White National Flood Policy Forum which was themed "Floodplain Management 2050." Attendees included engineers, planners, real estate professionals, insurance experts, leading British subject matter experts, and senior agency staff from USACE, FEMA, USGS, NRCS and other entities. The forum challenged attendees to think broadly about the adjustments we will need to undertake to successfully manage flood risk and flood losses in the not-so-distant future. Factors such as population growth, Federal budgets, catastrophic events like Hurricane Katrina, climate change, and transportation / critical infrastructure, were reviewed in light of current constraints and future trends.

A summary is currently being produced and will be available soon, but in the interim, background materials and presentations can be found on the ASFPM Foundation website at http://www.floods.org/Foundation/Forum.asp . Overall, it was concurred that the next 40 years

will be characterized by unprecedented changes in flood risk and a rapid acceleration in threats to vital water based ecosystems. Further, it was determined that based on current water resources policy that the nation is woefully unprepared to effectively deal with these rapidly emerging conditions. As such the ASFPM strongly urges that a 2008 WRDA be a vehicle to start the dialog, investigations, and actions that will adjust water policies based on projections 40 years from now. A future where this nation will add from 100-150 million people to its population, a future where we will have 40% more buildings than we have today, a future where there is a significantly increased pressure to build in high risk areas with attendant pressure on ecosystems. If action is taken now, there is an opportunity for wise land use and sustainable communities. If ignored, our safety, environment, and economy will be undermined.

Thank you for inviting us to offer ideas for a Water Resources Development Act of 2008. The following testimony addresses:

A. Progress Made in the 2007 WRDA and Critical Issues Contained Therein

B. Sliding Cost Share Ideas

C. Eliminating Bias Against Non-Structural Floodplain Management Projects

D. Interagency Coordination Issues with FEMA

E. Utility of Flood Plain Management Services (FPMS) and Planning Assistance to States (PAS)

F. National Water / Flood Hazards Coordinating Entity

A. Progress Made in the 2007 WRDA and Critical Issues Contained Therein

The 2007 WRDA contained three very significant policy provisions – the establishment of a Committee on Levee Safety (which will develop recommendations for a national levee safety program), a requirement to update the *Principles & Guidelines* (P&G) used for USACE project planning, and the establishment of an independent peer review mechanism for project studies.

A national levee safety program is sorely needed. Since the 1917 establishment of the flood damage reduction mission for the USACE, thousands of levees have been constructed. Many of the projects were at least partially USACE funded while some were not. What is now apparent; however, is that many of these levees are nearing the end of their project life and the public has a very poor understanding of the risk of occupying lands they think of as "protected" by these levees. Also, FEMA is implementing a massive updating of its Flood Insurance Rate Maps and is working closely with USACE to identify levees and those that can be certified to provide protection from the minimal 100-year flood event. Given the significant life / safety risks levees pose, it is remarkable that we did not have any comprehensive levee safety mechanism until the 2007 WRDA was passed. We appreciate the Committee's work to include this very important provision in the 2007 WRDA and urge the Committee to ensure that the national Committee on Levee Safety be established and a national levee safety program be developed as quickly as possible.

- **ASFPM believes that a state administered national levee safety program must be fully integrated with state and local programs of flood risk management, especially floodplain management and dam safety, and should use a state delegation model similar to that used to implement the Clean Water Act. State capability in this area is critical and must be developed, utilizing incentives and disincentives for states to accept program delegation and share in this responsibility.**

ASFPM believes that some basic principles that should be incorporated into a national levee safety program. These principles include:

- The Federal government (USACE as lead) should develop the initial levee inventory in cooperation with states, which must collaborate with local and regional entities in their state.
- Any long term levee program must use the states as a focal point. States are the only

entity that has authority to regulate the design, construction, operation and maintenance c levees. The Federal government can encourage those things and offer incentives, but cannot mandate it.

- Incentives must be built into the program to encourage states to undertake levee safety programs in conjunction with their regional and local governments. Monies states spen on effective levee safety programs will result in reduced Federal tax spending for disaste relief. Thus, incentives could consider that appropriate state expenses could be banked against the non Federal share of future disaster costs in that state.
- Guidance must be developed that establishes criteria and definitions for high, moderate and low risk levees in order to set priorities for the assessment and future mitigation actions. These guidelines should be developed by the National Research Council who can engage various experts and should also reflect any scientific findings such as previo National Academies reports.
- The Federal government should not be performing detailed engineering analysis of levee or designing engineering remedies for non-Federal levees. That is the function of levee owners and sponsors.
- The levee inventory and any follow up assessment and levee safety program must be clearly coordinated with related mitigation programs of the USACE and other Federal agencies such as FEMA, NRCS, Bureau of Reclamation, etc. and especially with the flood mapping programs of FEMA. Additionally this program must be done in collaboration with state programs, which in turn must involve regional and local related programs.
- Federal and State policy groups and Boards must be charged with recommending appropriate levee standards for various levees in the nation. Those standards must be improved to use 500 year levees for protecting urban areas and critical facilities. This moves from the current 1% (100 year) standard generally used, which is inadequate for protecting highly urbanized areas or for critical facilities like hospitals, drinking water, fire stations, etc.
- ASFPM finds that future flood losses can be reduced if levees are never used to protect undeveloped land. Levees may be a viable last resort option for mitigating damages to

existing urbanized areas if properly designed, constructed, operated and maintained, but only if proper warning and evacuation procedures can assure protection of lives for those living at risk behind those levees.

The ASFPM, for many years, has requested that *Principles and Guidelines* (P&G) be updated. Specifically, ASFPM is encouraged that Congress identified six areas where P&G must be updated, including the assessment and incorporation of public safety in the formulation of alternatives and recommended plans, the assessment and evaluation of the interaction of a project with other water resource projects in the region or watershed, and the development of assessment methods that use non-structural approaches to water resources development and management. For example, ASFPM believes that Federal investments in levees should not be made for a structure that provides less than 500-year protection (in urban areas) and the Corps of Engineers planning process of maximizing the National Economic Development (NED) should explicitly incorporate this public safety standard as a lower boundary for Federal investment.

- **ASFPM recommends Congress direct the USACE to seek broad input to the P&G changes, especially to seek input from the state partners who are the primary entities with the authority for land use and other measures to reduce flood damages and costs.**

Independent peer review of project planning and post-construction authorization is another element of the 2007 WRDA that ASFPM supports. We applaud the efforts of this Committee for that progress which we all hope will result in better projects. While we were disappointed the final language in the 2007 WRDA was somewhat watered down, it will now be important this Committee ensure implementation of the measures and monitor the effectiveness thereof.

- **ASFPM urges the Committee to closely monitor USACE implementation of the WRDA 2007 peer review process to determine if further changes are needed for an effective process.**

B. Sliding Cost Share Ideas

The ASFPM has long encouraged consideration of a "sliding" non-Federal, cost share for flood reduction projects undertaken by the USACE. To be effective, programs administered by states and local jurisdictions must recognize that managing flood hazards is not solely the Federal government's responsibility. The dominant adverse impacts of flooding are at the local level – therefore, flood reduction is a significant responsibility of state and local governments. Public safety is, in fact, the prime function of local and state government. The ASFPM endorses incentives that recognize and encourage state and local programs that are based on sound practices and that exceed the minimum national flood reduction standards, including the minimum provisions of the NFIP. The benefits of a sliding cost-share include:

- Recognizing and rewarding the building of a community's capability to manage development in its floodplains and watersheds, and thus reduce future flood damages, disaster costs and human suffering;
- Eliminate perverse incentives—Once structural Federal projects are built, communities gain the taxes from development in the "protected" land area. The availability of large Federal cost shares to build the projects, combined with the added Federal relief after a disaster, especially in the form of public assistance to local governments allows locals to gain the benefits, but to "externalize" the costs to the Federal taxpayer. This has seriously undermined state and community actions for taking mitigation responsibility on their own to reduce flood damages and costs. Thus, those communities who did the least to reduce flood damage and flood risk to their citizens are rewarded with Federal relief dollars while those communities that wanted to take action struggled to find funding. Past WRDA bills provided cost shares, but did not reward positive local and state actions;
- Promoting long-term community sustainability by encouraging the implementation of sound floodplain management practices. Communities should not be "rewarded" with a flood reduction project or an even larger share of Federal disaster relief funds if it does little or nothing on its own to, in the long term, reduce its exposure and risk to flooding; and
- Ensuring that Federal tax dollars are carefully spent on long term solutions, where it is

less likely that additional Federal dollars would have to be invested for Operation & Maintenance costs or costs to repair/rebuild/increase the size of flood reduction projects— because of a community's inaction to account for or prevent future increases in flood levels—makes good economic sense.

- **ASFPM urges Congress to eliminate reverse incentives that foster unwise development, and instead to reward wise use decisions by locals and states.**

- **ASFPM believes that a WRDA 2008 should incorporate a sliding cost share for USACE projects whereby communities, and states who are taking advanced measures to reduce flood losses and enhance the natural functions of floodplains are given an incentive through a reduced cost share vs. communities and states who do nothing.**

The ASFPM envisions that a sliding cost share could be based roughly on the framework that is used under the NFIP's Community Rating System (CRS) program, and that the USACE and the FEMA would work together to design and implement such an incentive based evaluation. We support the concept that the determination of the cost share be based on a community's floodplain management program, implementation of existing all hazard mitigation plans and/or floodplain management plans as required by the 1996 WRDA Section 202. Furthermore, it could be measured, at least in part, in a manner that is consistent with the approach outlined in the CRS.

C. Eliminating Bias Against Non-Structural Floodplain Management Projects

Non-structural projects are at an inherent disadvantage to structural flood control projects in the USACE project development / implementation process. There are several areas where this bias should be eliminated.

First, the non-Federal cost share for non-structural projects should be equal to that of

FEMA's cost share for a non-structural mitigation project, and lower than the non-Federal cost share of a USACE structural project. The rational for this is as follows.

- Quite often non-structural projects are lower in cost than their structural counterpart. As such, even though the Federal percentage is higher, the net Federal cost would be the same or lower with this new cost share.
- A significant, unaccounted potential cost to the USACE of a structural project is the cost associated with their failure and subsequent repair after a flood disaster is declared (PL84-99). Non-structural projects do not have the same potential for these types of damages and costs.
- Non-structural projects generally do not transfer flood damages from the protected area to an unprotected area. This practice of causing adverse impacts on other properties should be accounted for and might lead to increased cost to the Federal government.
- Often non-structural projects involve little or no residual risk associated with structural failure or design flood exceedence, which can lead to catastrophic costs to the Federal taxpayers, such as was seen in New Orleans.
- Finally, non-structural projects often promote protection and enhancement of the environmental and recreational outcomes bringing additional benefits to the nation. Inherently non-structural projects are multi-objective versus being single purpose.

ASFPM believes that these benefits individually and cumulatively argue for a differential cost share.

> **WRDA 2008 should establish a cost share for non-structural projects of 75-25 which is equal to what FEMA uses for its non-structural projects.**

Clearly, this concept could be integrated into a sliding cost share strategy.

Second, property/building acquisition projects (non-structural) by the USACE are inconsistent with FEMA programs in a post-disaster environment. In such a scenario, FEMA

allows the community to offer the owner either pre- or post- disaster market value of the property. The USACE can only offer the owner the actual market value of the property at the time of negotiation (post-disaster market value). So, after a Katrina type disaster this means the difference in value of a complete residential property (house and lot), compared to just a vacant lot (because the house was destroyed). This makes similar Federal programs sometimes working in the same community at the same time inconsistent in regard to negotiating with and purchasing property from the owner and discourages flood mitigation. It is very difficult to explain this discrepancy to owners, and it can result in inequities in terms of funds to owners in the FEMA programs versus those in a USACE project. Remember, in all cases the acquisition must be cost-effective to the nation.

- **WRDA 2008 should give the USACE the ability to follow the same acquisition / demolition costing procedures as FEMA if that is most desirable in a particular situation and saves future costs through mitigation.**

D. INTERAGENCY COORDINATION ISSUES WITH FEMA

There are a number of places where policies of the USACE and FEMA intersect. Sometimes those policy nexus results in unintended negative consequences. ASFPM has been involved in numerous national policy dialogues with partner organizations in the past year. These have included the Flood Risk Policy Summit involving 60 experts from many different groups such as homebuilder, realtors, lenders, environmental organizations, academia and others. We co-sponsored this Summit with the National Association of Flood and Stormwater Management Agencies (NAFSMA), with strong support from the USACE and FEMA. The same groups held a National Levee Safety Summit in St. Louis in February 2008, attended by 500, including many levee owners. The following suggestions come from the Flood Risk Policy Summit and the Levee Safety Summit:

- *Public safety must become a default standard in determining the design of and priorities for flood mitigation projects above and beyond the benefit/cost analysis and any other*

objectives in the NED or P&G. We cannot in good conscious be designing and building flood mitigation projects with Federal tax dollars that result in (avoidable) loss of life.

- *Levees must be designed to protect urban areas and critical facilities to the 500 year flood*
- *Federal monies should not place people and structures at risk, nor contribute to the increased flood risk of other structures and people.* Many agencies will spend billions of taxpayer's monies in our efforts to rebuild the Gulf coast. This includes the Corps of Engineers, FEMA, HUD, EDA, EPA and DOT. It is imperative those agencies do not increase flood risk, or cause flood risk to be transferred to others through their actions. Federal Executive Order #11988 directs all Federal agencies to analyze their actions to avoid increasing flood risk as they assist to build, finance or provide technical assistance. We urge this Committee to condition each program authorization on compliance with this Executive Order.
- *Operation and Maintenance (O&M) of flood control structures must be ensured through strong Federal and state oversight.* No Federal assistance for flood control structures should be provided without upfront assurance of financial capability of project sponsors for ongoing O&M of the structure.
- *The O&M requirements of the PL 84-99 program must be tied to the criteria for certifying levees under FEMA's flood mapping program.*
- *Identify residual risk structures and lands that will be flooded when levees fail or overtop; and require flood insurance for structures in those areas.*
- *Integrate planning and program requirements for flood mitigation and water resource planning and projects between the two agencies, using holistic, watershed approaches.*
- *Require a level of protection commensurate with the risk* in the USACE and FEMA programs that map and manage flood risk, especially for flood control structures where the consequence of failure is catastrophic.
- *Flood control structures should not be built with Federal dollars in communities which do not join the NFIP, nor should those communities be eligible for Federal disaster assistance for damage to public infrastructure.*
- *Levees should be considered an option of last resort and used only to protect existing*

communities. Levees should not be used to protect undeveloped land with the speculation new development will be placed at risk behind those levees

E. Utility of Flood Plain Management Services (FPMS) and Planning Assistance to States (PAS)

The USACE's Flood Plain Management Services Program is a Continuing Authority program authorized under Section 206 of the 1960 Flood Control Act. The program provides funding to each district office to provide technical assistance and coordination with States, local communities, Native American Tribes and other entities. Coordination and technical assistance is provided to assure wise use of the nations flood plains for new development and assistance in mitigating future flood hazards.

The program also provides for specific special studies for a wide range of flood related projects. Typical special studies would include flood plain analyses for communities where there is no existing data, flood preparedness plans, hazard mitigation plans and flood mitigation conceptual plans where other USACE programs are not justified. These studies generally promote a more non structural approach to flood hazard mitigation.

Based on discussions with communities there is a huge increase in interest to address flood risk brought on by the Gulf Coast hurricanes. All communities are extremely concerned about reevaluating their flood risk and many are requesting levee certification. This request is important in two aspects. First, as a nation, we do not even have a complete inventory of levees and also do not know the safety level that these levees provide. Second, providing technical assistance with certification of levees in the Gulf Coast and throughout the nation (the State of California is currently facing significant issues with levees and certification and recognizes it needs to accept responsibility to address the matter) will help communities and states determine where future needs are and improve the quality of our nations flood maps. Without counting levee certification the USACE FPMS program needs could be over $20 million dollars in FY 08.

►►**ASFPM urges the Committee to consider a substantial increase in the annual authorization ceiling for this program to at least $50 million in the 2008 WRDA.**

►►**ASFPM urges the Committee to direct the USACE to explore how it can utilize the FPMS program to assist communities and states to evaluate existing levees and assist with certification of them as safely providing protecting to a specific flood level. Additionally the USACE should be encouraged to work closely with FEMA to utilize this information to help develop more accurate flood maps for the nation that reflect the location and safety level of existing levees.**

Section 22 of the WRDA of 1974, as amended, provides authority under the Planning Assistance to States (PAS) program for the Corps of Engineers to assist the States, local governments, and other non-Federal entities, in the preparation of comprehensive plans for the development, utilization, and conservation of water and related land resources. Federal allotments for each state or tribe from the nation-wide appropriation are limited to $500,000 annually, but typically are much less. Individual studies, of which there may be more than one per state or tribe per year, generally cost $25,000 to $75,000.

One innovative use of PAS funds is currently occurring in Ohio where the Huntington District has initiated a project called the Silver Jackets that focuses on comprehensive solutions to flooding issues through the coordination of Federal agencies and pooling of resources. Currently, the City of Marietta is a pilot community which was flooded severely in September 2004 and then again in January 2005. One of the needs identified is to do a comprehensive risk assessment and vulnerability analysis on flood prone structures in the downtown area and suggest some possible non-structural and structural solutions to mitigate against future flooding. It is important to note this effort employs a comprehensive planning process to involve all sectors of the public and is led by the community, with the state and Federal agencies providing assistance.

Every year there are more requests for PAS assistance than funds appropriated, leaving many

needs unmet.

►► **ASFPM urges the Committee to consider an increase in the PAS program's annual authorization ceiling to at least $30 million.**

►► **The ASFPM supports the President's budget for FY 2008 of $10 million for the Corps of Engineers to move forward with its inventory of the nation's levees and their status.**

F. NATIONAL FLOOD HAZARDS COORDINATING ENTITY

Due to unprecedented population growth and the real threat of significant climate change there is real concern as to whether our current programs of flood risk management will be adequate to address these future threats. ASFPM believes the time is ripe for the formation of an interagency task force led by USACE in partnership with all involved Federal agencies and academic partners to lead scenario based planning efforts that forecast and evaluate how the nation should begin to adjust to meet these pending needs. One trend that we cannot ignore – and will eventually be among the most influential is that of limited resources. As our national debt grows along with non-discretionary programs, ways must be found to ensure existing programs work together to achieve a common goal. To that end, such a coordinating entity could also serve to develop and implement national flood loss reduction goals and policies.

►**ASFPM recommends this Committee directs USACE to work with FEMA and other Federal agencies to re-establish the Interagency Floodplain Management Task Force to coordinate Federal agency activities in flood risk management.**

CONCLUSION

Our system of identifying and implementing projects is broken. Outdated statements of Federal interest and lack of funding capability at the Federal level is leading to the creation of a large back log of potential projects that for the most part will never be implemented. This action is providing local officials with a false sense of hope that if they are simply patient enough the Federal government will fix their problem. This process is leading to an inordinate number of studies that while interesting to read will never be implemented. We are navigating towards new Federal partnerships and projects by looking in the rear view mirror. It is time to re-direct our attention to looking forward to the contemporary problems facing the nation. As such we urge Congress in WRDA 2008 to focus heavily on activities that will allow the nation to retool and meet these new challenges vs. adding yet more projects that will not be built.

The ASFPM will continue to work vigorously to reduce flood losses in the United States. All resources must be brought to bear on flooding problems – not just those of the USACE or FEMA. In considering and ultimately adjusting policy oriented provisions in a WRDA, this Committee can take positive steps in reducing our nation's flood losses. ASFPM appreciates this opportunity to testify before the Committee.

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STATEMENT BY

RICHARD N. BROWN

NATIONAL PRESIDENT
OF
NATIONAL FEDERATION OF FEDERAL EMPLOYEES

BEFORE

THE HOUSE SUBCOMMITTEE ON WATER RESOURCES AND ENVIRONMENT OF THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

REGARDING

PROPOSALS FOR A WATER RESOURCES DEVELOPMENT ACT OF 2008

ON

APRIL 30, 2008

Thank you, Chairwoman Johnson and distinguished Subcommittee members for the opportunity to submit the following testimony.

My name is Richard N. Brown. I serve as the National President of the National Federation of Federal Employees, an affiliate of the IAMAW. I am here today on behalf of a union coalition, which includes our union, the IBEW and the IFPTE. Each of our unions represents a significant number of federal lock and dam employees. We have been working together to address a wasteful and unnecessary reorganization of the lock and dam function of the Army Corps of Engineers. We believe this reorganization is nothing more than a continuation of an ill-advised A-76 study that Congress has shut down in years past. In my testimony I will discuss our concerns with the Corps' locks and dams reorganization and also make some recommendations for the Water Resources Development Act (WRDA) of 2008.

Background

In 2005, the Army Corps of Engineers began planning what would have been one of the largest and most expensive A-76 privatization studies ever conducted. In fact, it would have been the second biggest ever in terms of FTEs. Under review would have been approximately 2,000 full-time positions located at over 230 locks and dams across the country. The study would likely have cost tens of millions of dollars to conduct, and would not have ensured any promise of savings.

At stake in this study would have been an absolutely critical piece of our national infrastructure. Our economy is dependent on being able to utilize the 12,000 miles of

commercially navigable channels across the U.S., and the proper functioning of the federal locks and dams are a key component of that capability. The Midwest is particularly dependent on our waterways for the transport of energy resources and the export of agricultural commodities.

The federal locks and dams are also an essential component of our homeland security and defense operations. The navigability of our inland waterways allows the option of rapidly shipping military goods to coastal and inland ports using our nation's rivers. An accident at a lock along one of our river systems could jeopardize our rapid response capability.

Regarding this potential A-76 study, our position has always been that the lock and dam function is too important to our national infrastructure to risk moving this function to government contractors. We also maintain that the work lock and dam employees perform should be classified as "inherently governmental," and therefore improper for a privatization review.

Thankfully, Congress agreed that a privatization study was a bad idea and has defunded the lock and dam A-76 study in the Appropriations process for Fiscal Years 2006 - 2008. In 2006, the Army Corps announced they were no longer actively pursuing an A-76 privatization study of federal lock and dam workers.

While we considered this a good thing for the agency and our nation, the satisfaction was short-lived. The Corps shortly thereafter announced that they would be conducting a High Performing Organization (HPO) reorganization study in lieu of a standard A-76 review. At the current moment, the Corps is in the process of developing

their HPO plan despite being stripped of all funding to implement an HPO reorganization in the Consolidated Appropriations Act for Fiscal Year 2008.

HPO Reorganizations and the Locks and Dams HPO

Before I even begin to discuss the merits of the lock and dam HPO itself, I first feel compelled to ask whether it makes any sense to spend millions of dollars to develop a plan the agency is prohibited from implementing today and possibly for years to come. To me, this seems like a waste of tax-payers' dollars. This money is being spent on consulting fees in Washington, D.C. when it would be better spent going to the districts to start addressing the $1 billion plus operation and maintenance backlog at the agency.

I want to talk a little bit about HPOs. An HPO is a specific kind of reorganization that agencies are increasingly conducting as an alternative to standard A-76 studies. We are not arguing today that the federal government should avoid high performing organizations in the general sense. We are arguing that this specific alternative to A-76, which is termed a "High Performing Organization" by the Administration, is being used as an end-run around the intentions of Congress to carry out the non-strategic privatization agenda of the Office of Management and Budget (OMB) at great cost to the American taxpayer. The most wasteful example of this is the lock and dam HPO currently being planned at the Army Corps of Engineers.

The first thing you should know about HPOs is that there is practically no guidance for agencies to follow in devising their HPO reorganization plans. As much as unions sometimes object to A-76 studies, there is at least an established process in place that Congress is informed about and agency employees can count on. For HPOs no such process or guidance exists. There is no paper trail or Congressional reporting requirement for committees or affected federal employees to follow. In fact, we have been told by the top competitive sourcing officers at the Corps that their entire guidance for the locks and dams HPO is a set of bullet points that fit on one side of a single 8.5 x 11" sheet of paper. This agency is conducting a multi-million dollar reorganization of our critical waterways infrastructure, and yet neither we, nor Congress, know anything about the process they are using. We don't know if their process has a track record of success or even what objectives the reorganization model is designed to meet. We don't know anything, and in our opinion it is wasteful and imprudent to be implementing reorganization models we know nothing about.

The second important thing to know about HPOs is that they are being conducted for all the wrong reasons. OMB gives agencies credit on their management scorecard for competitive sourcing when they conduct an HPO study. These HPO reorganizations are not being used in a strategic sense as they should be. Rather, agencies are arbitrarily conducting HPO studies on functions that have enough FTEs to meet their OMB quota. The only reason agencies appear to be doing HPOs at all is that some agencies can't conduct standard A-76 studies, often because of a limitation placed on them by Congress. Although Congress has repeatedly and emphatically opposed OMB imposing numerical quotas on agencies, it is clear that OMB pressure is

the catalyst for the rise in popularity of HPOs. The locks and dams HPO is a perfect example of this. It is incredibly transparent to us that the locks and dams HPO is the agency's attempt to circumvent the A-76 limitations imposed by Congress and meet arbitrary OMB quotas imposed on the agency.

Another concern about HPOs is the vast size and cost of these reorganizations. Because HPO studies, as internal reorganization efforts, can involve all employees (both commercial and inherently governmental), they are usually larger and more extensive than A-76 studies, and thus can have far more wide-ranging consequences for the delivery of services. Again, the locks and dams HPO is a good example of this. The Corps of Engineers, as stated before, was prevented from doing an A-76 of 2,000 locks and dams employees. After being directed by OMB to conduct an HPO instead, the affected workforce has grown to 3,500 employees and now includes district offices and fleet maintenance personnel as well. By way of comparison, this HPO reorganization now dwarfs the largest A-76 study ever conducted, study of flight service workers, by 1,000 FTEs. The Corps has indicated the locks and dams HPO will take 18 months to develop and five years to implement. These are not mere reorganizations. These are some of the most enormous reforms our government has attempted in decades. And again, they are being conducted non-strategically, using a reorganization model with no track record of success, and they are being paid for out of the existing budgets of the agencies on which they are being imposed.

Recommendations

For all the reasons stated, we would like to see language included in the WRDA of 2008 that would put a permanent end to OMB's attempts to downsize or otherwise alter the locks and dams function of the Army Corps of Engineers. The last three years have indicated that OMB has targeted this function, and we believe they will continue to devise new ways to get around the limitations put on them by Congress, and use agency resources to plan for studies that may never be implemented, if the language is at all ambiguous. Such language is not unprecedented in addressing costly and ill-advised HPO reorganizations. Last year, language was passed in the fiscal year 2007 supplemental appropriations bill (HR 2206) that permanently shut down a major HPO reorganization plan for the Civil Engineering Program of the Coast Guard, a unit of nearly 600 FTEs.

While permanent authorizing language addressing the reshaping of the locks and dams function would be the best solution in our opinion, our coalition would also be supportive of more incremental progress as well. At the bare minimum, we would like to see language in the WRDA of 2008 that would require the Corps to disclose how much money they are spending on HPO reorganizations. In addition, we believe that Congress should have to authorize each HPO before it is implemented. This would give the Congress an opportunity to examine HPOs before they go into effect. If these reorganizations have merit and can withstand scrutiny, then surely they will be swiftly approved.

Finally, in lieu of permanent authorizing language previously suggested, we would like to see language making lock and dam workers "inherently governmental," which would make these positions ineligible for A-76 review. In the 109th Congress, a bipartisan cohort of 55 lawmakers wrote a letter to then-Secretary of the Army Francis Harvey asking him to reclassify lock and dam tasks as inherently governmental. H.R. 5204, the Evans/LaHood bill, was also introduced to address this concern. The Federal Activities Inventory Reform (FAIR) Act statutorily defines "inherently governmental" functions as those that are "so intimately related to the public interest as to require performance by Federal Government employees." These functions include "the interpretation and execution of laws" that significantly affect "the life, liberty or property of private persons." The Department of Army classifies lockmasters as inherently governmental because they make locking decisions and direct lock traffic, thereby significantly affecting the life, liberty and property of private persons. However, even though virtually all lock and dam workers make these same decisions, the agency has refused to classify lock and dam workers appropriately as inherently governmental. Since the Corps has dropped their immediate plans to do an A-76 privatization review of lock and dam workers, this important issue has lost some sense of urgency. Again, the HPO reorganization impacts inherently governmental positions and those classified as commercial alike. However, if the Corps were to renew their plans to do an A-76 study of lock and dam workers, this appropriate reclassification of lock and dam workers would be of the highest priority. We encourage you to consider reclassifying lock and dam workers as inherently governmental in the WRDA of 2008.

This concludes my statement. Once again I thank the Subcommittee for the opportunity to give testimony. I will be happy to answer any questions you may have.

Statement of Stephen D. Little

on behalf of

Waterways Council, Inc.

Before the

Subcommittee on Water Resources and Environment

Committee on Public Works and Transportation

U.S. House of Representatives

April 30, 2008

Thank you for providing WCI with this opportunity to testify in opposition to the Administration's proposed significant tax increase, which is really what the barge lockage fee proposal is, and in support of an approach that we and others believe is far superior to increasing taxes on the barge industry at this time.

First and foremost, no one should be fooled by the label. While calling it a "lock user fee", the Administration proposes to approximately double the amount of revenue that the federal government collects each year from barge companies to support inland waterway system modernization that benefits the entire nation. Someone once said, "if it looks like a duck and quacks like a duck, its probably a duck." The Administration's proposal is a duck…a tax increase pure and simple.

As we understand it, the Administration's proposal would establish a new two-tier, site-based, per-barge lockage tax payable by the applicable towboat operator for loaded and empty barges alike.

Beginning in October 1 of this year, the lock tax would be $50 per barge at sites having a main lock chamber at least 600 feet in length and would increase annually by $10 per barge on October 1 of each of the next three years, reaching $80 per barge for fiscal year 2012 for these sites. For sites with main lock chambers less than 600 feet long, each year the per-barge tax would be 60% of the amount applicable to the larger lock chambers. Beginning January 1, 2013 and continuing for each subsequent year, the lock tax could automatically further increase or decrease for that calendar year by $10 per barge

for the large locks sites and $6 per barge for the second-tier sites based on the balance in the Inland Waterway Trust Fund (IWTF) at the end of the preceding calendar year. If the preceding year's December 31 IWTF balance was below $25 million or if it was less than $50 Million and had declined from the level of the balance one year earlier, the tax would automatically increase for the new calendar year by $10 per barge for the first tier sites and $6 per barge for the second tier sites; if the preceding year's December 31 IWTF balance was more than $75 million and had increased from a year earlier, the lock tax would automatically decrease by either $10 or $6 per barge for the new year based on the tier. The IWTF "balance" is defined as the amount of barge lockage taxes that have been collected, are in the Trust Fund, and have not been made available for obligation or will not become available for obligation for the remainder of that fiscal year, which seems to envision a forward projection or estimate 9 months in the future rather than a simple totaling of the amount in the Trust Fund as of December 31.

As the barge lockage tax is being phased in, the current diesel fuel tax is phased out, dropping to 10 cents per gallon on October 1 of this year, to 5 cents per gallon one year later, and disappearing completely after September 30, 2010.

An exemption to the requirement to pay the barge lockage tax is provided for the Department of Defense, Corps of Engineers, Tennessee Valley Authority, and the Coast Guard.

Forty waterway segments, almost half of which are located in Louisiana and Texas, are added to the existing 27 segments of inland and intercostal waterways that will be subject to the new barge lockage tax, but in a way that does not newly impose the diesel tax on those 40 new segments.

Finally, the Secretary of the Army is given generic authority to determine how to collect the new barge lockage tax, i.e., to "prescribe such regulations as may be necessary to carry out this Act, including the time, manner, and place of payment" of the new tax, with no details in the bill language or accompanying explanatory statement about what that might mean.

Waterways Council is in the process of attempting to understand the ramifications of the Administration's barge lockage tax proposal. In the meantime, some preliminary conclusions are apparent.

It is no secret that the Nation's economy has slowed precipitously and may already be in recession. Congress recently passed and the President signed legislation providing more that $150 billion in federal tax rebates to help stimulate the national economy. The very last thing that anyone should be proposing at this time is a tax increase, which will increase consumer costs and further depress the economy. Yet that is precisely what the Administration's barge tax proposal will do.

Doubling the amount of revenues extracted from the inland waterway industry, as the Administration proposes, will drive commerce off the waterways and onto congested and capacity-constrained highways and railroads, exactly the opposite of what enlightened national transportation policy should seek to accomplish. Included in this testimony at Enclosure (1) is copy of the Executive Summary of a recently-completed study by the Texas Transportation Institute entitled " A Modal Comparison of Domestic Freight Transportation Effects on the General Public". In a nutshell, the study concludes that barge transportation offers significant advantages over truck or rail in terms of cargo capacity, congestion, environmental emissions, energy efficiency and safety impacts. National policy should be incentivizing barge transportation instead of penalizing it as the Administration proposes.

The Administration's barge lockage fee proposal will adversely impact economic interests throughout the country in an uneven and, in some regions, a punitive manner. States like Pennsylvania, West Virginia, Kentucky, Ohio, Tennessee, Indiana, Illinois, Missouri, Iowa, Wisconsin and Minnesota will be particularly hard hit. Some barge companies and the shippers whose commercial products are transported by barge will see the amount of taxes they pay into the Inland Waterways Trust Fund skyrocket. For example, if the Administration's proposed new tax were to be fully implemented, one company whose barges presently transport coal in tows from Cumberland Mine on the Monongahela River in Pennsylvania to a power plant at East Bend, Kentucky, near Cincinnati would see the amount of IWTF-bound taxes they pay for that one-way trip increase more than seven-fold. For another company, a typical movement of corn from St. Paul, Minnesota, to New Orleans, Louisiana, would experience almost a 595% increase in taxes paid to the Trust Fund. And, where chemicals are being moved from Carville, Louisiana to Neville Island, Pennsylvania, the round-trip tax would almost double.

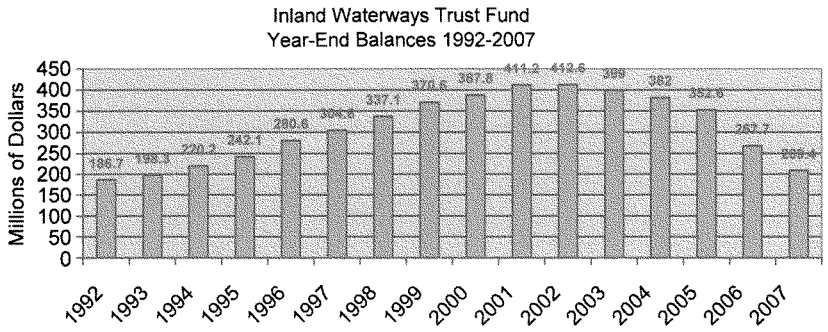
In attempting to raise additional tax revenues to support modernization of the inland waterway system, the Administration proposal seems to proceed from the false assumption that the barge industry is the only segment of the population that benefits from the system. Nothing could be farther from the truth. Forty-six lock-associated dams currently produce hydropower. Recreation vessels use the system's locks continuously to transit from upstream to downstream locations and vice versa. Without the pools that are created by the dams, those recreational vessels wouldn't be able to use the system at all in certain locations because the water depth would be too shallow to support the vessels' movements. Industrial users draw process and cooling water from the pools created by the system's dams. Municipalities draw drinking water from those pools, and agriculture users draw irrigation water from them. All benefit enormously from the system, yet only the barge industry is expected to shoulder the burden of providing the additional tax revenue that the Administration seeks.

Proposals to raise taxes on the barge industry, such as the one being advanced by the Administration, are based on flawed and misguided premises and should be rejected by Congress. Whether ostensibly justified by arguments related to cost recovery, economic efficiency, equity for taxpayers and competitors, or federal budget deficit reduction, the imposition of new taxes on the barge industry would be counterproductive and contrary to the public interest, as explained in detail by Dr. C. Jake Haulk in "The Case Against Waterways User Taxes and Fees", which is appended to this testimony at Enclosure (2).

Inland Waterway Trust Fund Trends

The Administration in the first sentence of the cover letter that Assistant Secretary Woodley sent transmitting the proposal to the Congress, describes that the proposal is "to address the declining balance in the Inland Waterway Trust Fund (IWTF)." It is true that the IWTF balance is declining. This is a very positive development in WCI's view. Figure 1 illustrates the history of the IWTF year-end balance since 1992. For a few years prior to and including 1992, the year end Trust Fund balance declined due

Figure 1



primarily to the expenditure of construction funds for inland waterway modernization projects authorized in the Water Resources Development Act of 1986 (WRDA 86). However, the balance in the Inland Waterways Trust Fund began to grow in 1993 as, each year, more industry-contributed diesel fuel taxes were added to the Trust Fund than were withdrawn to construct the modernization projects that the IWTF was created to support. Similar to what occurred during much of that time with the Highway Trust Fund and the Aviation Trust Fund, the ballooning balance in the IWTF reflected a government failure to abide by what you, Madam Chair, and your Transportation and Infrastructure Committee colleagues have described in your Views and Estimates Report as "a contract between the government and the user", whereby the waterways industry pays its diesel fuel taxes and, in return, the government pledges to use these receipts to modernize the inland waterways system.

Fortunately, with strong support from Members of this Committee, from your colleagues on the Appropriations Committee and elsewhere in Congress and from the Administration, this situation has been reversed. After reaching a level of $412 million at the end of FY 2002, the balance in the Inland Waterways Trust Fund has declined for five consecutive years, reflecting a renewed commitment to

invest in our Nation's inland waterways infrastructure. Fiscal year 2008 will continue this important positive trend for a sixth year.

While it is a positive development that the surplus in the Inland Waterways Trust Fund is finally being spent more fully for its intended purpose, there are serious questions about whether the projects supported by Trust Fund expenditures are being built in a timely and cost-effective manner. Based on a review of the lock and dam modernization projects which the Corps currently has under construction, it appears that there is a need for and opportunity to achieve significant improvement in how quickly and close-to-budget these lock and dam modernization projects are completed. The need for improvement, however, is particularly evident when comparing the current projects with lock and dam modernization projects authorized a little more than 20 years ago in WRDA 86.

PROJECT DELIVERY COMPARISON

The Inland Waterways Trust Fund (IWTF) began funding modernization of the nation's inland waterway system, including construction and major rehabilitation of locks and dams on the system, with enactment of the Water Resources Development Act of 1986, P.L. 99-662 (WRDA 86). [1] WRDA 86 authorized the construction of seven new lock and dam modernization projects on the inland waterway system, phased in a barge industry diesel fuel tax increase from 10 cents per gallon in 1986 to 20 cents per gallon on and after January 1, 1995, established a cost-sharing formula for the construction of inland waterway navigation and modernization projects under which one-half of such costs would be paid from the IWTF and the other half would be paid by general revenues, and created the Inland Waterways Users

[1] The IWTF was first established by Congress in Section 203 of the Inland Waterways Revenue Act of 1978, which also instituted a barge industry fuel tax beginning in 1980 at 4 cents-per gallon and increasing to 10 cents per gallon in October of 1985. The 1978 Inland Waterways Revenue Act provided that amounts in the IWTF were to be available, as provided by authorization and appropriations Acts, for making construction and rehabilitation expenditures for navigation on the fuel-taxed portions of the inland waterway system. However, while diesel tax payments by the barge industry began in 1980, it was not until WRDA 86 became law and was followed by appropriations acts that began appropriating from the IWTF amounts for specific previously authorized navigation system modernization projects that the industry and the country began to experience the system modernization promised in WRDA 86.

Board to make recommendations to the Secretary of the Army regarding inland waterways system investment priorities and spending levels.

WRDA 86 Projects

The seven inland waterways system lock and dam modernization projects that were authorized in WRDA 86 were:

(1) Oliver Lock and Dam, Black Warrior-Tombigbee River, Alabama;

(2) Gallipolis Locks and Dam Replacement (now called Robert C. Byrd Lock and Dam), Ohio River, Ohio and West Virginia;

(3) Bonneville Lock and Dam, Oregon and Washington-Columbia River and Tributaries, Washington;

(4) Lock and Dam 7 Replacement, Monongahela River, Pennsylvania (also known as Gray's Landing);

(5) Lock and Dam 8 Replacement, Monongahela River, Pennsylvania (also known as Point Marion);

(6) Winfield Locks and Dam, Kanawha River, West Virginia; and

(7) Auxiliary Lock at Mel Price Lock and Dam, Mississippi River, Illinois and Missouri.

Project construction funding for 1987 was appropriated for Bonneville, Mel Price, Oliver and Gallipolis/Robert C. Byrd. Initial construction funding for Gray's Landing followed in 1988 and Winfield and Point Marion began in 1989. [See Table 1]

Table 1
Projects Authorized in WRDA 86

	Public Law	Authorized Amount ($M)	Construction Begun [1]	Construction Completed [1]	Total Outlays ($M)
Bonneville	WRDA 86	191.0	1987	1994 1993*	348.0 331.6*
Mel Price #2 (Aux.)	WRDA 86	220.0	1987	1995 1994*	212.6 205.8*
Oliver	WRDA 86	150.0	1987	1996 1991*	123.3 103.7*
Gray's Landing	WRDA 86	123.0	1988	2001 1996*	176.0 172.8*
Point Marion	WRDA 86	82.9	1989	1996 1994*	113.0 107.6*
Robert C. Byrd (Gallipolis)	WRDA 86	285.0	1987	2009 1993*	384.5 320.8*
Winfield	WRDA 86	153.0	1989	2009 1997*	238.6 222.0*

[1] fiscal year
* locks operational

Reasonable Completion Timeframes

Construction for all seven of the WRDA 86 lock and dam modernization projects proceeded at a pace that saw the new/modernized locks, the major fixture in each of the projects, become operational in a reasonable amount of time. As Table 1 indicates, the construction time required to produce a working operational new lock for the WRDA 86 projects ranged from 4 years for Oliver to 8 years for Gray's Landing and Winfield, with the average for all seven projects equaling 6.3 years.

Modestly Increased Completion Costs

Comparing the originally-authorized costs of each project with the actual expenditures for the total completed project (as opposed to expenditures just to make the lock operational), the project construction costs generally increased from the amount authorized by Congress for the project in WRDA 86, though Oliver and Mel Price were notable exceptions. The total cost increase for the seven WRDA 86 projects

was 32.4%, ranging from a 17.8% cost reduction at Oliver to an 82.2% cost increase for Bonneville. [See Table 2]

Table 2
WRDA 86 Projects

	Authorized Amount ($M)	Total Outlays ($M)	Cost Increase (%)
Bonneville	191.0	348.0 331.6*	82.2
Mel Price #2 (Aux.)	220.0	212.6 205.8*	(3.4)
Oliver	150.0	123.3 103.7*	(17.8)
Gray's Landing	123.0	176.0 172.8*	43.1
Point Marion	82.9	113.0 107.6*	36.3
Robert C. Byrd (Gallipolis)	285.0	384.5 320.8*	34.9
Winfield	153.0	237.6 222*	55.3
TOTAL	**1204.9**	**1595**	**32.4**

* locks operational

Projects Currently Under Construction

The Corps' project delivery performance for the WRDA 86 inland waterway system lock and dam modernization projects was far superior, both in terms of cost and completion time, to the project construction completion performance for the inland waterway system lock and dam modernization projects which are currently under construction today, all 5 of which were authorized after WRDA 86 but before the 3-month-old WRDA 07[2]. [See Table 3]

[2] Excluded from this analysis is the Inner Harbor Navigation Canal (IHNC) Lock project in Louisiana because of its unique history and challenges. Including the IHNC project in this analysis would have significantly worsened the current-project performance figures shown in tables 3 and 4 of this paper. Also not included in this analysis of current projects is Chickamauga Lock and Dam, which was only recently authorized and is only 16% complete as of the beginning of calendar year 2008.

Table 3
Projects Authorized Post-WRDA 86

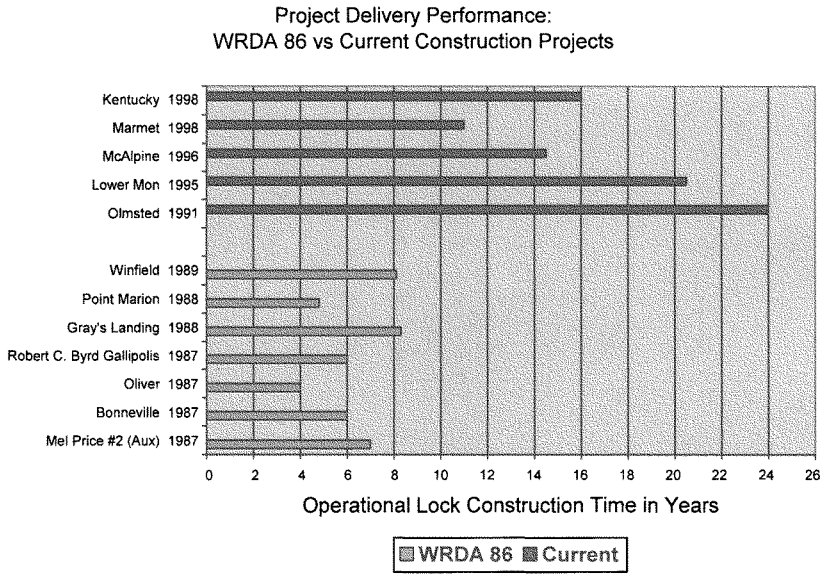
	Public Law	Authorized Amount ($M)	Construction Begun [1]	Original Completion [1]	Current Completion Est. [1]	Current Cost Estimate ($M)
Olmsted	WRDA 88	775.0	1991	2006	2015	2100.0
McAlpine	WRDA 90	219.6	1996	2002	2009	430.0
Lower Mon	WRDA 92	556.4	1995	2004	2016	975.0
Kentucky	WRDA 96	393.2	1998	2008	2014	664.0
Marmet	WRDA 96	229.6	1998	2007	2009 2008 *	406.0

[1] fiscal year
* lock operational

Lengthy Completion Delays

The estimated time required to complete the post-WRDA 86 lock and dam modernization projects has ballooned far beyond the time required to deliver operational locks for the predecessor WRDA 86 projects. Only one post-WRDA 86 project thus far has seen its modernized lock become operational, and that occurred at the Marmet project just a few months ago. The Olmsted project, which was originally projected to be completed two years ago, is now not expected to be finished, at best, until the year 2015, a 24-year construction period. Similarly, and almost as disappointing, the Lower Mon project already has been under construction for 13 years and the Corps' current estimates indicate that the project will not be complete, at best, for another 8 years. If current Corps estimates hold for all 5 of these post-WRDA 86 projects, the shortest construction period for any of the projects will be Marmet's 10 years (measured to when the new lock becomes operational) and the average time to complete all 5 will be almost 17 years (measured to the date of total project completion). Figure 2 illustrates how the projects currently under construction compare with the WRDA 86 projects in terms of construction completion times.

Figure 2



Unacceptable Cost Escalation

As Table 4 illustrates, the post-WRDA 86 lock and dam modernization projects have experienced serious escalation in the estimated costs required to complete the five projects, far in excess of what was experienced with the WRDA 86 projects.

Table 4
Current Projects

	Public Law	Authorized Amount ($M)	Current Cost Estimate ($M)	Cost Increase (%)
Olmsted	WRDA 88	775.0	2100.0	171.0
McAlpine	WRDA 90	219.6	430.0	95.8
Lower Mon	WRDA 92	556.4	975.0	75.2
Kentucky	WRDA 96	393.2	664.0	68.9
Marmet	WRDA 96	229.6	406.0	76.8
TOTAL		**2173.8**	**4575.0**	**110.5**

Where the seven WRDA 86 projects experienced a 32.4% total cost increase when comparing the construction cost Congress authorized for each project with the amount actually spent to build each of the projects, the five post-WRDA 86 projects are currently estimated to require a total of 110.5% more than Congress authorized to complete the projects' construction. Olmsted is the project whose cost has skyrocketed the most, having a current estimated completion cost that is 271% -- more than 2 and-one-half times – the $775 million construction cost that Congress originally authorized. Somewhat surprisingly, McAlpine and not Lower Mon is the post-WRDA 86 project with the next highest cost escalation, a 96% increase (almost doubling), though Lower Mon and Marmet are not much better than McAlpine, each experiencing approximately a 75% cost increase. Of the WRDA 86 projects, only Bonneville's 82% cost increase was at all comparable to the cost escalation being experienced by the post-WRDA-86 projects.

Clearly, something is seriously wrong with the way that construction of inland waterway lock and dam modernization projects is currently proceeding today! If the current projects had proceeded at the same 32.4% cost escalation rate that was experienced for the WRDA 86 projects, instead of the total 110.5 % cost escalation that has occurred thus far for the current projects, only $350 million in additional appropriations beyond what Congress has already appropriated through FY 2008 would be required to complete these projects. Unfortunately, only the Marmet project's modernized lock has become operational, and more than $2 billion in additional appropriations are still required to complete these projects.

This is a problem of serious import from the perspective of anyone who cares about how government should perform on behalf of its citizens. It is particularly a problem from the perspective of the Nation's barge companies and shippers, who are being asked to underwrite 50% of this extraordinary cost escalation from the Inland Waterways Trust Fund. One of WCI's members describes the situation this way: "We pay our own diesel fuel taxes fully and efficiently; why is it unreasonable for us to expect that these important projects are built fully and efficiently?"

Madam Chair, WCI believes that this issue of significantly delayed project completion and extraordinary cost escalation is one that cries out for the Committee's attention. We know that this country can do better. Just a few blocks away, the $600 million new stadium for the Washington Nationals baseball team was built from scratch in 22 months. We believe that the Corps still has what it takes to expedite completion of these projects and to contain their costs. It was only 15 to 20 years ago that the Corps demonstrated that capability for the WRDA 86 projects. We believe the Corps still has the capacity today to build these projects on time and within budget.

What's needed, in WCI's view, is an intense, focused effort to examine why it takes so much longer and costs so much more today to do what we were able to do just two decades ago. This effort must identify the structural and process changes, both within the Corps' control and external to it, that are required to "get more project" for the dollars that are currently being contributed by industry and invested in lock and dam modernization. This examination and the implementation of corrective action based on it are required before the waterways industry's taxes are increased to support system modernization.

The Inland Waterways Users Board, the Congressionally-created advisory body whose purpose is to give commercial users a strong voice in the investment decision-making those users are supporting with their cost-sharing payments, has taken a position very similar to WCI's. The Board's unanimous view, communicated in a letter to Assistant Secretary Woodley, is that "Until that is done (we have corrected the inefficient spending and contracting practices of the Corps), you should expect the inland waterway transportation industry to strongly oppose any increase in the revenue we send to the federal government to cover our share of new construction and major rehabilitation projects."

WCI, the Inland Waterways Users Board, and others believe the policy response that is most appropriate at this time in response to circumstances that call for the need to

- identify and implement significant improvements in project delivery performance and cost reduction,
- stimulate the economy,
- maintain the current healthy pace of inland waterway system modernization,

- incentivize increased use of the safest, most environmentally sensitive, and most congestion reducing transportation mode, and
- avoid increasing taxes

is to adjust the cost-sharing regimen applicable to the Inland Waterways Trust Fund. Instead of requiring that one-half of the costs to construct an inland waterway modernization project come from the diesel fuel taxes that the barge industry currently pays into the Trust Fund, WCI recommends that one-fourth of the needed modernization funds be drawn each year from current diesel fuel tax receipts for that year and the remainder be drawn from general revenues. At the current $90-$95 million rate that the barge industry is presently paying into the Trust Fund each year, such a revised cost sharing regimen would support an IWTF-financed annual program in the range of $360-$380 million, approximately the level that the Trust Fund-financed program has reached in recent years.

In fact, when examined in year-by-year increments for the past few years, comparing amounts designated each year in that year's appropriations act for IWTF-funded projects with the barge diesel tax revenues deposited into the Trust Fund the same year, the adjusted cost sharing regimen WCI is recommending is not much different from the actual results we've experienced. See Table 5.

Table 5

Fiscal Year	Appropriations Act ($ Millions)	Diesel Tax Revenues ($ Million)	Percentage (%)
2004	272	90.8	33.4
2005	333	91.3	27.5
2006	379	80.8	21.3
2007	418	90.0	21.5

For example, while the ratio of the amount of annual barge diesel tax revenues to amounts for IWTF-financed projects included in that fiscal year's appropriations act conference report approached 25 percent for fiscal years 2004 and 2005 (33.4 % and 27.5%, respectively), those ratios were actually below 25 percent for fiscal years 2006 and 2007. Our expectation is that the current 2008 fiscal year will

follow the pattern of 2006 and 2007. If this Committee and your colleagues in Congress were to adjust the Inland Waterways Trust Fund cost sharing regimen to reflect more closely the pattern experienced in the 2006-2008 timeframe, as illustrated in Table 5 and our expectations for 2008, say to require only 20 percent of IWTF-financed projects' construction costs to be paid each year from that year's diesel tax receipts, the size of the annual inland waterway modernization program that could be supported without imposing new taxes on the industry would grow to $450-$475 million each year. Waterways Council could certainly support such a change.

Madam Chair and Members of the Subcommittee, it is difficult to overstate how important our inland waterway system is to our Nation's economic, environmental, and general well-being. The Administration's proposed barge lockage tax increase is the wrong approach to address the system's construction funding needs. The proper approach, in WCI's view, is to adjust the Inland Waterways Trust Fund cost sharing regimen such that the current amount of barge diesel tax receipts each year will be sufficient, without the imposition of new taxes on the industry, to continue the current annual level of system modernization that we have reached in recent years. If you make the adjustment we are seeking, every American who turns on a light powered by the electricity that was generated by the coal that moved on the inland waterways, who eats in the morning the bowl of cereal that was made from the grain that moved by barge, who drives a car because of the fuel that was transported by barge will benefit from what you've done.

Thank you again for the opportunity to present this testimony on behalf of Waterways Council, Inc. I'd be pleased to respond to any questions you may have.

Enclosure (1)

A MODAL COMPARISON OF DOMESTIC FREIGHT TRANSPORTATION EFFECTS ON THE GENERAL PUBLIC

EXECUTIVE SUMMARY

November 2007

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for
U.S. DEPARTMENT OF TRANSPORTATION
MARITIME ADMINISTRATION
and
NATIONAL WATERWAYS FOUNDATION

DISCLAIMER

This research was performed in cooperation with the U.S. Maritime Administration (MARAD) and the National Waterways Foundation (NWF). The contents of this report reflect the views of the authors, who are responsible for the facts and the accuracy of the data presented herein. The contents do not necessarily reflect the official view or policies of MARAD or NWF. This report does not constitute a standard, specification, or regulation.

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The authors also wish to acknowledge the involvement and direction of the Advisory Panel established for this project:

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BACKGROUND

This report examines many of the same aspects as the 1994 Maritime Administration report, "Environmental Advantages of Inland Barge Transportation", but using more current data, and—in some cases—new data sources.

The following topics areas were covered in this research:

- Cargo capacity
- Congestion
- Emissions
- Energy efficiency
- Safety impacts
- Infrastructure impacts

The analysis is predicated on the assumption that cargo will be diverted to rail or highway (truck) modes in the event of a major waterway closure. The analysis considered the possible impacts resulting from either a diversion of 100% of the current waterborne cargo to the highway mode OR a diversion of 100% of the current waterborne cargo to the rail mode.

This report presents a snapshot in time in order to focus on several vital issues. The data utilized in this research are publicly available and can be independently verified and utilized to support various analyses. Further detail about the information contained in this summary can be found in the full project report.

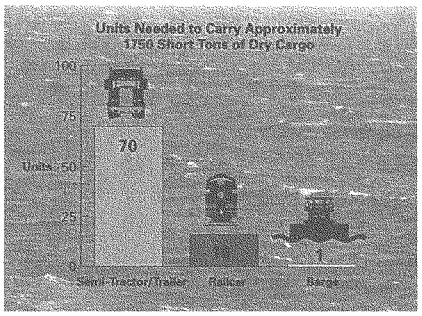
CARGO CAPACITY

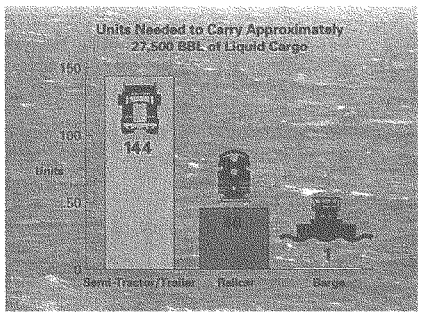
The "standard" capacities for the various freight units across all three modes used in this analysis are summarized in the following table.

Standard Modal Freight Unit Capacities.

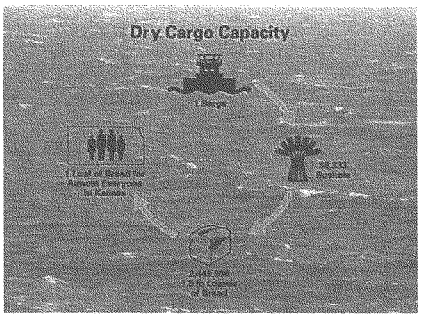
Modal Freight Unit	Standard Cargo Capacity
Highway – Truck Trailer	25 tons
Rail – Bulk Car	110 tons
Barge – Dry Bulk	1,750 tons
Barge – Liquid Bulk	27,500 bbl

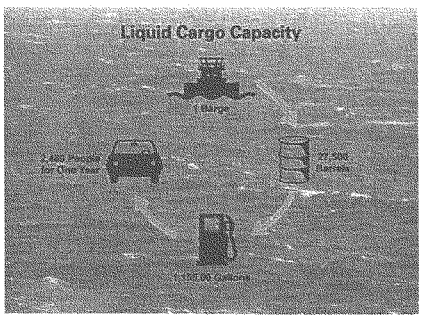
The following figures illustrate the carrying capacities of dry and liquid cargo barges, railcars, and semi-tractor/trailers.





It is difficult to appreciate the carrying capacity of a barge until one understands how much demand a single barge can meet. For example, a loaded covered hopper barge carrying wheat carries enough product to make almost 2.5 million loaves of bread, or the equivalent of one loaf of bread for almost every person in the state of Kansas. A loaded tank barge carrying gasoline carries enough product to satisfy the current annual gasoline demand of approximately 2,500 people.





CONGESTION ISSUES

HIGHWAY

The latest national waterborne commerce[1] data published by the U.S. Army Corps of Engineers Navigation Data Center were obtained for calendar year 2005. The tonnage and ton-mile data for the following major rivers were extracted:

- Mississippi River - Minneapolis to Mouth of Passes
- Ohio River
- Gulf Intracoastal Waterway (GIWW)
- Tennessee River
- Cumberland River
- Columbia River system – Columbia and Snake rivers

The amount of cargo currently transported on these rivers is the equivalent of 58,000,000 truck trips annually that would have to travel on the nation's roadways in lieu of water transportation. The hypothetical diversion of current waterway freight traffic to the nation's highways would add 1,160 combination trucks (to the current 874) per day per lane on a typical rural interstate. The percent combination trucks in the Average Annual Daily Traffic on rural interstates would rise from the current 16% to 31%, or almost double. This increase in truck trips would cause the Weighted Average Daily Combination Trucks per Lane on segments of interstate between urban areas to rise by 33% on a nationwide basis. The impact in the vicinity of the waterways considered in this study would logically be much more severe than the national average, especially during the heavier truck travel periods of the year, month, week, or day.

RAIL SYSTEM CONGESTION IMPACTS

The tonnage moved on the inland river system would amount to an addition of nearly 25% more tonnage on the railroad system. This new burden would not be evenly distributed. The primary burden would be placed on the Eastern U.S. railroads with little real opportunity to take advantage of excess capacity that may exist on the Western U.S. railroads.

EMISSIONS ISSUES

The emission comparison between the three modes is shown in the following table.

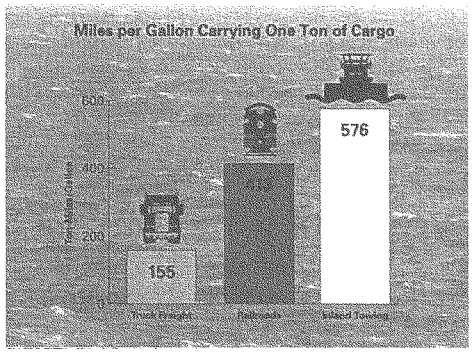
[1] U.S. Army Corps of Engineers. Navigation Data Center. Waterborne Commerce of the United States 2005.

Summary of Emissions - Grams per Ton-Mile.

Emissions (grams/ton-mile)				
	HC	CO	NO_x	PM
Inland Towing	0.01737	0.04621	0.46907	0.01164
Eastern Railroad	0.02419	0.06434	0.65312	0.01624
Western Railroad	0.02423	0.06445	0.65423	0.01621
Truck	0.020	0.136	0.732	0.018

ENERGY EFFICIENCY

The following figure presents the average fuel efficiency results for each of the modes on a national industry-wide basis.



The marine fuel efficiency rates are based on TVA energy consumption data; the railroad efficiency rates are based on an analysis of railroad industry, Surface Transportation Board (STB), and Security and Exchange Commission (SEC) data; and truck efficiency rates are based on EPA MOBILE6 data.

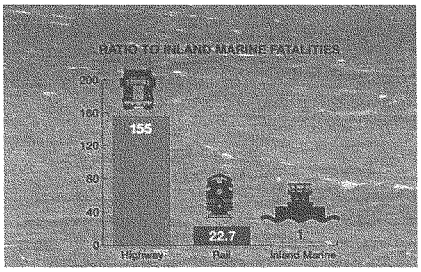
SAFETY IMPACTS

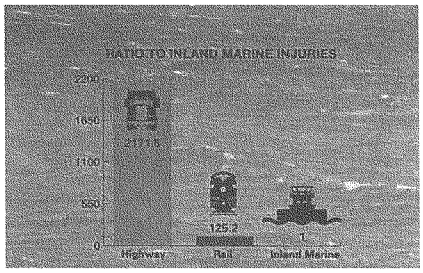
FATALITIES AND INJURIES

Both rail and truck statistics include incidents involving only vehicular crashes or derailments. However, the waterborne database reports incidents resulting from a wide variety of causes. In order to conduct a valid modal comparison for this study, a definition of "incident" analogous to the one used in the surface mode data was adopted. Data pertaining only to waterborne incidents

involving collisions, allisions (vessels striking a fixed object), or capsizings were further extracted and used in analysis.

The data for rail fatalities and injuries respectively were obtained from *Railroad Statistics: National Transportation Statistics - 2006, Table 2-35: Railroad and Grade-Crossing Fatalities by Victim Class* and *National Transportation Statistics - 2006, Table 2-36: Railroad and Grade-Crossing Injured Persons by Victim Class.* Data for truck-related incidents were obtained from *Large Truck Crash Facts, 2005*, a publication of the Federal Motor Carrier Safety Administration. The data for waterborne incidents were taken from the *Marine Casualty and Pollution Database, July 2006*, a database that is maintained by the U.S. Coast Guard. The comparisons of fatality and injury rates are shown below.



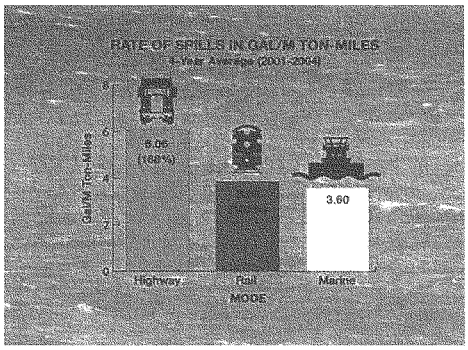


HAZARDOUS MATERIALS INCIDENTS

Data on hazardous materials incidents for rail and truck were taken from the Pipeline and Hazardous Materials Safety Administration's *Hazardous Materials Incident Reporting System, 2001-200.* Data for inland waterway incidents were extracted from the Coast Guard's *Marine Information for Safety and Law Enforcement (MISLE)* system.

Due to the fact that all three reporting systems basically rely on self-reporting, and the definitions of materials that require reporting are very complex, much of the spill data are suspect. However, for larger spills, it seems reasonable to assume that the accuracy of the data improves, due to the severity of the incident and public scrutiny; therefore, the research team decided to analyze only large spills as a measure of the overall safety of the modes in the area of spills. The threshold quantity was set at 1,000 gallons.

The following figure provides a comparison of spills across the modes:



INFRASTRUCTURE IMPACTS

PAVEMENT DETERIORATION

In the event of waterborne freight diversion to highway transport, approximately 2-inches of asphalt would have to be added to the pavement of 126,000 lane-miles of rural interstate given the higher levels of expected 20-year truck loadings, assuming an even truck traffic distribution over the national highway system. Corridors that are parallel to the major rivers considered would undoubtedly receive a higher concentration of the additional truck traffic, and would be impacted to a higher degree than the national average. Other improvements would be required, such as capital expenditures on new construction of infrastructure and facilities such as bridges, ramps, highway geometric features such as horizontal and vertical curves and shoulders, truck stops, service stations, rest areas, weigh stations, and signage. In addition, routine maintenance costs associated with the new infrastructure as well as with the existing, which would be used more heavily, would likely be significantly higher.

RAILROAD INFRASTRUCTURE IMPACTS

With substantial diversion of inland waterway cargo traffic to railroads, the following effects could be expected in almost every case:

- Increased demand for rail cars and locomotives
- Higher freight rates
- Need to expand infrastructure (rail lines)
- Potentially slower and less reliable delivery time

For example, the minimum cost for rail equipment to handle just the diversion Ohio River coal to the CSX rail line is estimated at over $581 million. Furthermore, an additional group of trains would need to be added in order to recover the reduced train trip efficiency from adding so many new train sets to this single route.

A CASE STUDY – ST. LOUIS, MO

A case-study analysis was conducted that assumes closure of the Illinois and Mississippi Rivers in the vicinity of St. Louis, Missouri. The analysis uses the Federal Highway Administration's "HERS-ST" model to estimate the impacts on highway traffic that would accrue. The model results in an over 200 percent increase in truck traffic, an over 400 percent increase in delays, as well as substantive increases in accidents, casualties, maintenance, and emissions costs. The following table highlights the impacts to the general public that would be most notable.

Summary of Significant Impacts - General Public.

Category	CURRENT Initial	DIVERSION FP2			
		w/o Improvements	% Change	w Improvements	% Change
1 Combination Trucks per Lane-Mile per Day*	1218	3736	207	3781	210
2 Average Speed - Peak (mph)	69.9	62.0	-11	65.5	-6
3 Average Speed - Off Peak (mph)	70.8	66.1	-7	70.6	0
4 Delay - Total (hrs per 1000 VMT)	0.07	0.42	466	0.44	495
5 Crashes (annual)	3448	4688	36	4999	45
6 Injuries (annual)	1692	2301	36	2454	45
7 Fatalities (annual)	13	18	36	19	45
8 Maintenance Costs ($ million per 1000 miles)	0.79	1.53	93	1.42	80
9 Emissions Costs ($ per 1000 VMT)**	12.28	16.86	37	18.68	52
10 Improvement Costs ($ million)***	345.0	–	–	721.5	109

* Calculated from HERS Output as: VMT Combination Trucks / (Lane-Miles x 365)

** Value from Current w/ Improvements FP2 output. Cleaner vehicles are expected to be in use 10 years from now, under either scenario.

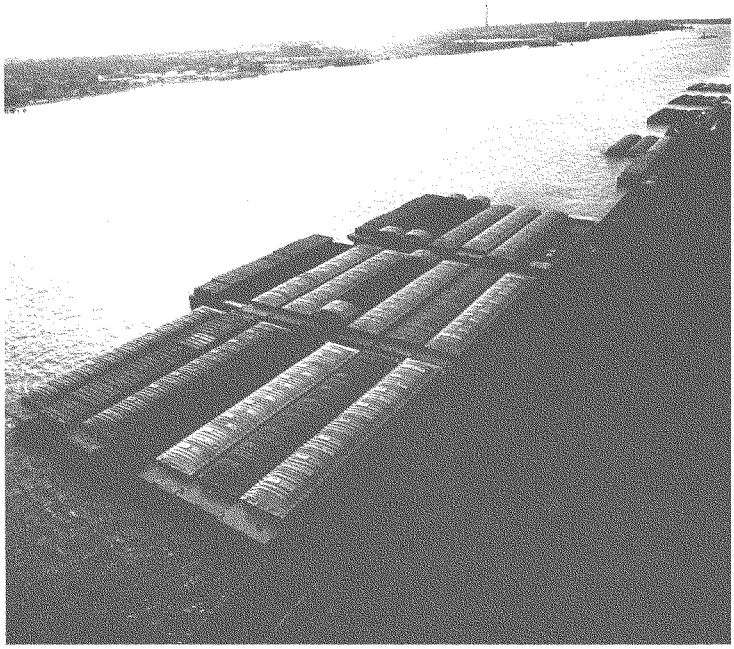
*** Value from Current w/ Improvements FP2 output

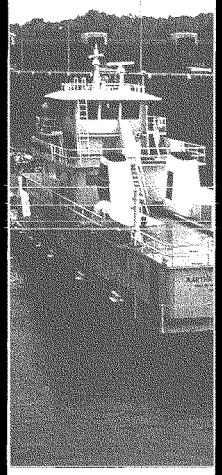
Enclosure (2)

WATERWAYS
COUNCIL, INC.

The Case Against Waterways User Taxes and Fees

Jake Haulk, Ph.D.





WATERWAYS
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The Case Against Waterways User Taxes and Fees

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EXECUTIVE SUMMARY

The U.S. has a vast and highly productive inland waterway system consisting of approximately 12,000 miles of commercially navigable rivers, a highly competitive barge industry, and an extensive array of docking and loading facilities. The inland system carries over 600 million tons of freight per year on hauls averaging just under 500 miles to produce 275 billion ton-miles of freight transport. With its significantly lower cost per ton-mile advantage compared to other modes, freight carried on the inland waterways reduces the national transportation bill substantially. For example, according to a Congressional Research Service Report from 2004 [1, p26], (citing U.S. Army Corps of Engineers data and studies), the Upper Mississippi River-Illinois Waterways system generated between $0.8 billion and $1.2 billion annually in transportation savings for the region in 2000. All this was accomplished with outlays of only $115 million per year for operations and maintenance on the Upper Miss and Illinois systems.

The proposals to raise taxes or impose new fees on the inland waterways users are based on flawed and misguided premises.

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Bear in mind that the Upper Miss-Illinois system accounts for only one–fifth of total inland waterways tonnage. Conservative estimates for the entire waterways system place current annual transportation savings at around $6 to $7 billion and some as high as nearly $8 billion. Those estimates assume there is adequate alternative mode capacity to handle the freight now carried on the waterways, an assumption that almost certainly does not hold. Thus, the estimates probably understate actual savings. In any event, total Army Corps expenditures for construction and operations and maintenance have averaged less than $1 billion annually in recent years, giving a direct economic benefit-to-cost ratio of 5-to-1, far more than enough to justify the government outlays.

Furthermore, the inland waterway system and its attendant infrastructure generate a host of corollary benefits including flood control on some of the system's rivers, stable water supply for municipalities and industrial users, recreation opportunities such as boating and fishing, and regional economic development opportunities that create additional billions of dollars in business activity and resource savings and are not reflected in the 5-to-1 ratio.

For nearly two centuries, public policy provided free access to the nation's navigable waterways. Then in an abrupt change in 1980, the commercial barge industry was saddled with a special fuel tax that rose to 20 cents per

gallon by the mid-1990s. User taxes on the industry were the subject of debate for decades before 1980 and are still controversial. Now, the Administration is proposing to levy additional user charges, perhaps in the form of a lockage fee or a segment (barge-mile) charge. According to comments by an Army Corps official addressing the Inland Waterways User Board meeting in Louisville in July 2007, raising a contemplated $200 million a year would require a $70-per-barge lockage fee or a 45-cent-per-gallon fuel tax [2, p3].

The proposals to raise taxes or impose new fees on the inland waterways users are based on flawed and misguided premises and should be rejected by policymakers. Proponents of waterways user taxes and fees have built their case on four premises. Summarized briefly, these arguments are concerned with (a) cost recovery, (b) economic efficiency, (c) equity for taxpayers and competitors, and (d) Federal budget deficit reduction.

This paper addresses the errors in each of these arguments.

There are four fundamental problems with the arguments for a user tax or user fee. First of all, navigation improvements are classic examples of publicly supplied goods with large fixed costs and extremely low marginal costs of operation. From the standpoint of economic theory, this fact should preclude waterway fees that add to marginal cost of barge operations because such a tax would lead to sub-optimal use of the rivers. Second, waterway improvements generate extensive economic advantages for a broad spectrum of beneficiaries. Indeed, in dollar terms, the barge industry is not even the primary beneficiary of the navigable waterways. Thus, to place user taxes and fees solely on the barge industry in order to recover government expenditures is egregiously unfair and counterproductive.

Recent developments in the theory and policy surrounding transportation modes have focused more intensely on the notion that societal or external costs produced by the various modes need to be accounted for through the imposition of taxes or fees on the various modes. These external costs include congestion, accidents, pollution and noise. Viewed in that light, freight transport on the inland waterways system is far superior on a per-ton-mile basis than trucking or rail.

Third, the attempts to portray waterborne freight as receiving favorable tax treatment relative to railroads and trucking are superficial and on close inspection fail as a rationale for imposing waterway user fees. This line of argument collapses because it does not take

into account either the full range and nature of social and economic costs imposed by the rail and truck industries or the level of support extended by Federal, state and local governments to railroads and trucking.

Finally, the barge industry, with its large number of participating companies, is extremely competitive, which in turn does two crucial things vis-à-vis resource allocation: First, it forces the industry to operate at the lowest possible costs and charge the lowest possible freight rates, given input prices and technology. Second, it promotes the proper level of investment, i.e., it penalizes and ultimately drives out over-investment.

...the maximum possible cost advantages of the inland waterways are passed on to shippers, producers and ultimately consumers.

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In short, the level of competition in the waterborne freight industry guarantees that the maximum possible cost advantages of the inland waterways are passed on to shippers, producers and ultimately consumers.

Viewed under the harsh light of these four economic realities, the arguments for waterway user fees are revealed as totally inadequate justification for levying additional burdens on the barge industry.

The main body of the paper will address each argument in depth. Also discussed is the role played by federal budget problems in intensifying the debate over user taxes and user fees. To round out the paper, there are brief reviews and critiques of the various types of user fees which have been proposed over the years. The discussion also looks at some estimates of the impacts on the industries served by waterborne freight.

Briefly put, this review and analysis of the debate over waterway user fees concludes that the imposition of barge fuel taxes and proposals to impose lockage fees or other waterways user levies are not based on any legitimate or theoretically defensible grounds. Instead, special circumstances, including the need to reduce the deficit, have provided the window of opportunity for advocates of charging waterways users to get a barge tax passed. The crucial point is that the waterways and navigation investments return multiple dollars in economic activity and resource savings for each dollar of federal spending. Thus, there is simply no reason, other than politics, for the Congress to enact more user fees for inland waterways, especially if levying user taxes or fees has the potential of harming the economic productivity of the system.

INTRODUCTION

During the past three decades, the issue of taxing or assessing fees for commercial users of the nation's waterways has been the subject of intense debate. The case for imposing fees on the barge industry has been developed by government and academic economists concerned with deficits, equity and the application of private sector market principles to the public sector. The case against user charges has largely been in the form of ad hoc responses by waterway interests to proposals by several administrations (Democrat and Republican) and Congress to levy such fees. It has become extremely important for opponents of user fees and taxes to challenge the entire set of premises underlying the case for waterway user fees. To that end, this study provides a comprehensive review and critical analysis of the theoretical and political arguments which have been offered in support of user fees. This analysis will demonstrate the flaws in, and misuse of, these arguments.

A Brief Historical Overview

Proposals to impose user charges on commercial inland waterway users have been advanced in various forms for several decades. These efforts were successfully rebuffed until the mid 1970s. During that period, the need to replace Locks & Dam 26 on the Mississippi River became the focal point of a concerted effort by the Administration and Senator Pete Domenici (R-New Mexico) to levy user charges on the inland waterway barge industry. That effort resulted in the Inland Waterway Revenue Act of 1978 which imposed a barge fuel tax and created the Inland Waterways Trust Fund. The tax started at four cents per gallon in 1980 and rose to 10 cents in 1986.

The proponents of user fees viewed this Act as a breakthrough which would set the precedent for future attempts to "recover" Federal outlays on waterways. Persistence on the part of user fee proponents and their ability to block important projects led to the "Hatfield" compromise in 1985, which was encompassed in the Water Resources Development Act of 1986. The Act mandated a barge fuel tax increase to 20 cents per gallon by 1995. In addition, it called for the Inland Waterways Trust Fund to share in the cost of construction and major rehabilitation of inland navigation infrastructure.

Early in 1993, the Clinton Administration proposed an additional $1-per-gallon tax to recover the full cost of inland navigation modernization and maintenance. This proposal was ultimately rejected in the Senate. Undoubtedly, the stunning defeat

for the Administration reflected both the magnitude of the proposed increase and the certain devastation it would have brought to the barge operators.

In 2008, the Bush Administration is once again contemplating additional levies on commercial users of the waterways, with a lockage fee mentioned as perhaps the most likely approach. Those opposed to additional waterway user fees have serious concerns about the negative impacts on the industry if plans for additional levies proceed.

The primary thrust of this study will be to explain the arguments supporting waterway taxes and show why these arguments are inappropriate or deficient as applied to commercial inland waterway users. A second thrust of the paper is to recast the inland waterways debate in terms of a stewardship issue. In addition to addressing the more traditional arguments for waterway user taxes and fees, the report begins with a review of recent developments with regard to external costs and benefits of freight transportation and how they should be incorporated in taxes and fees for the various transport modes.

EXTERNAL COSTS AND THEIR IMPORTANCE TO TRANSPORTATION POLICY

Overarching the traditional discussion of technical details regarding the arguments for user taxes and fees is a fundamental principle that has begun to receive increasing attention in studies of freight transportation both in the U.S. and Europe. That principle says that good policy must address the social costs and social benefits of the various modes of freight transportation. And while presumably the economic efficiency arguments would cover these costs and benefits, most of the work done historically has dealt with the issue primarily as having a purely market-driven solution, wherein by and large only private costs and benefits are examined.

In a path-breaking work, the Transportation Research Board (TRB) in 1996 published *Paying Our Way — Estimating Marginal Social Costs of Freight Transportation* [3], a detailed examination of the external costs each major surface mode imposes. External costs include the costs a transportation provider's actions impose on others through contributions to congestion, accidents, air pollution and noise. A number of studies have been done in Europe addressing these factors as well, including *The Way to Sustainable Mobility – Cutting the External Costs of Transport in 2000* [4].

As noted in the TRB report, "Traditionally the focus of this debate [over costs] has been whether users pay for the services and facilities government provides." However, in recent

years the subsidy debate has been expanded to take into account the external costs of shipping. Indeed, waterways advocates have for many years stressed the importance of the substantial advantage barge transport has over other modes in terms of the external costs produced per ton-mile of freight. The TRB study shows that barge usage has enormous advantages over trucks in terms of externally imposed costs created by pollution, noise and accidents. This is in addition to the major direct shipping cost advantage of being about one-twentieth of the truck costs per ton-mile.

Relative to rail, the barge advantage in external costs per ton-mile is quite a bit less than the advantage compared to trucks, but it is still substantial in terms of noise and accidents, particularly in fatalities per ton-mile and injuries per ton-mile. Direct shipping cost advantage is placed at between 2-to-1 and 2.5-to-1.

Congestion Issues

The one area in the TRB study where barge transport was inferior to rail was in congestion costs. Bear in mind that congestion costs as defined by the TRB study (referenced above) are costs imposed on other individuals or firms. Therefore for TRB, rail is considered to create little or no congestion costs since any traffic tie-ups on the rail lines result in costs borne entirely by the railroad industry. Moreover, to worsen the picture for inland navigation, the report used as its example of waterways congestion, movements along the upper Mississippi and through the known worst areas for backups during peak demand. As a result their findings are not representative of the entire inland navigation system. Indeed, for the most part, congestion presents no difficulties on other major arms of the system unless there is a lock outage for maintenance purposes. Congestion is largely a function of the 20 or so 600-foot locks that cannot accommodate in one lockage a typical 15-barge tow.

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Traditionally, the focus of this debate [over costs] has been whether users pay for the services and facilities government provides.

Not only does the TRB study focus on the Upper Mississippi (the waterway with predominantly 600-foot locks) to examine congestion costs, it uses a queuing theory methodology that requires assumptions regarding traffic that do not closely resemble actual events on the river. There is no doubt that during harvest season there are occasionally long waits at some locks. The National Academy of Science report "Inland Navigation System Planning: The Upper Mississippi River-Illinois

Waterway" [5, p67] of 2000 points out that there is no perceptible pattern to arrivals of towboats at locks throughout the day. For example, on October 8, 1999, at 11:35 p.m. a tow locked straight through one lock. Twenty-four hours later, an arriving tow waited 22 hours in a queue before locking through that same lock. And two days after that, a tow again locked through with no wait.

The point is that for queuing theory to apply, the predicted arrival rate over the course of some period of time has to be relatively steady in order to achieve equilibrium. And it is only at equilibrium that the standard calculations to arrive at wait time and queue length operate. Thus, the TRB study has probably significantly overestimated the external costs imposed on the other tows in the queue. The TRB study estimated that adding one more tow would add 176 hours to the trip through the 20 locks from Lock 6 to Lock 26 for all the other tows in the system, an average of over eight hours per lock. But this estimate makes little sense. What they have apparently actually estimated is the addition to wait time resulting from incrementally increasing the arrival rate by one tow per unit of time. Simply adding one tow to the end of a queue would result in wait time only for that tow.

Still, there is no gainsaying the fact that wait times can be long on the Upper Mississippi. According to the TRB's "Freight Capacity for the 21st Century: Special Report 271" [6, p86], tows on the Upper Miss can expect to experience 30 hours of congestion-induced delay during a 300-hour trip to New Orleans, or 10 percent of total travel time. At 80 gallons of fuel burned per hour, that amounts to 2,400 gallons used while waiting. The report also notes that for 1999 at Lock 25, the last 600-foot lock on the Mississippi between the Twin Cities and St. Louis, 84 percent of all tows experienced some delay with an average wait of 4.5 hours. However, at the next lock downstream, the Melvin-Price Locks with 1,200 foot chambers, the delay averaged one-sixth the delay at Lock 25 while moving 75 percent more tonnage.

Clearly, the lesson here is that the best and surest way to reduce lockage waiting times is to speed the rate at which a tow gets though a lock. And on the Upper Miss, that primarily means extending locks to 1,200 feet – although other non-structural methods have been proposed that could marginally reduce lockage times. However, note that doubling the lock process rate can, assuming a constant arrival rate, cut wait times tremendously. For instance, according to standard queuing analysis, if the lockage time at a 600-foot lock for a 15-barge tow (that must be split into two lockages) is two hours, and a tow is expected to arrive on average every three hours, the

expected wait time in queue is four hours and there would be an average of 1.3 tows in the queue. At the same arrival rate of one tow on average every three hours with a one-hour lockage, the expected wait time for the lock would fall to one-half hour, and the average expected queue would be only one-sixth of a tow long.

That's the magic of increased processing time. And it explains how the delay at Melvin Price is so small relative to Lock 25, even though the tonnage transiting the lock is far higher. And that is one of the major reasons why the Upper Mississippi-Illinois Waterways study by the Army Corps of Engineers has recommended extending lock chambers on the Upper Mississippi and Illinois Waterways.

External Benefits

All transport modes create benefits for the nation and its citizens. They bring goods to the consumer and producers that would not otherwise be available at each location. By making more and more complex linkages available, freight transportation greatly enhances the economy's productive capacity as well as providing the means to get products to end users. To some extent, those benefits are paid for through shipper or carrier revenues. Still, to the degree that economies of scope and scale are created by expanding opportunities for trade, the societal benefit is not necessarily limited to the private welfare of those directly involved in a transaction.

In the case of the inland waterway navigation system, there are external benefits well beyond those normally attributed to being a by-product of transportation. These are created by the navigation improvements on the rivers that provide channels with stable minimum depths, something the rivers do not do naturally. Large variations in water flows over the course of a year can produce very high and very low river levels that in turn make navigation availability unpredictable.

Once the rivers are appropriately dammed and canalized and impoundment reservoirs are in place to help regulate the flow of water in the channels, the resulting stable pools become valuable resources for industry and communities along the rivers. These non-transportation benefits include stable water supply, waste water handling capability, boating and fishing. Another extraordinary benefit to populated areas such as Pittsburgh are the beautiful landscapes that help define the city and have enormous economic and aesthetic benefits for the residents of the area.

There are as yet no definitive estimates of how large the dollar value of the benefits

enumerated above might be. But a way to think about their value is to ponder the costs municipalities and industries would face for stable water supplies if the navigation improvements were not in place and kept in place through maintenance and replacement as needed. Just to get water and sewer treatment discharge serviced could be enormously expensive. Many marinas would be out of business, while fishing and recreational use of the waterways would be dramatically reduced. Industries such as electric utilities or metal processors using the stable water supplies could be forced to move or shut down altogether, obliterating the value of their fixed investments on or near the navigable waterways.

Navigable waterways create huge external benefits beyond the economic benefits of freight transportation that occur.

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In short, navigable waterways create huge external benefits beyond the economic benefits of freight transportation that occur. Other modes simply cannot make the same claim. Thus, if the argument is that the various modes should pay their marginal external social costs, then those payments ought to be reduced by the amount of the external social benefits. In light of the lower external costs imposed by waterways freight transport relative to the other modes, and the far greater external non-transportation benefits created by the navigation infrastructure, why would it make sense to raise the costs of waterways transport by imposing additional fees or taxes? It makes far more sense to encourage as much usage of the waterways as they can handle and, where locks are inadequate and user demand is strong, to upgrade the locks.

Viewed another way, the Federal government's criteria for assistance to and cost recovery from each mode should be based on the contribution to the national well being broadly defined to recognize the true net benefits and costs of each mode. As long as the growth in truck freight and rail freight continues at the rapid rate of recent years – in some areas of the country creating capacity bottlenecks – it simply makes no sense to drive freight off the inland waterways onto land haulers by failing to make the needed improvements in the relatively inexpensive navigation infrastructure or by raising the cost of waterborne freight through more charges or fees such as lockage fees.

Leveraging existing investments

In an important side note here, it should be borne in mind that the dams and canalization investments of past years are valuable,

high-yielding assets that can be made even more valuable by increasing capacity of attendant infrastructure. This is even truer if additional capacity induces waterways traffic growth, producing even greater cost savings and benefits for society at large. Nature has provided the rivers. Foresighted leaders of the past developed and improved the rivers into a system that produces the extraordinarily high return on investment we enjoy today. It is clearly in the nation's interest to maintain and upgrade this system where necessary, thereby leveraging the already high-payoff investments of the past.

TRADITIONAL ARGUMENTS IN SUPPORT OF WATERWAY USER CHARGES

Traditionally, there have been four basic sets of arguments employed to justify imposing taxes, fees or charges on the commercial users of inland waterways. Broadly defined, these issues are (1) cost recovery, (2) economic efficiency, (3) taxpayer and modal equity, and (4) Federal budget deficit reduction. Each of these will be discussed in depth.

With respect to the fourth argument, it is appropriate to note here that in an era of chronic Federal budget deficits, a sense of urgency has developed in the executive branch to examine additional sources of revenue. This is especially true for those Federally provided services that offer opportunities to charge. Thus, the search for revenues has elevated the fervor, if not the intellectual rigor, of the arguments in favor of waterway user charges.

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...leaders of the past developed and improved the rivers into a system that produces the extraordinarily high return on investment we enjoy today.

The importance of the budget deficits and the necessity to reduce them cannot be denied. However, as shall be demonstrated in subsequent discussion, the deficits cannot be attributed to the modest level of expenditures on inland waterway navigation and will not be measurably alleviated by imposing additional user taxes.

Another View of Guidelines for User Fees

Before moving ahead with a discussion of the traditional pro-user charge arguments and a rebuttal of them, it is useful to consider the following viewpoint concerning waterways user fees from the Tax Foundation. In a Tax Foundation Background Paper (no. 33) [7, p5], John Dunham outlines the basic principles that should be used to guide the imposition of user charges for government-provided services. First, "user charges may be appropriate when government is performing a service that narrowly benefits an individual taxpayer..."

and secondly, "user charges may be appropriate to provide market incentives to encourage or discourage the use of public resources." Mr. Dunham points out that these principles are not satisfied when it comes to applying them to the inland waterways. The waterways system benefits large numbers of taxpayers, not just the barge companies, and there is no need to discourage the use of the system.

COST RECOVERY

Generally speaking, there are several acknowledged principles regarding the costs and benefits of publicly funded services. A primary concern for any public project, whether new construction or rehabilitation, is that the benefits deriving from the project equal or exceed the costs. In the broadest sense, these criteria require that all benefits and costs be assessed, including the appropriate discounting of the future streams of costs and benefits.

In a simplified cost-recovery methodology, as long as the total revenues to the government from the taxes on users and beneficiaries are inadequate to cover the costs of the project, the project will not be undertaken. This, of course, is the least complicated ideal version. For instance, in evaluating the feasibility of rehabilitating existing facilities, the decision is complicated by the possibility of large costs required to dismantle or abandon the facility. Moreover, when a facility or project is an integral part of an array of facilities – such as locks and dams on the Ohio River – the evaluation process is substantially more difficult, if not impossible. In short, as applied to inland waterways, the cost-recovery-from-users criteria are hopelessly compromised.

Indeed, before the era of waterway user taxes, the decision to undertake a project was based on a careful and thorough review of the best judgments and analyses about the costs and prospective long-term benefits of the project. Recall that during the first half of the 20th century, when the government actively sponsored a tremendously expensive revitalization of the nation's inland waterways and commercial barge traffic, there was a widely held belief in the immense value the system would provide the country as a whole.

The cost/benefit analyses that guided waterway decisions in the first half of the 20th century concluded that the benefits in the form of induced income growth and the attendant tax receipts, the stabilization of water supplies, recreational opportunities and so on were sufficient to warrant approving the funding of the facilities. Those analyses did not contemplate or factor in revenues raised through special levies on commercial

users of inland waterways. The payback for the government comes through the enhancement of general tax revenues resulting from the expansion of overall economic activity. Note: The increased state and local taxes are not part of the return to the Federal government.

Therefore, as long as the facilities and services are producing the planned level of activities and generating the projected benefits, there can be no after-the-fact justification for imposing user charges to recover costs since the costs are already being recovered through general revenues. Surely, it is incumbent upon those who would use the cost-recovery argument to demonstrate that the facilities are not performing as projected. However, the reality is that such demonstrations are almost never an element in the cases made by proponents of user charges. The reason? The case is impossible to make.

Imposing charges on barge companies well after the construction of waterways and navigation improvements is not only inappropriate, it also creates distortions in the economics of the barge companies who have made long-term investments and strategic plans based on the assumption of no new user charges. In all likelihood, it would also negatively affect the projected benefit flow to the communities that have invested in ports, elevators, docks and loading facilities to accommodate the barges, as well as rail and road connections.

Beneficiaries of Water Transport

In past debates and hearings regarding waterway user fees, one of the points of contention has been the question of who benefits from inland navigation and who should pay for the improvements necessary to accommodate commercial traffic. Opponents of user fees have argued that water transport is a critical step in the overall production process and that ultimate consumers across the country are beneficiaries of low-cost waterborne freight in the form of lower prices than would otherwise prevail. It follows that financing waterway improvements out of general revenues is equitable and proper.

In their response, the proponents of user fees have argued that because the beneficiaries are widespread and it is not possible to identify them sufficiently to collect an appropriate charge for the precise benefits received, transport operators should be charged and the cost passed along in freight rates. According to advocates of this scheme, the ultimate consumers would shoulder some or all of the cost recovery as determined by a market allocation of the costs. Equity concerns would be satisfied.

Furthermore, those who propose waterway user charges point to trucks and railways as examples of freight-carrying modes which must pay for all or part of their infrastructure facilities and services. In this view it is unfair for commercial barge traffic to have virtually free access to navigational improvements.

On the surface, these arguments might appear to have some validity. However, a closer examination shows that they are not persuasive. For one thing, as was pointed out earlier, the original cost/benefit analyses that justified the construction of the navigation resources utilized projected transportation cost savings as a principal benefit of the facility. To tax away the benefit would nullify the original justification for building the facility.

With regard to the magnitude of the economic benefits of inland waterway transportation, some data from the Upper Mississippi-Illinois and the Lower Mississippi systems are quite illuminating. Price-Waterhouse, in a study prepared for MARC 2000 [8], found that these two systems created 61,200 jobs in directly related sectors such as the barge companies, boat builders and the agricultural producers who use the waterways for shipping.

These direct jobs and the $1.5 billion in annual income they produce rippled through the rest of the economy to create an additional multiplier or indirect effect of almost 92,000 jobs and $2.3 billion in income. Total annual business revenues were placed at $11.1 billion. Finally, the study estimates that Federal tax revenues produced as a result of activity related to these systems amount to $518 million in personal taxes and $167 million in corporate taxes for a total of $685 million each year. Another $68 million flows annually into the treasuries of state and local governments.

These findings for the Upper Mississippi-Illinois and the Lower Mississippi systems illustrate the magnitude and importance of the nation's waterways as an economic generator. At the same time, the findings point out the widespread benefits of the navigable waterways – benefits which extend well beyond the transportation cost savings.

In addition to the direct economic effects stemming from navigation activities, there are many other benefits derived from the inland waterways. For the most part, these benefits have the characteristics of a public good, and as such, cannot be taxed in an equitable way. Bear in mind that, without structural enhancements, many rivers are not navigable year-round because of low-flow rates and inadequate water depth. The locks and dams necessary to create a navigable waterway

produce stable pools that perform several important functions. The pools act as reservoirs to maintain adequate water levels that serve as water supply sources for industries and municipalities and provide significant recreational opportunities including boating and fishing, etc. Recreational boating generates its own support infrastructure in the form of marinas, docks, landings and service facilities, including restaurants and lodging facilities along the waterways. Thus, depending on the particular waterway, the wide array of benefits and the economic activity they support – such as industrial factories and electric power plants – could well equal or exceed the dollar value of the transportation cost savings. All this clearly indicates that a complete and accurate accounting of all benefits of navigation projects will yield much greater benefit levels than an accounting which is limited to transportation cost savings.

A fuller exposition of estimates of the value of these corollary waterway benefits will be presented in the Equity Arguments section of this study.

If one takes into full account the extensive benefits derived from navigation investments, then it makes no sense from an economic or public finance viewpoint to try to recover the government's construction and operational costs exclusively from the commercial barge industry. This conclusion is even more valid considering the highly conservative criteria used in the cost-benefit-decision making process.

Replacement and Rehabilitation

After locks and dams have been in place for a number of years, there will have been a buildup of private and public investments such as water intake and treatment infrastructure, docking facilities and electric utilities, along with riverfront residential and commercial structures. These investments stand to lose much or all of their value if the locks and dams are allowed to fall into disrepair or fail altogether. Thus, the decisions about maintenance or replacement of navigation facilities must take into account the prospective loss of property values, industrial sites, jobs, etc., on or near the waterways.

Recap of Cost-Recovery Debate

The foregoing analysis has demonstrated the fallacy and inapplicability of the arguments for taxing commercial barge traffic to recover public expenditures on navigation investment. There is simply no defensible rationale for trying to recover costs of waterway improvements through imposing charges on commercial barge traffic. Briefly stated, the benefits of the waterways are widespread and the yearly returns in the form of economic activity and

revenues for the Federal treasury far exceed the annual costs of the navigation facilities.

CURRENT PROPOSAL OF LOCKAGE FEES

In recent discussions, the Administration and the Corps of Engineers have raised the possibility of adopting lockage fees as a way to get the barge industry to contribute more to the funding of new projects. One proposal getting serious attention has been the idea of charging $70 per barge per lockage as a way to generate $200 million per year. This estimate is from the Tennessee Valley Authority as reported in the July 2007 "Inland Waterways User Board Meeting Minutes" [2, opcit].

There is simply no defensible rationale for trying to recover costs of waterway improvements through imposing charges on commercial barge traffic.

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On close inspection, beyond the Dunham arguments cited earlier, it is clear that this proposal has no merit. Other than generating some revenue, what is the economic justification? There is none. In the first place, on waterways with 1,200 foot locks, there is minimal waiting time for lockage unless there is a lock out of service or operating very slowly because of a mechanical problem. Processing times and man-hours of work to move a 15-barge tow through a lock will not be substantially greater than for a three-barge tow. That is to say, the incremental cost of a lockage is not appreciably different for the two vastly different sized tows.

If $70 per barge covers the marginal cost of a lockage for three barges, or maybe even just one barge, then charging $70 for each of 15 barges represents a serious distortion of optimal pricing theory. Such a tow transiting 20 locks would pay $21,000 in fees compared to just $4,200 for the three-barge tow even though the cost of the lockages is the same. There is no logic or economic theory that justifies such an outcome.

Indeed, the longer locks were built so that larger tows could become the norm and thus take advantage of the boat and engine technology that allows the industry to achieve lower per ton-mile costs in its operations — and thus create greater transportation cost savings for the nation. This has been a primary source of the barge industry's enormous cost advantages in terms of man-hours, fuel consumption and overall costs compared to other modes. By imposing a per-barge lockage fee, much of the industry's advantage goes away. Alternatively, a per-lockage fee would have to be so high, say $1,000, that it would make smaller tows completely uneconomical.

Moreover, it is unclear whether the per-barge fee applies if the barge is empty. If it would,

companies would have to think hard about incurring the costs of moving empty barges within a tow made up of, say, 12 full and three empty. In making the cost of maneuvering empty barges to obtain optimal operating efficiency, the per-barge fee could further undermine the cost advantage the industry has over other modes, especially with the fixed $70 per fee per barge. On the other hand, not charging for empty barges would make no sense either in view of the fact that a tow of 15 barges, whether full or empty, would require the same time and lock operator man-hours to process.

In short, the idea of lockage fees breaks down completely. On a per-lockage basis, the fees would be so high as to greatly diminish the use of small tows, even though they might be the most efficient for some runs. A per-barge fee meets even bigger theoretical objections. Much of the navigation system has been enhanced to accommodate large tows in order to create additional efficiencies and returns on the government's investment in the waterways infrastructure. Charging per barge substantially inhibits the cost advantages of the waterways and destroys the original benefit/cost ratio that justified the construction of the facilities.

ECONOMIC EFFICIENCY

According to accepted basic economic theory, the optimal allocation of the nation's resources is guided by two rules that ensure maximum efficiency. The primary optimizing rule calls for allocating resources to each activity in such a way that society cannot be made better off by increasing or decreasing the amount of resources engaged in each activity. Expressed another way, optimal resource allocation requires that the marginal social benefits derived from employing one more unit of each resource in any activity must equal the marginal social costs of utilizing the last unit of the resource. The second efficiency rule requires that the output of each good or service be produced at the minimum achievable average cost given the current techniques of production.

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...the optimal allocation of the nation's resources is guided by two rules that ensure maximum efficiency.

As for the provision of publicly provided goods, the application of the optimization rules requires that users be charged a price equal to the marginal cost of producing the goods. Of course, for those goods or services which are pure "public goods," a fee cannot be charged because it is impossible to limit access or usage – lighthouses and national defense are classic examples. But for other categories, such as roads, museums, education or garbage collection, the user could theoretically be charged for

service since access and usage can be limited and controlled.

Because locks and dams fall into the second category of publicly provided goods, there have been attempts over the years to justify imposing user charges on commercial traffic in order to achieve economic efficiency. There are two basic arguments supporting these fees. The first assertion is that the absence of a fee encourages commercial barge companies to over-utilize navigation facilities. The second argument is that the lack of waterway user fees gives waterborne freight an unfair cost advantage compared to other transportation modes.

Of course, the issue is how to set a charge that meets the economic efficiency criteria. Therein lies the problem for proponents of waterway user charges. Two insurmountable difficulties arise. First, the optimal resource allocation principle requires that the marginal social cost of providing the service equal marginal social benefits. Therefore, the existence of waterway beneficiaries other than those related to transportation means that all the marginal social benefits cannot be captured through a fee which applies only to commercial barge traffic.

Second, in order to set a fee equal to marginal cost, one has to be able to determine the marginal cost of operating the basic facilities – primarily locks and dams. The problem for user charge proponents is that the costs of construction, as well as the costs of maintenance and operation, are fixed costs. That is, these costs do not vary appreciably with the level of usage of the lock and dam. Thus, beginning with the second lockage, the marginal cost drops to very nearly zero and remains very low for each additional lockage up to the capacity rate. At the same time, the average cost per lockage declines steadily up to the capacity output.

Obviously, in this situation a zero or near zero price is the optimal fee for lock and dam use. In effect, any substantial charge for lock and dam usage would lead to less than optimal use of the facility. From the public's viewpoint, once the investment has been undertaken, the navigation project should be used to the greatest possible extent consistent with safe and non-damaging operations. And, as far as the waterway channels are concerned, the maintenance costs are also independent of the level of traffic. Hence, the marginal cost to the taxpayer of barges using a channel is essentially zero.

More than 50 years ago, Otto Eckstein of Harvard University [9, p189] noted that "the

marginal cost of waterways will usually be a relatively small percentage of average cost since the waterway has to be made navigable and maintained in safe condition to permit any vessel to use it; the addition of any incremental traffic would lead to relatively little extra expense." Nothing has changed that would make that statement any less true today than it was in 1955.

Stated briefly, it is clear that under the standard approach to marginal cost pricing of navigation improvements, there is no economic justification for charging commercial barges for the use of waterways infrastructure.

Alternative Arguments for User Charges

Having been unable to build a defensible case for user charges based on optimal resource allocation principles, advocates have shifted their arguments by (1) attempting to redefine the marginal costs of providing the services of the navigation system and (2) by attempting to justify user taxes to establish intermodal efficiency.

Other conceptual variations of marginal cost [10, p64] of the navigable waterways include (a) marginal cost of a ton-mile of cargo transportation, (b) marginal cost of moving a ton of freight from point A to point B, (c) marginal cost per barge; and (d) marginal cost of adding a specified number of ton-miles to system capacity. The problem with these alternative measures of marginal cost, except for (d), is that they too are all zero or near zero and offer no justification for user fees. The last measure is not concerned with pricing an existing system but instead focuses on the cost of additional investment to increase capacity. As was shown in the discussion of cost recovery, investment decisions are guided by the return on the investment or through cost/benefit analyses. As a result, using the cost of adding capacity is not a viable way to establish user fees.

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From the public's viewpoint, once the investment has been undertaken, the navigation project should be used to the greatest possible extent.

Intermodal Efficiency Proposals

Several user tax proposals have been advanced on the grounds of trying to create intermodal efficiency. The most important schemes as measured by their seminal role in the development of user tax arguments are presented and discussed here. In chronological order, the first scheme is the Hanke-Davis [11, pp54-65] proposal which takes into account the so-called "second best" theory. According to the "second best" rationale, marginal cost pricing in one sector of the economy (waterways) may not be optimal when other related sectors (trucking and railroads) do not base prices on marginal costs.

Following this view, Hanke-Davis argue: "To obtain the proper allocation between modes of transport when ["second best"] conditions exist, prices should be set so that the ratio of prices between modes is equal to the ratio of their marginal costs. This rule suggests that, from an efficiency point of view, a price should be charged for waterway services that exceeds marginal costs." The implication of this assertion is that the government should impose a tax or fee on waterway users to achieve the desired results.

The efficiency improvement, if any, would be limited to the intermodal usage of transport and would lead to a less than optimal purchase of total transportation services. Thus, the "second best" argument for waterway user charges places intermodal efficiency ahead of overall economic efficiency. Shabman [10, p66] notes that attempts to force intermodal efficiency through waterway user charges is actually a back-handed effort to deal with inefficiencies promoted by railroad pricing regulations. Furthermore, the amount of timely, detailed information required to levy an accurate "second best" tax on each of the transport routes where rail-barge competition exists would be extremely difficult if not impossible to obtain. Alternatively, setting a system-wide charge would produce more harm than good.

It should also be noted that, in addition to the tendency of barge companies to operate where marginal cost equals price, the heavy competition within the barge industry leads to a level of operations that eliminates above-normal profits. In other words, the barge industry tends to meet the productive efficiency rule which requires the industry to operate at the lowest achievable long-term average cost. Thus, any significant corruption of the marginal cost pricing mechanism on the waterways by arbitrarily imposing a user tax would also move the system away from the second efficiency criteria and make the industry as a whole unprofitable until it downsized enough to allow price increases to hold while reducing the volume of freight carried.

In a variant of the Hanke-Davis proposal, Vickery [12, pp76 -100], argues that where railroads and commercial barges compete and railroads are pricing above marginal cost, the barge carriers should be assessed a toll in the amount of the excess being charged by the railroads. In his example given in Senate testimony, Vickery argues that if the railroad price is $5 per ton of which $4 is marginal cost and $1 is "intra-marginal residue," then the competing barge company would pay a toll of $1 per ton. Thus, if the barge companies would normally price at a marginal cost of $2, they would have to raise their rate to $3 per ton to remain profitable.

The underlying assumption in this proposal is that the railroads cannot cover their total costs if they set their price equal to marginal cost. If railroads cannot cover costs while pricing at their marginal cost, then one of two things must be true: either the physical plant of the railway is too large relative to market demand or the railroad must depend on its monopoly power to make a profit. For either case, taxing barge companies to improve intermodal competitive efficiency is patently misguided and would prove impossible to carry out in a rational way.

To highlight the absurdity of the proposition, Vickery goes on to argue that the only option to charging waterways is to provide a substantial subsidy to the railroads and then force a reduction of rail rates to equal their marginal costs.

The Vickery proposals – like the Hanke-Davis scheme in attempting to address supposed intermodal competitive problems in which railroads are disadvantaged – will not move the total economy toward an overall more efficient use of resources.

Alternative Pricing of Public Services

The Congressional Budget Office [13], in its review of the subject of service charges, offers two additional alternative schemes for pricing (setting user fees) of Federally provided navigation improvements. In the first scheme, the government would adopt a "Ramsey" pricing mechanism. Specifically, each user would have a price set above their marginal cost by an amount determined by the elasticity of their demand. Firms with very inelastic demand would pay a higher price than firms with elastic demand. In other words, companies with little or no alternative to using the facility or who have perishable cargo would pay a higher price than other firms regardless of their ability to pay. All barge companies are likely to have inelastic demand for navigation facilities in the short run since they have no real alternative and therefore could be hit with large fees.

As the CBO points out, the information about each user that would be required to set appropriate prices in this scheme would be difficult if not impossible to acquire. Then too, discriminatory pricing could lead to unintended shifts in usage patterns that would undermine the projected revenue collection. All told, "Ramsey" pricing, while theoretically interesting, does not offer a convincing or practical rationale for imposing user fees on the waterways.

In their second recommendation, the CBO suggests that average cost pricing be considered as a way of raising adequate

revenues from users of navigation facilities. Charging a fee equal to the average cost of providing the service would ostensibly raise sufficient revenues to recover costs. However, the problem is that facilities having large fixed costs will likely have average costs well above the price most users would be willing or able to pay. As a consequence, average cost pricing would lead to a significant drop in waterways usage, further increasing the average cost. Thus, the whole scheme would be self-defeating.

At the 1993 annual meeting of the National Waterways Conference, Inc., Dr. Robert Stearns of the Office of the Assistant Secretary of the Army (Civil Works) argued that, "in a market economy it is considered a valid principle that the economy works best if the full cost of producing the goods and services is reflected in the price for those goods and services" [14, p4]. This is merely a different way of stating the CBO's average cost pricing recommendation discussed above. The problem with Stearns' premise is that waterways are not provided by the market economy. If navigation improvements could stand a market test, the private sector would have created the system on its own. It is the inherent "public good" aspects of the waterways that led to government investment in the navigation infrastructure for the welfare of the nation. Thus, the test for developing waterways or other government-provided infrastructure has been analysis of costs and benefits of projects.

This brief excursion into alternative pricing schemes shows the lengths to which advocates of user fees will go to rationalize taxes on the waterways. These schemes for taxing waterways users are simply not consistent with efficient allocation of the nation's resources.

Recap of Efficiency Arguments

As was true for the cost-recovery arguments, advocates of user fees on the grounds of economic efficiency have not been able to offer a workable way to impose a user fee that improves efficiency. Essentially, their efforts founder on the reality that navigation facilities have large fixed costs but near-zero marginal costs.

EQUITY ARGUMENTS

The third major group of arguments for imposing user fees on the waterways falls into the category of equity concerns – although the cost-recovery arguments discussed in an earlier section are in part equity related.

Public finance literature offers several guiding principles concerning taxation. The first requires the tax to be predictable in its application and generate stable revenue streams; second, the tax must not distort resource allocation; third, the tax must be

administratively efficient, i.e., the tax must be enforceable, difficult to avoid and inexpensive to collect; and fourth, the tax must be equitable. Equity in a tax means several things. A tax must treat similarly situated payers equally; it must link the burden of the tax to the benefits created by the expenditures funded by the tax. Finally, the tax must take into account the ability to pay.

Proponents of waterway user fees also contend that barge companies should be charged because other modes are taxed and the absence of a tax on waterway users represents an unfair situation – unfair in that business is allegedly being diverted from rail and trucks to water transport owing to low barge-freight rates and on the grounds that no or low waterway tax permits barge companies to make excessive and unjustifiable profits. Finally, it is the contention of some that waterway expenditures result in unfair and unwarranted wealth and income transfers to the areas near the navigable rivers from the rest of the country.

The discussion immediately following will focus on equity arguments. A later section will address the very important questions relating to administrative difficulties and functional effectiveness of the various proposed waterway user fees.

Linking Benefits to Taxes

The principal contention advanced in the "equity" arguments for waterway user fees is the notion that people who derive benefits from a publicly provided service should pay for it. The key to applicability of this concept is the ability to identify the beneficiaries. In the simplest example, the beneficiaries of personal and property protection from police and fire-fighting services are readily identifiable. Thus, the fairness of imposing property taxes proportional to the value of real property to provide protection services is well understood and widely accepted.

In more complex situations, the assignment of benefits becomes extremely problematic. For example, publicly provided education or public health services generate benefits well beyond students in schools or persons receiving immunizations. Total benefits are diffused throughout society and the economy and cannot be precisely attributed or measured. Hence, expenditures of general revenues on these services are broadly viewed as appropriate.

In the context of imposing waterway user fees on barge operators, the underlying assumption is that the barge companies are the primary beneficiaries of the navigable waterways and, therefore, should bear the burden of paying for the waterways. This assumption is erroneous on several grounds.

For one thing – as was pointed out in the section on cost recovery -- there are a vast number of beneficiaries of navigable waterways. The producers and consumers nationwide benefit from the savings of resources required to move the country's goods. That means that prices of final goods are lower than they would be if the navigable waterways were not available. In addition, by providing competition for other modes, waterborne freight helps to constrain the prices charged by other modes, further holding down final goods' prices and adding to consumer well being. Consider that the transportation savings generated by waterborne freight compared to rail transport amounts to a conservatively estimated $6 to $7 billion. Those savings show up as greater profits and higher real purchasing power across the nation.

Moreover, the riverside economic development that has occurred as a consequence of the navigability of the waterways generates billions of dollars in economic activity and tax revenues for the Federal treasury. Away from the rivers, coal mining and grain farming, to name two important sectors, derive substantial benefits from the ability to move their products on the navigable rivers.

Besides the traditional economic advantages that waterborne freight bestows on the nation and riverside communities, there are other substantial benefits from navigation improvements. Prior to the major improvements on the waterways to encourage navigation, the dry seasons could lower stream level and flow to such a degree that passage by all but the smallest vessels was impossible. In the wet season, flooding also limited navigation on the rivers. To make waterborne freight carriage efficient and economically viable, considerable investment was required.

Meanwhile, the stable pools created by navigation improvements provide a predictable and reliable source of water for municipalities and industries near the rivers. Tens of millions of people have an abundant, dependable water supply because of the reservoirs that the dams provide. Billions of dollars in investment in industrial and electric power generation also depend on these pools. For example, during the 25 years of the Ohio Basin modernization, hundreds of industrial installations valued at $63 billion [15, p237] were built along the system's rivers to take advantage of freight rates and stable water supplies. A conservative estimate of annual output from these installations would represent $15-20 billion worth of production per year. The resulting impacts on local, regional and national economic activity and government revenues are in the tens of

billions of dollars per decade – far exceeding Federal outlays on the waterways and a tremendous return on the taxpayers' investment. Similarly, the Federal government spent $1.3 billion on the McClellan-Kerr Arkansas River Navigation System in the late 1960s, and within 15 years of completion over $3 billion of private riverside investment had occurred [16].

The undeniable and inevitable conclusion: the multitude of beneficiaries and the enormous quantity of economic activity and resource savings resulting from the navigable waterways more than justifies the Federal government's expenditures on the waterways. At the same time, because of the national diffusion of the benefits, it is appropriate to levy the tax on a diffused source, namely the income of all those who benefit from the waterways – which includes a majority of U.S. residents.

Obviously, those nearer the waterways are likely to benefit more than those farther away. However, it is impossible to devise a mechanism that can determine how to tax income differentially according to the contribution of the waterways to income. As an analogy, consider that individuals and businesses in an area heavily dependent on defense spending are not asked to pay higher tax rates simply because their incomes are more attributable to government spending than those in other parts of the country. Moreover, there is no interest in or rationale for doing so. Likewise, it is pointless to contemplate differentially taxing the incomes of those who are disproportionately benefiting from navigable waterways.

As for the argument that the navigation investments represent unfair transfers to river communities at the expense of other parts of the nation, there is little to add to what has already been said. Obviously, many projects have been aimed at helping a particular region; for example, Oklahoma and Arkansas were the primary beneficiaries of the McClellan-Kerr Navigation System. However, to the extent that incomes in the region have been lifted and job opportunities boosted, the area is now economically viable, taxpaying and self-supporting. At the same time, however, the bulk of navigation investments have occurred along the large systems of the Ohio Basin and the Mississippi. These systems serve so many states and international port facilities that it is impossible to consider them as geographically limited.

To be blunt, considering the small amounts of money per state or per capita involved, the notion that expenditure on inland waterways is somehow a substantial and unfair transfer of wealth to riverside communities cannot be taken seriously.

In summary, all of the foregoing asserts that as long as the overall benefits of waterways outweigh the costs, there can be no good reason to exact additional revenues from the barge companies. These companies are not the principal beneficiaries of the waterways.

... the economic contributions of the waterways have greatly exceeded the original forecasts of long-term benefits used to justify the projects.

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Indeed, the revitalization of the waterways and commercial barge transport in the first half of the 20th century was not carried out to benefit barge owners but, rather, to engender economic growth and to provide the nation with the explicit advantages generated by waterborne cargo and other corollary benefits of navigation improvements. Those objectives have been more than fulfilled since it appears certain that the economic contributions of the waterways have greatly exceeded the original forecasts of long-term benefits used to justify the projects.

Commercial barges are merely the conduit whereby the resource of navigable streams can be exploited for the general welfare and economic vitality of the nation. The barge industry is extremely competitive, responds quickly to price signals and is relatively easy to enter, thereby ensuring that individual barge companies are unable to earn excess economic profits or rents over the long term from their participation in the industry. Thus, barge operators are not able to generate extraordinary returns on capital which in turn assures that the industry will not attract more than the economically appropriate level of the nation's investment capital. Moreover, because it is so heavily market regulated, the commercial barge industry creates minimal regulatory expense for the government.

Taxing barges for using the waterways amounts to double taxation. Barge companies already pay income tax on any profits they make. Hence, to the extent that barge operators are benefiting from the waterways, they will pay an appropriate tax, as will their employees and suppliers. The predictable effects of levying user fees beyond the normal income tax will be higher freight rates, reduced industry profits or some combination of both.

To conclude, the taxes already being paid by commercial barge companies are directly linked to the benefits they receive from using the navigable waterways, making additional taxes redundant and punitive.

Intermodal Equity Concerns

As alluded to earlier, some proponents of waterway user fees complain that other

commercial transport modes do not have free access to roadways, railways or airways. In the case of railroads, the track beds and right-of-ways are owned and, for the most part, maintained by private companies. As for over-the-road truckers, there are fuel taxes and license fees tied to their use of the nation's highways. And, airlines are charged landing fees by airports to cover construction and maintenance costs.

Why then have barge companies traditionally – i.e., prior to 1980 – been exempt from paying at least part of the cost of providing the necessary navigation services?

The complete answer requires a separate comparison of the barge industry with each of the other modes. Bear in mind that there is a substantial history behind the development of each mode. That history must be taken into account in any mode-to-mode comparison. This report will focus on railroads and trucking because of their closer competitiveness with barge traffic.

Railroads

The fact that railroads do not have free access to rights-of-way – while barge companies traditionally have – is not a serious argument for imposing waterway user fees. First of all, the railroads have exclusive control of their rights-of-ways and derive all benefits stemming from them. Right-of-ways, tracks, roadbeds and rail yards, and other structures have value and can be sold by the company. If a railroad is profitable and has good prospects for the future, the value of its right-of-ways will rise and accrue solely to the railroad. By comparison, barge companies cannot prevent others from using navigable waterways, nor can a barge company claim or acquire any of the increased value of waterways infrastructure that results from commercial usage of navigation improvements. It goes without saying that the government retains all proprietary rights to the waterways and improvements.

Second, the original construction of the track roadbeds required considerable granting of privileges to the railroad companies in the form of grade crossings and other easements, for which the public has not always been adequately compensated. Moreover, several millions of acres of public lands, primarily in the West, were given to railroads for use as right-of-way. These grants included mineral rights which have subsequently proved to be worth billions of dollars. Railroads point out

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Because it is so heavily market regulated, the commercial barge industry creates minimal regulatory expense for the government.

that they have repaid the government by carrying mail and government cargo at no charge or at reduced rates. Whether the value of the repayment approaches the value of the grants is arguable.

Moreover, the forbearance of the public represents a sizable economic transfer to the railroads. Special treatment and privileges given to railroad companies on local taxes, noise, environmental and public safety concerns constitute social costs which the railroads are not asked to repay through fees or taxes. For example, over a recent four-year period, an annual average of approximately 1,000 people were killed in rail accidents with nine times that many injured. In comparison, waterborne freight-related deaths have averaged only 8 per year [17, p40].

At the same time, derailments in populated areas – especially those involving hazardous material leakages – inconvenience and endanger large numbers of Americans each year. Then too, there have been many Federal bailout programs for railroads and the railway pension funds costing well into the billions of dollars. The 2008 Federal budget includes $483 million for railroad pensions. Other programs have been put in place to assist railroads with capital projects.

All this is by way of illustrating the error in the assertion that railroads receive no benefits from the public and are forced to incur all costs privately. The benefits extended to the railroads, including forbearance of external costs, have resulted from public policy decisions which presumably reflected a careful weighing of the economic gains created by the railroads versus the costs of actions taken to support them.

No one would seriously propose that the public attempt to recapture the value of the benefits extended to the railroads. For one thing, it would be virtually impossible to assign a value that would receive widespread credibility. Second, there would be such regional variations from railway to railway that questions of equity would preclude any agreement on how to impose the appropriate levy. And finally, the railroads and their supporters would fight any such attempt with a litany of legitimate and persuasive arguments.

How then, in light of the favorable public treatment of railroads, can it be seriously argued that barge companies should be specially taxed to restore an equitable balance vis-à-vis the railroads? Simply put, in terms of barge-to-rail equity and fairness, it is not possible to make a case for waterway user taxes.

Trucking

Compared to the railroads, long-haul trucking presents a somewhat different set of issues relative to user taxes. In fact, the trucking industry pays an array of special taxes and licensing fees for the privilege of using the nation's highways. Like the barge companies, truckers do not own the rights-of-way they utilize and cannot prevent others from using them. At the same time, however, like the railroads, truckers do impose significant uncompensated social costs in the form of public safety, pollution and so on.

Historically, motor fuel taxes have been levied to recover the costs of highway capital projects, maintenance and traffic control. These enormous outlays, over $110 billion in 2005 [18] by all levels of government, simply would not be practical without substantial dedicated revenue. Moreover, in order to constrain over usage by automobiles and in order to recover costs of damage to roadways, the government is justified in levying user charges such as fuel taxes for automobiles.

But is that a legitimate reason for levying such taxes on common carrier trucks? Presumably, their function is to serve as an intermediate step in production, making trucks the equivalent of barges. How then can a different treatment of trucks and barges with regard to user charges be justified? There are several factors to consider. First and foremost, the very heavy long-haul trucks which criss-cross the nation are extremely destructive of the roads they travel. The damage done to roadways by an 80,000 pound rig can be hundreds of times the damage caused by an automobile [6, opcit]. As an example of how destructive trucks can be, the Pennsylvania Department of Transportation reports that Interstate 79, which was designed to last 20 or more years, has had its usable life reduced to eight years as a result of the 80,000-pound and larger rigs that use the highway [19].

Roadway destruction caused by large trucks traveling in excess of 100 billion miles each year amounts to billions of dollars. In comparison, barge traffic imposes little measurable harm to waterways or navigation improvements. Absent the taxes levied on trucks, the industry would almost certainly increase their use of the roadways, pushing repair costs even higher than they are currently. These costs would have to be covered by auto fuel taxes or general revenues.

The contrast with barges is obvious. Trucks impose large and measurable marginal costs (road damage per mile traveled) on the nation's highways and streets. As required

by the optimizing rules regarding resource allocation, trucks should have to pay a fee based on that marginal cost. Unquestionably, from an economic efficiency standpoint, user charges for large trucks are clearly warranted, a far different situation from waterborne freight.

Heavy trucks share streets and highways with automobiles...which pay a large share of all fuel taxes.

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Moreover, although trucks have traditionally paid user taxes, the industry would never be asked to pay the entire cost of building and maintaining roads. Bear in mind that heavy trucks share streets and highways with automobiles (including vans and light trucks), which pay a large share of all fuel taxes. If trucks were asked to carry the full burden of construction and maintenance of their transportation infrastructure, as user tax proponents have suggested that barge companies ought to do (ignoring the many other waterway users including hydroelectric, recreation, water supply, etc.), the trucking industry would be faced with immensely higher costs. Many routes and hauls would become uncompetitive with railroads and total freight shipments in the country undoubtedly would decline.

Finally, remember that streets and thousands of miles of access roads used by trucks are built and maintained out of the general revenues of local governments. Obviously, local governments have made the decision to provide these improved roadways and allow free access to trucks because of the economic gains that flow from freight being transported on the streets and roads.

Plainly stated, the trucking industry receives heavy support from the taxpayers. However, because of the array of heavy costs imposed by the industry in terms of roadway damage, air pollution, traffic accident injuries and deaths, there is an absolute need to reduce the incentive to use the roadways by long-haul, heavy trucks. This is done by increasing the marginal cost of trucking through user taxes, primarily on fuel and tires.

Recap of Intermodal Equity Concerns

This examination of intermodal equity issues demonstrates the fallacies of trying to justify waterway user taxes under the guise of restoring equity. The enormous quantity of public support extended to railroads and trucking firms is not fully recovered through user taxes for a number of reasons. There should not be a separate standard for the barge industry.

THE FEDERAL BUDGET AND USER TAXES

Over the past 25 years or so, the Federal debt has soared to now stand above $9 trillion, with about $4.2 trillion held in government trust funds or accounts and the remaining $5.2 trillion in the hands of U.S. citizens or foreign bondholders. Net interest on the debt in 2007 reached $260 billion; about 650 times the amount budgeted for lock and dam construction.

Justifiably, concerns about the nation's finances have prompted an examination of the nation's spending priorities. In that light, the past several administrations have begun to examine every item in the budget with an eye toward either reducing the outlays or recovering some of the spending through new user fees.

Waterways have been especially vulnerable to this process because, through most of the nation's history, there had been no charge for their use. Since airlines and the trucking industry face charges for using publicly provided infrastructure, why should barge operators be exempt? More than 20 years ago, Congress was moved by the need to reduce the deficit to the point of recommending taxes for the waterways. Consider the words of Lowell D. Hill, professor at the University of Illinois at Urbana, who wrote in 1982, "In my opinion, user fees have been placed on the barge industry to help balance a growing budget deficit." [20, p5]

Dr. Robert Stearns of the Department of the Army, in remarks to a 1993 waterways conference [14, opcit], stated that "the problem is that paying for the inland waterway system, both the operation and maintenance and the construction, is competing in the Federal budget with a lot of other items and that competition is very, very intense. It competes with health care; it competes with the entitlements programs...deficit reduction creates an even greater sense of competition among the existing programs that the Federal government undertakes." That statement is equally as true today.

Many others have made similar statements. The point is that the pressures brought on by overwhelming budget difficulties have led to poor public policy regarding user taxes. Despite the fact that a viable theoretical case has not been made to support waterway taxes, they were levied anyway, primarily as a means of reducing the deficit.

In a less stressful environment, the appropriate view of Federal expenditures would focus on the payback to the country arising out of each category of spending. That means a careful analysis of the benefits and economic gains likely to flow from each category of expenditures must be carried out. Those outlays that produce large, multiple paybacks

in terms of net contribution to GDP should be treated favorably in the budget. Waterways would easily meet that criterion. To impose distorting taxes on a system that is generating multiple dollars of returns for each dollar spent can only be labeled as misguided.

That is not to say that every proposed waterway investment should be funded. Only those that meet strict cost/benefit guidelines and offer the taxpayer a significant payback should be approved. Certainly, no waterways interest would seriously challenge such a position. Indeed, that was the government's approach before deficit concerns caused Congress to abandon the time-tested and theoretically sound procedures for funding public works.

Federal outlays for navigable inland waterways average roughly $1 billion per year, or less than $3 per resident. Meanwhile, nearly $250 million is appropriated for the arts and humanities: expenditures which have neither a demonstrable economic payback for the taxpayer nor any requirement for beneficiaries to pay user fees. It is undoubtedly possible to find billions of dollars in outlays for other programs of dubious or immeasurable benefits whose costs cannot be recaptured through user fees.

Expenditures on waterways represent less than four-hundredths of one percent (0.00037) of the Federal budget. Thus, if the outlays were eliminated altogether, or could somehow be completely recovered through user taxes without crippling the barge industry, it would not reduce the deficit by a meaningful or perhaps even detectable amount. To place the waterways expenditure in perspective, consider that a little more than one-tenth of one percent reduction of Federal health care outlays of $700 billion in 2007 would cover the combined construction and O&M spending on the inland waterways system.

It is simply penny-wise and pound-foolish to be so concerned about the comparatively trivial amount spent on waterways infrastructure and to use so much manpower and time studying and debating whether to try to recoup some of the Federal dollars through taxes or fees. This is especially true considering the vast array of external social benefits produced by the inland navigation infrastructure and the very small level of external costs imposed by waterways transport compared to other modes.

Some have been willing to suspend time-tested methodologies for budget decisions and attack an important income- and wealth-producing capability simply because it is politically expedient. Obviously, special interests served by social programs are large, vocal

and politically powerful groups. In comparison, the barge industry is tiny. Nonetheless, it needs to be remembered that user taxes and fee levies on the barge industry as well as skimping on needed infrastructure outlays are not in the long-term best interests of the nation's economic or fiscal health.

Before further proposals of still higher user fees are made, it is important that proponents be asked three questions: First, absent concerns over the Federal government's finances, would legislating waterway user fees be a key public policy issue? Second, is there any evidence that waterway user taxes have made a dent in the deficit? Third, how much damage to the productivity of a crucial component of the nation's transportation network are we willing to risk with additional tax or user fee levies?

Recap of Federal Budget Concerns

To sum up, attempts to deal with deficits through special taxes on the barge industry are misguided and futile and are a distraction that takes away from meaningful and credible deficit-reduction efforts. It would represent a very positive step to return to the time-tested procedures for evaluating government appropriations for public works and abandon the time-consuming and often rancorous debate over taxing users of projects that have been built for the general welfare of the nation.

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User taxes and fee levies on the barge industry ...are not in the long-term best interests of the nation's economic or fiscal health.

TECHNICAL ISSUES OF USER TAXES

According to the public finance literature, there are several properties a "good" tax should possess. These were noted in passing previously. Taxes should (1) be enforceable and collectible (i.e., not easily avoided), (2) not distort resource allocation, (3) be easy to understand and predictable, (4) be equitable, and (5) be inexpensive to administer. The range of proposals that have been made for waterway user taxes is an indication of the difficulties encountered in trying to develop a taxing mechanism that possesses "good" tax characteristics.

Examples of proposed user fees or taxes include a lockage charge, an annual license fee, a freight tonnage fee, a barge fuel tax and congestion charges. Each of these proposals presents difficulties or inconsistencies relative to one or more of the "good" tax criteria. To be sure, that could be said of most taxes in use today. However, in view of the theoretical case made against waterway user fees in

previous sections, it is incumbent upon proponents of user taxes to offer a tax that is at least compatible with the efficiency conditions of a "good" tax.

Consider the problems posed by a lockage fee. First of all, how would the fee for each lock be determined? There is no viable scheme that satisfies good tax requirements. A significant lockage fee will not be economically efficient because it raises barge operator marginal costs markedly. Increasing the marginal cost of barge operations will lead to a sub-optimal use of the navigation facilities. On the other hand, if a fee based on average cost were adopted, the fee would have to be based on local costs rather than system averages; otherwise, users of low-cost locks would subsidize users of high-cost locks. However, low usage locks could have such a high fee as to discourage a substantial fraction of the already low utilization. By the same token, a system-average-based fee would violate economic efficiency as well as fairness requirements.

In the second place, how would different users be charged? The simplest method would be to charge each user the same amount since it takes the same time and effort to perform a lockage for a pleasure craft as a 15-barge commercial tow. Exempting pleasure craft would undermine the logic of charging in the first place. Charging different users separate rates requires that a rational method for determining fees be devised.

The third issue is the question of collection. Who would do the collecting? Would each vessel using a lock be required to pay at the time of passage or would they be billed later? Accounting and tracking systems would have to be established. It would be important to design an effective system that would cost a relatively small fraction of the amount of fees collected.

All told, the difficulties presented by a lockage fee are formidable – so formidable, in fact, that despite the many efforts to impose user fees, lockage fees, until recently, have never been seriously proposed or tried.

Freight tonnage fees are also problematic. In the first place, the weight of cargo may have little connection with its value. Therefore, a tonnage tax could easily result in relative price distortions. Second, there is the issue of determining the appropriate fee. As in the case of lockage fees, tonnage fees based on a system-wide average would lead to intrasystem subsidies. At the same time, the imposition of segment charges presents tremendous tracking and administrative difficulties. Then too, a tonnage fee, in effect, adds to the marginal cost of transporting cargo, which in turn results in sub-optimal economic

efficiency. And, since a large portion of all freight transits the Lower Mississippi, that river segment would pay a disproportionate share of the total tax even though there are no locks on that segment. Finally, the tonnage carried on the river or passing through a lock creates no damage to the water or the locks unlike the damage created by weight on the roadways and bridges.

Annual licensing fees offer an apparently attractive alternative to lockage fees or tonnage charges. These fees would add to average costs without changing marginal costs and in that sense are not as distorting as the others. Moreover, licensing presents significantly fewer administrative and measurement difficulties than tonnage fees or lockage charges. However, important problems remain. As is true for other fees, the issue is how much to charge. Would the fee be differentiated by company size? If so, what is the basis, i.e., the number and size of towboats, the number of barges, or company revenues?

As noted by the Secretary of Transportation in a 1982 review [21, p19] of waterway taxes, "by placing a cost premium on a single factor input to the barge industry, a license fee would have an impact on the nature as well as the costs of barge operations. Attempts would be made to economize on the taxes paid by equipment by increasing its utilization relative to other factors. One result of this would be to reduce available capacity at any point and limit barge industry flexibility." In sum, licensing fees present potential difficulties from an equity and economic efficiency standpoint.

Barge fuel taxes have become the tax of choice for the proponents of waterway user fees. By far the most attractive aspect of fuel taxes is the ease of collection. Cost of collection is low and the calculations and tracking are quite straightforward, making the tax efficient from an administrative viewpoint. However, the tax is a marginal cost, in that incremental ton-miles require incremental fuel consumption. By raising marginal costs of operation, the tax forces barge rates higher or cuts into operator revenues. In either case, there is a deleterious effect on the economic efficiency and productivity of the waterways.

Barge fuel taxes set at a high enough level to return a substantial portion of the government's outlays on navigation would undermine the natural advantage of waterborne freight. Many sectors which are heavily dependent on the barge industry for shipment would be hard hit. For example, if the 1993 proposal to raise fuel taxes by an additional $1 per gallon had been passed, it would have pushed barge freight rates higher by 40 to 50 percent.

The USDA estimated that increase would have added an average 12.5 cents a bushel to the cost of moving grain to deep-water ports [22]. Likewise, an econometric study [23] of the $1-per-gallon tax placed coal-mining job losses at 13,000, most of these in Southern Appalachia. Other comparable figures were reported for other waterway dependent sectors. All told, this tax would have brought serious economic harm to a large number of people and companies across the nation – all in the name of trying to make commercial barge operators pay for their use of the inland waterways.

As was discussed in the economic efficiency section, barge traffic imposes very low marginal cost on the waterway systems. Therefore, the imposition of a large, artificial marginal cost in the form of fuel taxes seriously impairs the efficient allocation of resources in the water transportation industry.

Congestion charges have been advocated by some economists as a way of reducing traffic backup which occurs at some locks and dams. The argument is that idle tows are costing operators and that cost has to be recovered through higher freight rates. In order to reduce the time spent waiting to transit a lock, tows would be assessed a fee for passage any time there was a significant backlog. Presumably, this fee would encourage operators to schedule traffic in a way that would result in less congestion and lower industry costs.

The problem with the argument is that the operators already have incentive to avoid congestion. Costs incurred while waiting to transit a lock cannot be fully passed on in higher prices because of the extreme competitiveness in the industry. Moreover, tows in a hurry could offer to "buy" places closer to the front of the queue from those ahead. If congestion were a major problem, an informal market solution would be preferable to imposing a congestion fee.

Obviously, there are considerable problems in devising a structure and administrative mechanism for congestion fees. What, for example, would trigger the fee? If the trigger depends on the length of the queue, does every vessel in the queue get assessed the same amount? When the queue shortens to a specified length, will the fee be discontinued? Whatever the scheme, tow pilots would soon figure out how to avoid being the trigger or getting caught in the taxable queue.

The level of the fee is another issue. Any charge would, of necessity, be arbitrary. Unlike charges that are meant to limit use, such as admission fees at national parks,

a congestion charge is primarily aimed at changing the timing and density of usage. As a result, attempts to gauge demand and decide on a rational, implementable pricing scheme will be extraordinarily difficult. Then too, if the fee is basically a lockage charge and each vessel is assessed the same amount regardless of its size or cargo value, smaller tows would face disproportionately large per-unit costs and be placed at a disadvantage.

All this suggests that the administration of a congestion fee for waterways would be very tedious. The costs of collection and monitoring would represent an unacceptably high portion of the amount collected. In short, there are too many obstacles associated with waterway congestion fees to consider them seriously, especially if the level of potential revenue is a concern.

Furthermore, to the degree that congestion is not a widespread problem – that is, it is limited to a few locks and dams – it would be preferable to devise an alternative remedy, such as voluntary coordination of scheduling by the industry, to deal with those few problem areas rather than to develop a congestion tax system.

Recap of Technical Issues

Each of the taxes proposed as a user fee brings violations of one degree or another of the criteria of a "good" tax. The barge fuel tax has been adopted largely because it poses the fewest administrative headaches rather than because it is economically justifiable. The other taxes or fees pose substantial administrative difficulties.

CONCLUSIONS

The barge industry and the inland waterway navigation system bring enormous value to the nation for very little taxpayer outlay, returning at least $5 in benefits for each Federal government dollar expended on the system. Moreover, the inland waterways and the commercial use of the waterways produce enormous corollary benefits in the form of stable water supply for municipalities and industry, recreation opportunities and flood control as well as significantly lower social costs attributed to other transport modes in the form of many fewer injuries and death, less air pollution and less noise.

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The barge industry and the inland waterways navigation system bring enormous value to the nation.

Barge traffic causes relatively little damage to the waterways and navigation infrastructure compared to trucks as they travel the nation's roads. Inland waterway barges carry freight at a fraction of the cost of trucks. Moving the

waterborne freight to the highways would require massive increases in truck traffic and overload much of the already congested urban highways in the U.S.

And it costs about a billion dollars a year to get all these benefits. Yet, some wish to levy additional user charges on the barge industry and thereby take away a large portion of their cost advantage that serves the nation so well.

The focus should be on how to achieve what is best for the country, taking into account all the factors involved.

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In view of energy use concerns, pollution concerns, safety concerns and highway congestion problems, why would anyone think it wise or prudent to make it more difficult for the barge industry to carry as much of the nation's freight as possible by imposing new fees on their operations. And to do what? To raise $200 million. In Federal budget terms, that amount of money is not even a statistical discrepancy. It is less than one thousandth the amount the nation pays in net interest.

It simply is not good stewardship of the nation's resources. In light of the transportation and social advantages and benefits derived from utilizing the abundant natural resources in the form of our wonderful navigable rivers, the Federal government should abandon plans to impose new fees, especially the lockage fee currently being contemplated. It is simply a terrible idea.

The focus should be on how to achieve what is best for the country, taking into account all the factors involved. After weighing the tremendous net benefits the inland waterways and barge industry produce for the country for so few tax dollars, there can only be one rational decision: Forget new fees on the waterways.

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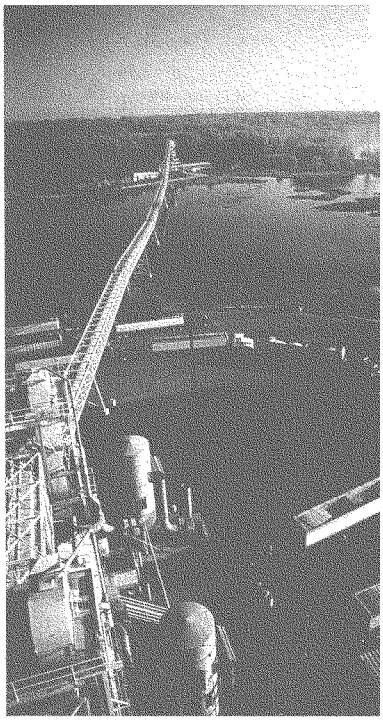

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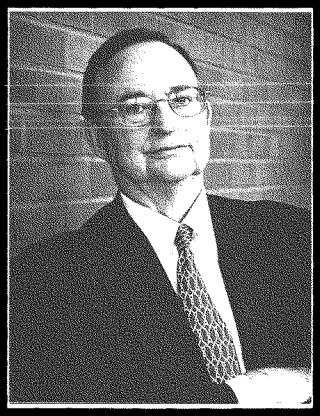

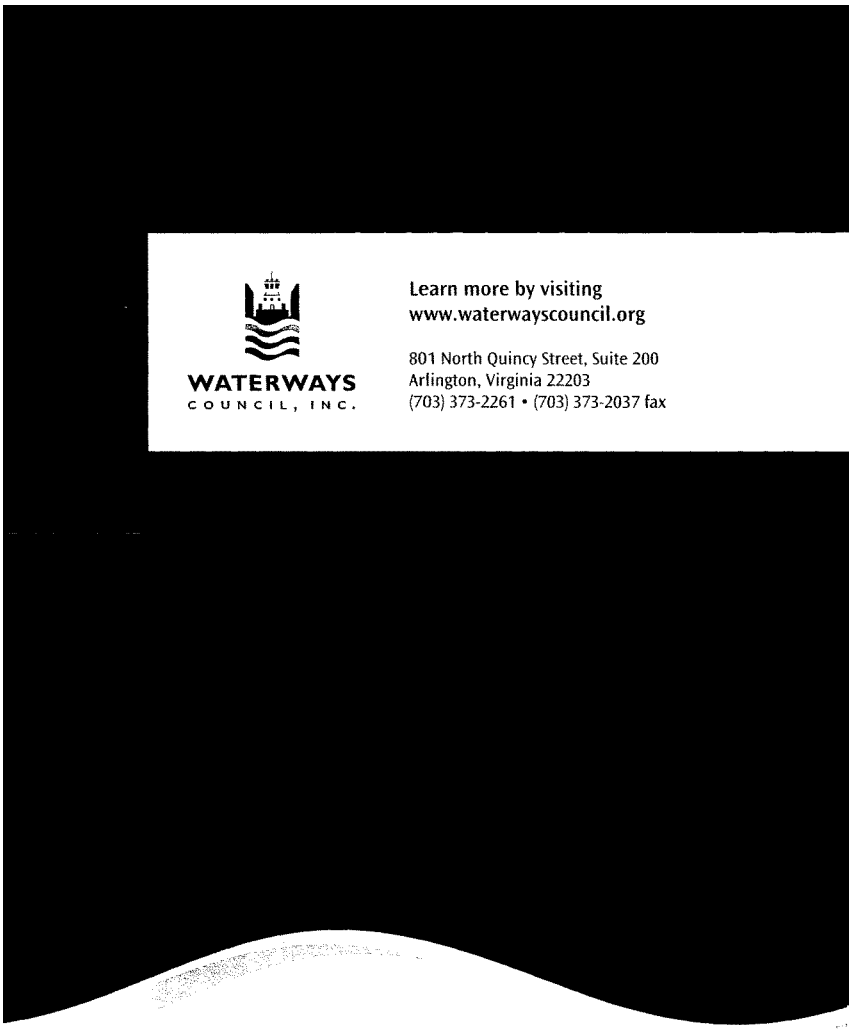
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TESTIMONY OF

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REPRESENTING A NATIONAL COALITION CALLING FOR HARBOR MAINTENANCE TAX REFORM

Before the Water Resources and Environment Subcommittee of the
House Transportation and Infrastructure Committee

PROPOSALS FOR A WATER DEVELOPMENT ACT OF 2008
Rayburn House Office Building – Room 2167
April 30, 2008

Introduction/ Summary of Testimony

My name is Jim Weakley. I am President of Lake Carriers' Association, an organization of U.S.-Flag vessel operators on the Great Lakes, and an officer of the Great Lakes Maritime Task Force, a coalition of ship operators, labor, shipyards, ports and others on the Great Lakes. Today, however, I am here testifying on behalf of a national coalition ("the Coalition") that is very concerned about the impacts on Federal ports and harbors that cannot be fully maintained with existing U.S. Army Corps of Engineers funding levels and advocates an initiative to seek full access to the annual revenues generated by the Harbor Maintenance Trust Fund (HMTF) ad valorem tax for the purpose of operations and maintenance dredging in the United States. In 2007, the HMTF taxes collected from shippers for the purpose of funding dredging projects in our nation amounted to more than $1.4 billion, yet only $751 million of dredging and related maintenance costs was reimbursed from the fund, while ports and harbors were not able to be dredged to their authorized project dimensions.

The Importance of Dredging

Our ports and harbors are gateways to domestic and international trade, connecting the United States to the world. Because of the Nation's port system, food grown by Iowa farmers reaches tables in Japan and Russia. Manufacturers in Texas can sell goods and services profitably to foreign countries and supply food for peace. Appalachian and Midwest coal moves through coastal ports to power plants domestically and around the world, providing the fuel to heat and light homes, businesses, and cities.

Whether products are arriving at our shores or departing for foreign sale, trade relies on an efficiently operating U.S. port system. Without exception, ports are critical to every State in the Nation. On average, each of our 50 States relies on 13 to 15 ports to handle its imports and exports, which add up to more than $5.5 billion worth of goods moving in and out of U.S. ports every day. Responsible for moving more than 99 percent of the country's overseas cargo, U.S. ports and waterways handle more than 2.5 billion tons of domestic and international trade annually, and that volume is projected to double within the next 15 years — particularly after the expansion of the Panama Canal. International trade is responsible for 25 percent of the U.S. Gross Domestic Product (GDP). Along with meeting the demands of international trade, ports are busy with a sustained surge in cruise travel. Cruises depart from 43 ports in North America with a positive economic impact in all 50 States, since over 79 percent of cruise industry expenditures are made with U.S. businesses, including airlines, travel agents, food and beverage, and ship maintenance and refurbishing. On the Great Lakes, enormous quantities of raw materials that move by vessel are used to power major cities, make steel, and build roads.

Equally, or more important is the National Defense support that our Nation's ports provide. The U.S. military depends on numerous ports that have agreements with the Federal Government to serve as bases of operation and to deploy troops and equipment during national emergencies. Today this role is more evident than ever and more important than ever, given the current climate of persistent threats around the globe coupled with the closure in recent years of U.S. military ports.

Port-related jobs are critical to augment our economy. Direct and indirect jobs generated by ports result in the employment of more than 8 million Americans who earned and spent $314.5 billion in 2006. Every $1 billion in exports alone creates an estimated 15, 000 new jobs. In Texas alone one in every four jobs is linked to trade.

America's deep-draft navigation system is at a crossroads, with a future that can be bright or bleak. Our waterways' ability to support the Nation's continuing growth in trade and in the defense of our Nation, hinges on much-needed Federal attention to unresolved funding needs that are derailing critical channel maintenance and deep-draft construction projects of the water highways to our ports. Because most ports do not have naturally deep harbors, they must be regularly dredged to allow ships to move safely through Federal navigation channels. Also, as modern vessels increase in size, navigation channel depths must increase accordingly, if we are to continue to be a player on the international marketplace. A recent U.S. Army Corps of Engineers study reports that almost 30 percent of the 95, 550 vessel calls at U.S. ports are constrained due to inadequate channel depths. Ladies and gentlemen, these are the things that cause port directors nightmares.

Without a channel dredged to its authorized depth, nothing else comes into play. Attracting new customers, dealing with labor issues, environmental concerns, and the public – all go away – because without a properly-dredged channel, business goes away. Public ports are at a critical state in

keeping their channels open for business. We are losing existing business and potential new business to ports outside of the United States — and once lost, it is rarely regained.

Dredging can literally make or break our industry, and a lack of dredging is an issue throughout the United States. In fact, it is not an overstatement to say that in many parts of the United States, we face a dredging crisis. On the Great Lakes, as Chairman James L. Oberstar of this Committee and Chairman David R. Obey of the Appropriations Committee well know, decades of inadequate funding for dredging have left a backlog of 18 million cubic yards of sediment. The U.S. Army Corps of Engineers estimates removing the backlog will cost more than $230 million on the Great Lakes alone. In some cases, ports on the Great Lakes have actually shutdown due to inadequate dredging. There are similar examples of dredging problems in ports and harbors on all coasts of our Nation.

In many cases, vessels must "load light" because of dredging shortfalls. The economic implications of light loading are enormous. On the Great Lakes, for example, vessels lose between 50 to 270 tons of cargo for each inch they must reduce their draft and, in some areas, the lost draft is measured in feet, not inches. Light loading because of inadequate dredging impacts everyone. A ship that is light-loaded reduces its efficiencies in the same way that a commercial airplane that is required to set aside seats with no passengers would quickly lose its efficiencies.

The Harbor Maintenance Trust Fund

The Harbor Maintenance Tax and the Harbor Maintenance Trust Fund were established in the Water Resources Development Act (WRDA) of 1986. The Trust Fund (HMTF) applies a 0.125 percent ad valorem tax on the value of commercial cargo loaded or unloaded on vessels using Federally-maintained channels. The tax is only assessed on imports and domestic cargo, as it was

ruled as an unconstitutional assessment on exports in a 1998 Supreme Court ruling. This Fund – that you, members of Congress – established, was authorized to be utilized to recover 100 percent of the U.S. Army Corps of Engineers eligible Operations and Maintenance (O&M) expenditures for commercial navigation, along with 100 percent of the O&M cost of the St. Lawrence Seaway, certain costs of NOAA, and the costs to Customs to collect the tax.

Fixing the Problem

Ladies and gentleman – would it surprise you to know that this utilization has not been honored? HMTF revenues exceed transfers for authorized activities by an increasing margin. Yet, our Federal channels are not being maintained at authorized depths. The Fund is being held hostage to paper balance the budget – interestingly, not one of its legal uses. In 2007, the HMTF began with a $3.3 billion surplus and collected an additional $1.4 billion – resulting in a $4.7 billion surplus, while only $751 million was utilized for maintenance dredging. That is incredible. I would ask that you consider this analogy offered by my colleague in a Gulf Coast port: "What would you say to a toll booth operator who took your money to use the toll road only to then tell you that the road was unusable?"

That is what is happening to shippers who pay this tax every day. We must solve this problem. We must draft legislation that mandates that the Fund be utilized for its intended purpose – the maintenance dredging of Federal ports and harbors. There are a number of ways to address this problem. As you know, other modes of transportation – surface transportation and aviation – have faced similar problems in the past decade. Although we are in the early stages of addressing this

problem, our Coalition believes Congress should consider an approach similar to that taken with the Highway Trust Fund in 1998 and with the Airport and Airway Trust Fund in 2000. In those cases, Congress legislatively enacted "firewalls" around the Trust Funds – essentially guaranteeing minimum levels of spending that could only be used to support eligible projects. Although there are some variations between the Highway, Aviation, and Harbor Maintenance Trust, the point of a firewall in each case is the same – ensuring that monies from a tax would be used for their intended purpose and not merely for deficit reduction.

Conclusion

Thank you, Madame Chairwoman, for your interest in this important issue. My message is simple – use the Harbor Maintenance Tax for its intended purpose to address our Nation's dredging crisis. It's time to put the "TRUST" back in this Trust Fund.

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Statement of Nat Williams
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Before the Subcommittee on Water Resources and the Environment,
Committee on Transportation and Infrastructure
April 30, 2008

Madame Chairwoman and members of the Subcommittee, thank you for the opportunity to testify on Proposals for the Water Resources Development Act (WRDA) of 2008, and in particular, the ecosystem restoration needs of our country. I am Nat Williams, State Director for The Nature Conservancy in Maryland and Acting Director of The Nature Conservancy's US Government Relations Department. My comments today will focus on four areas:

- regional approaches to ecosystem restoration;
- comprehensive management of water resources
- criteria for improving ecosystem restoration authorities
- improving the management of Federal reservoirs

The Nature Conservancy is an international, nonprofit organization dedicated to the conservation of biological diversity. Our mission is to preserve the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive. Our on-the-ground conservation work is carried out in all 50 states and in 30 foreign countries and is supported by approximately one million individual members. The Nature Conservancy has protected more than 117 million acres of land and 5,000 miles of river around the world. Our work also includes more than 100 marine conservation projects in 21 countries and 22 US states.

The Conservancy owns and manages approximately 1,400 preserves throughout the United States—the largest private system of nature sanctuaries in the world. We recognize, however, that our mission cannot be achieved by core protected areas alone. Therefore, our projects increasingly seek to accommodate compatible human uses, and especially in the developing world, to address sustained human well-being.

As the Conservancy has increased its engagement in a variety of restoration projects ranging from large-scale efforts in the Upper Mississippi River and Everglades to smaller scale projects under continuing authority programs, the Corps has become an important conservation partner. By number of projects, the Conservancy is now the Corps' largest non-federal sponsor of ecosystem restoration projects. This expanding partnership is reflected in our Sustainable Rivers Project, a joint effort focusing on dam re-operations in 8 ecologically significant river systems across the country. At another 39 sites we are collaborating with the Corps under the sections 1135 and 206 Continuing Authority Programs (CAPs), and other Corps authorities, to protect and restore areas of critical ecological concern.

The past century has witnessed a decline in the ecological health of many of our nation's rivers and streams. Much of this decline is the unintended consequence of federal water development projects designed to provide public benefits such as flood control, electricity and irrigation. As a result, ecosystem restoration has become a critical component of the Corps' Civil Works mission. Drawing on the Conservancy's growing experience with ecosystem restoration, I will share with you some recommendations on how we can meet some of the nation's most challenging environmental problems while continuing to provide for water resource needs such as flood control, irrigation and navigation.

Before providing our recommendations on WRDA 2008, I would like to applaud the Committee's efforts to complete WRDA 2007 last year. This long-awaited and important legislation will help advance many critical ecosystem restoration efforts around the country and provides important authority to enable NGOs to work with the Corps to improve the management and restoration of our water resources. We also appreciate the Committee's commitment to returning to a regular, bi-annual schedule for reauthorizing WRDA.

I. Regional Science-based Approach to Restoration

Many federal agencies, states and other non-profits have joined with The Nature Conservancy in completing comprehensive science-based conservation plans for the US. These plans, called ecoregional assessments, are intended to provide foundational data and information that allows agencies and organizations to make better resource allocation decisions on restoration projects and other conservation projects. Often stretching across multiple states, these collaborative ecoregional assessments bring together information needed to support effective large-scale, regional conservation strategies. Integration of data on habitats, species and water resource use can reveal unexpected connections, providing fresh insight into long-standing problems.

Based on our experience with ecoregional planning, we believe similar approaches must be employed if we are to maximize the Federal investment in ecosystem restoration. With limited Federal dollars and extensive restoration needs, no longer can we settle for an isolated project by project approach. Instead, we must invest in efforts to determine how multiple needs in a watershed, river basin or coastal area can be met while protecting our natural resources.

There are already successful authorities to draw on in developing regional approaches to ecosystem restoration. For example, the **Puget Sound and Adjacent Waters Program** was designed to implement critical projects for the protection and restoration of ecological processes, habitats and functions in the Puget Sound basin. Selection of projects is informed by ongoing basin-wide studies and through engagement of regional stakeholders with scientific and restoration expertise. Similarly, the **Upper Mississippi River Environmental Management Program**, which was first authorized in the Water Resources Development Act of 1986, has been implementing ecosystem restoration projects across the Upper Mississippi River System for over 20 years. Through the Environmental Management Program, a unique federal-state partnership was formed to identify, plan and implement projects that has resulted in the restoration of over 72,000 acres of habitat to date.

If we are to maximize our investment in ecosystem restoration, replicating regional approaches that are informed by sound science and that engage appropriate stakeholders like the examples described above will be critical.

Recommendation: Authorize regional restoration authorities that allow the Corps to engage stakeholders across watersheds, river basins and coastal areas to set priorities and implement projects that will result in the most ecological return on Federal dollars invested.

II. Comprehensive Management of Water Resources

In addition to providing authority for the Corps to undertake regional or watershed approaches to restoration, we must also ensure that the Corps has the appropriate authority to balance multiple demands on our water resources. Planners must be able to incorporate disparate interests such as navigation, flood control, water supply and protection of the environment into all projects. In particular, we must integrate the role of healthy and functioning ecosystems into our river management. For example, restoring natural floodplain areas for the purpose of storing floodwaters is one important strategy for meeting flood control needs and increasing the flexibility in the management of our reservoirs and other water infrastructure. By allocating flood storage to the floodplain instead of the reservoir, space currently allocated to flood control can be converted into storing water to supply cities and farms, generating hydro-electric power, and releasing improved environmental flows into downstream ecosystems. Moreover, floods that are allowed to return to their natural floodplains recharge underlying aquifers, which slowly release groundwater back to the river as cool, steady baseflows. Similar approaches are needed that evaluate all needs in a watershed or river basin and seek to incorporate the value of intact ecosystems into meeting human needs.

One key example of a comprehensive and integrated approach to river management that builds on the principles of comprehensive river management is the **Navigation and Ecosystem Sustainability Program for the Upper Mississippi River**. The Upper Mississippi River System (UMRS) is a large floodplain river ecosystem that has been greatly altered by navigation, flood control, and land use. In particular, the construction and operation of eight dams on the Illinois and 29 on the Mississippi have altered the river's natural hydrology, resulting in the loss of forest floodplain, aquatic marsh and island habitats while contributing to increased sedimentation and degraded water quality. Moreover, about 40 percent of the UMRS floodplain is isolated from the river by levees, causing the loss of habitat for many flood dependent plants and animals. At the same time, people rely on the river for transportation and commerce, and maintaining a functioning navigation system is important to both the U.S. and regional economies.

Fortunately, these rivers can be restored without compromising the use of the navigation system or flood protection. The Navigation and Ecosystem Sustainability Program (NESP) as authorized under the Upper Mississippi River and Illinois Waterway system in WRDA 2007 is a long-term (50-year), dual purpose program of navigation improvements and ecological restoration that will engage a broad array of federal agencies, industry and non-governmental stakeholders to ensure the economic and environmental sustainability of the UMRS. The framework for the first 15 years of NESP lays out more than 225 restoration projects that include island building, fish passage, floodplain restoration, water level management, side channel and backwater restoration, wing dam/dike alteration, and shoreline protection. If implemented, these projects would restore over 100,000 acres of habitat.

NESP is the first dual purpose authority that brings together both navigation and environmental interests to create and implement a shared vision for the Mississippi River. It is a critical addition to the Corps' authority because it allows the Corps to manage the system for two purposes and to evaluate river-wide processes and functions as projects are selected and implemented. Furthermore, the process for identifying and selecting projects is built on a strong foundation of scientific input and stakeholder involvement. NESP offers a model for how ecosystem restoration and infrastructure improvement can and should be done in the future.

Another project I would like to highlight is the **Hamilton City Flood Damage Reduction and Ecosystem Restoration project in California**, which also serves as a model for achieving multiple water resources goals. Hamilton City is located on the Sacramento River--the largest river in California, draining approximately 24,000 square miles and supplying 80 percent of the freshwater flowing into the Sacramento-San Joaquin Delta. Historically, the river was lined by 800,000 acres of riparian habitat. Over 95 percent of this habitat has been lost.

Hamilton City and surrounding agricultural lands are only marginally protected from flooding by a degraded private levee (circa 1904) called the "J" Levee. The "J" Levee does not meet any formal engineering standards and provides only a 66 percent chance of passing a 10-year flood. As a result, Hamilton City has mounted flood fights and has been evacuated due to flooding six times in the last 20 years. After 25 years of unsuccessful efforts to secure federal engagement in their efforts to reduce the risk of flooding, project partners, including the city, the Conservancy, and the state of California, collaborated to develop a project that would both reduce the town's flood risk and restore the river floodplain by constructing a new set-back levee and reconnecting 1,500 acres of floodplain to the river.

This dual purpose project has the potential to be a true "win-win"--by meeting the flood-control needs of the local community while restoring riparian habitats and natural river processes. Unfortunately, the project has run into multiple hurdles because it does not fit into the traditional single-purpose project model. For projects like this to become the norm instead of the exception, the Corps would benefit from specific authority enabling them to more easily implement non-traditional projects that truly meet multiple goals.

> **Recommendation:** Authorize regional authorities that allow the Corps to balance multiple needs, e.g. flood control, ecosystem restoration, and navigation, and implement projects across a basin to meet multiple water resource goals.

III. Improving Restoration Authorities

As one of the Corps' largest cost-share partners, the Conservancy has worked extensively with the Corps under the Section 1135, Project Modifications for Improvement of the Environment, and Section 206, Aquatic Ecosystem Restoration programs. Under the Section 1135 and 206 Continuing Authority Programs (CAP), the Conservancy has been the lead non-federal sponsor on 17 projects. These projects seek to achieve an array of ecosystem restoration goals ranging from coastal shoreline stabilization to fish passage and floodplain reconnection. For example, the Conservancy and the Corps have completed the removal of dams on the Cahaba River in Alabama and Neversink River in New York opening up important habitat for fish and other aquatic species. We have also completed a project on the Green River in Kentucky to restore hydrology and floodplain habitat.

CAP 1135 and 206 projects are producing many success stories around the country, and as a result, demand far exceeds the annual authorized limits for these programs. Unfortunately, the oversubscription of these programs has halted a number of projects that enjoy strong support from the local community and Corps District. In an attempt to address this problem, the Appropriations committees have implemented various prioritization schemes focused on funding only projects currently in the construction phase, but these measures have left many projects languishing without funding despite significant investment of both Federal and non-Federal resources in feasibility studies and project design.

In some cases, the size of the backlog and the inability to secure funding has forced the Conservancy's state chapters to either abandon work on the projects or seek other funding outside of the Corps budget. One good illustration of this problem is the **Chain Bridge Flats restoration project** just up the Potomac River from Washington, DC in the C&O Canal National Park. This project, which would modify a 1920s era Corps facility to restore natural hydrology and benefit multiple Federally endangered species, has attempted to get funding through the Section 1135 program for over four fiscal years. Despite the immense ecological benefit, relatively low cost, and support from the Corps District, other federal agencies and members of the Maryland Congressional delegation, the project has yet to receive any funding.

When funding is inconsistent and when projects experience chronic funding shortfalls, overall costs increase, partnerships fall apart and past investments can often be wasted because the momentum cannot be maintained for a project to reach completion. Parsing out funding in a piecemeal fashion to all projects currently in the pipeline will result in increased costs and lost investment as projects fail to reach fruition. We are seeing these challenges realized in two projects designed to reconnect thousands of acres of floodplain on the Illinois River –the **Spunky Bottoms** and **Emiquon** floodplain restoration projects. The Conservancy has been able to help bring state, private and other Federal dollars to leverage the investment by the Corps in these projects. In fact, the USDA Wetlands Reserve Program Easement used to secure the land at Emiquon is one of the largest easements in the program's history. Furthermore, both projects build on past and current conservation investments on adjacent National Wildlife Refuge lands. Unfortunately, a lack of Corps funding and other hurdles have resulted in rising costs, the loss of state and other federal funding, and uncertainty as to the prospects for completion of these projects.

In light of this situation and in light of the fact that demand for Corps restoration dollars will always exceed available funding, it is important that the 1135 and 206 programs are administered in a way that focuses on the projects resulting in the highest return, both ecologically and financially, for the Federal dollars invested. To do this, there must be strong science-based ecological criteria used for allocating scarce resources. A number of other Corps programmatic authorities, like the Navigation and Ecosystem Sustainability Program for the Upper Mississippi River and the Estuary Restoration Program, are already doing this by setting objective and transparent ecological criteria to evaluate projects that are proposed for funding. Existing plans that identify ecological and restoration priorities can also be useful tools for determining where to spend restoration dollars.

Recommendation: In carrying out the Continuing Authority Programs, emphasize those projects that result in the greatest ecological return on the dollar invested by setting clear science-based ecological criteria for allocating program funds.

At multiple sites where the Conservancy works, we are able to bring other Federal, state and private dollars that exceed the mandated non-Federal cost-share. For example, on the **Spunky Bottoms** restoration project in IL, the Conservancy contributed a net amount of $740,000 in privately fundraised dollars to acquire land; was able to work with the Natural Resource Conservation Service and the Fish and Wildlife Service to attract an additional $1.4 million in Federal investment for the project; applied for and received $286,000 in private foundation grants, and worked with the Illinois Department of Natural Resources to apply $1.875 million in state funding for acquisition. Together, these investments, which total $4.3 million in state, private and other Federal funding, far exceed the $2.4 million non-Federal cost share for the project.

Spunky Bottoms is a good demonstration of the ability of NGOs to bring multiple partners to the table and leverage other funding. Projects like these bring significant state and private dollars to the table, often exceeding the required cost-share. Therefore, to maximize limited Federal dollars for restoration, it is important that we make it a priority fund those projects most likely to bring other resources to bear beyond the required cost-share, as they will result in more restoration for the same dollar invested.

Recommendation: In carrying out the Continuing Authority Programs, emphasize those projects that bring multiple partners and funding sources to the table by giving priority to those projects able to leverage non-Corps funding beyond the required cost-share.

As the committee evaluates proposals for administering restoration projects, is important to maintain the same standard cost-share for all non-Federal sponsors. As demonstrated at Spunky Bottoms, NGOs in particular have the ability to bring a variety of resources to the table and can often be much more nimble than units of government, which is why government agencies often ask NGOs to help advance conservation and restoration projects by securing private funding and investing private capital to acquire land. Because of the unique and valuable role NGOs can play, it would be unwise to require higher cost-share for non-governmental entities.

Recommendation: Maintain the standard cost-share for all non-Federal sponsors regardless of whether they are a governmental or non-governmental entity.

IV. Improving Management of Federal Dams

While the construction and operation of reservoirs has benefited the nation by providing water supply, flood damage reduction, and electricity production, dams have also caused serious impairment to the health of the nation's rivers, floodplains, and estuaries. In fact, dams are a leading cause of aquatic species endangerment and they have undermined a spectrum of benefits and services provided by naturally functioning ecosystems. These impacts include degrading freshwater and estuary fisheries that have considerable economic value, impairing water quality, and interrupting the natural nutrient and sediment processes critical for sustaining floodplain and wetland productivity that benefits people as much as wildlife.

The operating procedures for the hundreds of dams that the Corps owns and operates often seek to optimize inexpensive water supply, power, and flood control, but have largely ignored environmental flow needs downstream of these facilities. Moreover, many of the water control plans that govern the operation of these facilities have not been significantly updated in many years. For this reason, one of the Conservancy's top ecosystem restoration priorities is to work cooperatively with the Corps to quantify environmental flow needs and improve reservoir management.

Fortunately, our work with the Corps to date through the Sustainable Rivers Project has already demonstrated at several sites that modest adjustments to existing dam operations can yield substantial improvements in ecosystem health by improving environmental flow releases from the dams. These improvements have been achieved while only minimally affecting other dam functions and keeping operational changes within the project's authorized purposes. In fact, work through the Sustainable Rivers Project has resulted in some changes in reservoir operations that are not only better for downstream ecosystems, but they also have improved performance for original project purposes such as flood control and recreation.

Updating operating instructions by specifically incorporating flow releases that benefit the river ecosystem at the more than 600 dams under federal control is essential for restoring thousands of impaired river miles across the country and increasing their resiliency to future changes associated with climate change. Following the example set working with the Corps on the Sustainable Rivers Project, the Conservancy supports incorporating environmental flow needs into all Corps reservoir operations nationwide and encourages the Committee to work with the Corps to enable this important work to move forward.

While the Corps has been an excellent and willing partner on many of our joint partnership efforts, policy and funding constraints threaten the success of many important restoration efforts. In my testimony today, I have suggested a couple of ways Congress can support and improve ongoing restoration efforts and build upon the good work already taking place. We urge Congress to make the restoration of ecosystems that contribute to the safety, welfare and livelihoods of local communities one of the nation's top water resource priorities. The Corps and its partners are developing remarkable projects that achieve significant economic and environmental gains and are highly responsive to local interests, and we appreciate the continued support of these efforts.

I would like to thank the Chairwoman and the entire Subcommittee for the opportunity to share this testimony with you today.

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Testimony of the National Association of Flood
And Stormwater Management Agencies

Presented by Warren "Dusty" Williams
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Water Resources Development Act of 2008

U.S. House of Representatives
Water Resources and Environment Subcommittee
Transportation and Infrastructure Committee

Rep. Eddie Bernice Johnson, Chairwoman

April 30, 2008

The National Association of Flood and Stormwater Management Agencies (NAFSMA) is very pleased to present this testimony addressing priorities for the Water Resources Development Act of 2008.

NAFSMA wishes to thank the leadership on both sides of the aisle for all of your assistance to move WRDA 2007 forward. This was an enormous effort as the legislation was long overdue and as a result, there was much to be considered. NAFSMA greatly appreciates all of the efforts and contributions made by Members and staff to enact this legislation. We also appreciate your commitment to keeping WRDA on its biennial schedule by moving a water resources bill this year. We also support many of the policy changes enacted in the 2007 legislation and look forward to their implementation as Corps headquarters moves forward on guidance development on these new initiatives.

Background on NAFSMA

NAFSMA is a 30-year old national organization based in the nation's capital that represents close to 100 local and state flood and stormwater management agencies, most of which are located in large urban areas. NAFSMA members serve more than 76 million citizens by providing flood and or stormwater management. As a result, the association has a strong interest in the Water Resources Development Act.

The mission of the association is to advocate public policy and encourage technologies in watershed management that focus on flood protection, stormwater and floodplain management. Through this mission, NAFSMA enhances the ability of its members to protect lives, property and economic activity from the adverse impacts of storm and flood waters.

It is important to note that many of NAFSMA's member agencies are currently non-federal partners with the U.S. Army Corps of Engineers in water resources projects, including flood damage reduction and environmental restoration.

Formed in 1978, NAFSMA works closely with the Corp, the Federal Emergency Management Agency and the U.S. Environmental Protection Agency to carry out its mission. NAFSMA members are on the front line protecting their communities and regions from loss of life and property. Therefore, the organization is keenly aware that flood damage reduction activities and projects are a wise and necessary investment required first to reduce loss of life and ensure the safety of our citizens

and secondly, to reduce damages to peoples' homes and businesses and protect them from economic disruption. Flood management has proved to be a wise investment that pays for itself by preserving life and property, thereby reducing repeat requests for federal disaster assistance.

This protection has been provided through a strong and well-tested federal-non-federal partnership. As a result, NAFSMA is dedicated to ensuring that the nation's flood management systems can be operated and maintained properly and any needed inventory, assessments and repairs to flood damage reduction projects can be carried out smoothly.

NAFSMA has worked closely with the Corps and other federal agencies to develop timely and effective flood management policies. A task force led by NAFSMA through the early 1990's resulted in many changes to what was then the model Local Cooperation Agreement. The result was a new model Project Cooperation Agreement for federally-partnered flood damage reduction projects. NAFSMA has continued to provide review and input on these critical agreements as the models have been modified and improved in recent years. In 2007, NAFSMA convened a team, which included national experts from local and regional flood management areas, the private sector and academia, to review the Decision Making Chronology Document for Lake Pontchartrain and Vicinity.

Interagency Flood Risk Management Efforts

Beginning in August 2005, just prior to Hurricane Katrina's devastating impact on the Gulf Coast, NAFSMA convened a discussion between our members, Corps leadership, FEMA, the Association of State Floodplain Managers, and other levee experts to discuss the need to inventory and assess the nation's levees due to issues that would definitely develop in this area as FEMA's flood map modernization process continued to move forward. This meeting and numerous later joint interagency discussions has led to a much stronger working relationship in the flood damage reduction arena between the Corps of Engineers and FEMA.

NAFSMA very much appreciates the strong initiatives of both agencies and their leaders to speak with one federal voice on these critical issues. Many strides have been made in this effort at the federal level and we hope that this continued commitment will result in better communications and partnerships at the District and regional levels of both agencies.

Recognizing that a good number of very positive steps were also taken to improve the non-federal sponsor/federal relationship in WRDA 2007 and to address critical levee safety issues, NAFSMA recommends the following issues be addressed as part of the WRDA 2008 debate.

NAFSMA Recommendations for WRDA 2008

Enact WRDA 2008 – It is critical that biennial reauthorization of the Water Resources Act occur. Not only does this necessary legislation provide an opportunity to review and shape the policies, programs and projects of the U.S. Army Corps of Engineers, it is needed to strengthen the partnerships necessary to achieve the flood damage reduction goals of this nation. Local and regional agencies depend on WRDA's reauthorization. In many cases, needed flood damage reduction projects face significant cost increases while waiting for authorization. These added costs hit both federal and non-federal partners.

New Construction Flood Damage Reduction Projects Need To Be Included in WRDA

Many existing and potential non-federal sponsors and their congressional delegations held critical projects back from consideration in WRDA 2007 at the request of committee leadership and staff in an effort to move the bill forward last session. These projects now need to be considered.

Establish Levee Safety Committee

Although authorizing language was enacted in WRDA 2007 to establish a national levee safety committee with the charge of assisting in the development of a national levee safety program, this committee has yet to be established. It is our understanding that additional clarifying language is needed based on Counsel's opinion before the Corps can expend funding on this effort. NAFSMA strongly supports this language and urges this committee to assist in enactment of this language through WRDA or another legislative vehicle so that this critical initiative can move forward.

During this interim period, NAFSMA urges the Corps to move forward with selection of Levee Safety Committee members and to begin dialogue with Congress and stakeholders to shape the goals and outline a workplan for the committee.

Authorize Corps to Accept Local Funds to Carry Out Levee Certification Work

NAFSMA understands the importance of the "Thomas Amendment," but is very concerned that in the area of levee certification, there needs to be a mechanism for local sponsors to provide funds for the Corps to carry out certification activities. Since most of our members' projects have been built through partnering with the Corps, the agency's District offices are in many cases uniquely suited to carry out the levee certification activities.

If the federal government is asking private engineering firms to take on this responsibility, the federal government's engineering branch should be able to help perform these activities as well. NAFSMA offers to work with the Committee to develop a workable approach to this issue.

Limit Contractual Liability of Operation, Maintenance, Repair, Replacement and Rehabilitation Requirements to the Design Life of the Project

NAFSMA urges the Committee to draft language that addresses non-federal and federal concerns about responsibility for federally-partnered projects once they reach or extend their design life.

Cost Sharing for Strengthening and Retrofits to Federally-Partnered Projects

NAFSMA recommends that since most of these projects were cost-shared with 65 percent federal/35 percent local contributions, all work and costs (including mitigation) that may be needed to retrofit and strengthen levees, (that has not developed due to neglect of operations and maintenance responsibilities of the local sponsor), should be cost-shared using the same funding requirements (65/35) used when the project was originally authorized.

Crediting for Ecosystem Restoration Activities Linked with Levee Safety Strengthening and Retrofits

NAFSMA urges credit or reimbursement be provided to the non-federal sponsor for ecosystem restoration activities that may be justified as the result of work performed to repair or improve existing flood management structures to meet federal levee certification requirements. This may already be possible under section 2003 of WRDA 2007, but we will not know until the Corps has developed the implementation for that new authority.

Raise Cap on Credits for Levee Safety Activities

NAFSMA urges that any credit authorized for work performed by a non-federal sponsor, or cost sharing partner, for identified levee strengthening or retrofit activities not be limited to the nonfederal cost of the project. In parts of the country where major activity is needed to repair federally-partnered flood management projects, the nonfederal sponsor needs the ability to get out in front of these activities with the knowledge that they may later work with the Corps and Congress to receive needed and appropriate credits. The credits should be available for the nonfederal sponsor to use for planning, design, and construction of other federally authorized projects that the nonfederal sponsors undertakes with the Corps and should be available for covering the costs of lands, easements, rights of way, relocations, and any cash requirements, including the minimum 5% cash requirement for flood damage reduction projects. NAFSMA offers to work with the Committee and the Corps to amend these applicable sections.

Authorize Updating of Operations and Maintenance Manuals to Provide Necessary Permits for Operations and Maintenance Activities

There needs to be a process developed that would provide for review and updating of operations and maintenance manuals to address permitting concerns. It is NAFSMA's understanding that operations and maintenance manuals for newly-constructed Corps-partnered flood damage reduction projects now include necessary federal environmental permits for local operations and maintenance activities for a five-year period.

NAFSMA urges that provisions be included in WRDA 2008 that provide for the development and incorporation of watershed or watercourse plans into updated federal operation and maintenance manuals for existing projects, which would include needed Section 404 permits, or otherwise allow local agencies to perform the required project maintenance without the need to obtain federal permits and without requiring costly mitigation measures.

Encourage Corps of Engineers to Coordinate With Other Federal Entities and State and Local Agencies to Streamline Permits Needed for Operations and Maintenance Activities

NAFSMA strongly supports language to place the Corps in a lead facilitation role in the environmentally permitting process for federally-partnered flood damage reduction and ecosystem restoration projects.

Recognize Local Expertise and Responsibility in Flood Damage Reduction

NAFSMA urges that the Corps be authorized to research and develop a program that recognizes qualified local and regional agencies with expertise and capability to accelerate the Corps process for areas facing significant aging infrastructure and public safety risks. The association offers to work with the Committee to help shape such an approach.

Sound Floodplain Management Incentives

NAFSMA urges that a sliding cost share formula for federally-partnered flood damage reduction projects be developed based on a community's rating in the Federal Emergency Management Agency's Community Rating System (CRS). We would urge that the 35% local cost share be reduced for non-federal sponsors that are carrying out sound floodplain management activities and have achieved a strong rating from FEMA as part of the CRS program. Such incentives have been successful at the state level. This was one of the critical recommendations that was developed at a Flood Risk Policy Summit held in December 2007.

Corps Participation In Climate Change Research

NAFSMA urges inclusion of the Corps in federal climate change research efforts and strong and deliberate interagency cooperation and coordination among federal agencies (especially with the U.S. Geological Survey's Streamgaging Program) in this arena, and the inclusion of state and local officials in the research and policy development.

NAFSMA very much appreciates this opportunity to testify and looks forward to working the Committee on WRDA 2008. Please feel free to contact me or NAFSMA Executive Director Susan Gilson at 202-218-4133 with questions.

DEPARTMENT OF THE ARMY

COMPLETE STATEMENT

OF

THE HONORABLE JOHN PAUL WOODLEY, JR.
ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

BEFORE

Subcommittee on Water Resources and Environment
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
UNITED STATES HOUSE OF REPRESENTATIVES

ON

Proposals for a Water Resources Development Act of 2008

April 30, 2008

Madam Chair and members of the Subcommittee, I appreciate the opportunity to share my observations and recommendations for a future Water Resources Development Act (WRDA).

I am pleased to work with the Committee as it crafts legislation to improve the ways in which the Corps of Engineers serves the Nation. Indeed, the importance of this Committee in establishing in law the necessary authority and in providing oversight in the implementation of such authorizations is a crucial factor in balancing and prioritizing the allocation of scarce resources. Public policy is much improved when the Congressional authorization and oversight processes are robust and effective.

America's water resources are important not only for their profound ecological significance but also for their economic significance in contributing to the wealth and well being of the Nation. The use and conservation of these resources is worthy of most careful consideration in the allocation of scarce financial and human resources and for soundness in policies and practices. The planning and execution of water resources development and conservation projects can span many years, different Congresses, and often, different Administrations at the Federal and local sponsorship levels. Once projects are constructed, they require continued operation, maintenance and other life-cycle management, to include consideration that, in time, all projects must be repaired, restored and replaced. The direct costs, the indirect costs, and the opportunity costs of these undertakings are seldom inconsequential.

Last year, the Congress passed the most expensive WRDA bill ever at a time when the Corps was already facing a large backlog ---well over $50 billion dollars ---of authorized, but unconstructed projects. WRDA 2007 added at least $15 billion of

projects to that backlog. We should now take the opportunity to establish priorities among these existing authorizations, priorities that favor those projects within the Corps main mission areas and those projects with a very high net economic or environmental return per dollar invested, or which address the highest priority human safety issues. We should also use this opportunity to reconsider the unwarranted waivers or reductions in non-Federal cost-sharing requirements, the inappropriate shifting of Federal responsibilities and cost share among Federal agencies, and the shifting of non-Federal responsibilities onto the Federal taxpayer for existing projects. These provisions of past bills only exacerbate the difficulty of finding resources needed to maintain existing Federal water infrastructure, and delay the realization of the benefits of ongoing, high - priority projects.

For all of these reasons, it is important that Congress and the Administration work together to develop and execute a disciplined WRDA process that is fiscally responsible and based upon sound and enduring principles that reflect core values. We need to invest, not simply spend. We should never sacrifice national interests for special interests, nor ignore long-term costs in pursuit of short-term benefits, nor allow our preferences to strangle our principles. Without principles, and without discipline, any process will produce little and waste much.

It was not too long after I was appointed and confirmed as Assistant Secretary that the Gulf Coast region was ravaged by hurricanes Katrina and Rita. I can assure you that those events helped focus my thinking, the Administration's, and the thinking of the Chiefs of Engineers, then LTG Strock and now LTG Van Antwerp, on three very important principles that must characterize and guide the way in which Congress

authorizes projects and activities for the Corps of Engineers. These are "big ideas," but not necessarily new ideas. I propose that we consider these principles to guide important new policy authorities. Permit me to address briefly these three principles.

First, the significance of a Systems Approach; second, the importance of Public Safety and Life-Cycle Management; and third, the opportunities afforded by new flexibility in Modernized Financial Management.

Systems Approach.

A "systems approach" for Corps projects and activities is a principle that is the underlying theme of my remarks today. There has been an exponential increase in data collection and scientific knowledge over the past five decades, and we have learned much about the efficacy and desirability of systems approaches to water resources practices. Likewise, we have learned much about the unintended negative consequences, particularly for environmental quality, when systems considerations are not woven into the fabric of projects. Watersheds do not often correspond to the political boundaries and jurisdictions that abound across our Nation. For this reason, the project planning process should prioritize and evaluate the efficacy of those projects whose development and implementation reflects the broadest possible participation by political jurisdictions and interests within watersheds.

Public Safety and Life-cycle Management

Recurring floods, hurricanes, aging infrastructure and other circumstances have increased public concern about the levels of protection and risk reduction provided by

levees, dikes, dams, and drainage systems. Consequently, this has resulted in concerns about the safety and soundness of the structures themselves. A primary lesson from the failure of the levees in New Orleans is that the Administration and Congress need to take into consideration the risk to public safety in decision-making, resource allocation, and policy and practice for the operation, maintenance, and life-cycle management of flood and storm damage reduction infrastructure.

Risk management and risk communication is often a local responsibility in law, but not always in practice. Last year Congress authorized the creation of a national levee safety standards program to better identify high-risk levees and similar structures. This is an important step toward better Federal collaboration with state and local governments for flood plain management studies. We should explore additional measures to encourage communities to embrace the full range of structural, non-structural, and natural barrier alternatives for reducing risks to pubic safety from storms and floods. Federal projects alone cannot be expected to mitigate risks to public safety. We must work collaboratively with governments at all levels to manage risk as well as respond effectively and readily in times of crisis.

There is also a considerable need for improvement in the management of existing Corps projects, particularly in the science of life-cycle management. Existing projects include many aging structures that have generally served the Nation well in growing and sustaining economic growth and in improving the quality of life in America and in the localities they serve. Yet, much of the work to maintain this infrastructure is too often relegated to crisis-management rather than consistent life-cycle management. As projects age, maintaining the services they provide demands strategies that consider a

combination of increased maintenance and more explicit provisions for rehabilitation, replacement, or even for removal. Changes in economic and environmental conditions might also change the relative value and importance of this kind of infrastructure. Over time, all projects should be periodically re-evaluated to determine the appropriate level of resources to continue to commit to their prospective purposes and objectives, based on the demonstrated performance of those projects. In some cases, the best course might be to discontinue certain Federal roles in a project or to reevaluate non-Federal responsibilities. In other cases, the most desirable choice within a given watershed could be to re-orient project purposes, project scope and the responsibility for operations and maintenance, to best meet prospective needs rather than legacy needs.

Modernized Financing Mechanisms

As I have already mentioned, there is a great need to better prioritize competing water resource needs. While there is a large number of previously authorized projects for construction and a significant, but un-quantified, need for project operations and maintenance, there needs to be a robust comprehensive analysis and baseline assessment of the real life-cycle management costs for rehabilitation, replacement, or even removal of aging or legacy projects. These analyses will help provide a more informed decision making process for establishing priorities and allocating resources to meet the most important of these needs.

In addition, we must also promote the better use of the Nation's overall economic resources, and better align the true cost of providing services with prices. Earlier this month, the Administration submitted to Congress a legislative proposal to address the declining balance of the Inland Waterways Trust Fund. This proposal would establish a

user fee for each barge transiting a Corps lock. The user fee would be phased in over several years, and the existing fuel tax would be phased out. The revenues from the new user fee would be deposited into the Trust Fund, which has been severely depleted over recent years, and used to finance one-half of the cost of capital investment on the inland waterways. I hope this proposal is favorably received by the Congress.

In conclusion, I look forward to working with the Committee and with the Congress to advance the quality and condition of America's water resources and water resources infrastructure as you craft prospective WRDA legislation. Madam Chair, thank you for the opportunity to appear before you today and I will be happy to answer any questions you may have.

TESTIMONY OF

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For the Water Resources and Environment Subcommittee
Of the House Transportation and Infrastructure Committee

PROPOSALS FOR A 2008 WATER RESOURCES DEVELOPMENT ACT
April 30, 2008

Introduction

Madam Chair Johnson, Ranking Member Baker and Members, I am Kurt Nagle, President of the American Association of Port Authorities (AAPA) which was founded in 1912 and represents and provides services for public port authorities throughout the Western Hemisphere. Today my testimony represents the views of the 85 leading public port authorities in the United States which comprise our U.S. Delegation.

We commend the Subcommittee on Water Resources and Environment for your leadership role in the first session of this 110th Congress in bringing about the Water Resources Development Act (WRDA) of 2007 after a seven-year delay in addressing our nation's critical water infrastructure needs. We believe that with such a large backlog of projects and policy concerns, which were not able to be included in the 2007 bill, it is prudent and necessary to consider a 2008 Water Resources Development Act to complete the job of getting the nation back on track with a regular cycle of five bills per decade.

Ports and the Economy

Madam Chair, as you are aware, representing a large district in the heart of the Great State of Texas with its well developed system of ports, the public port authorities are the entry and exit points for the entire U.S. water based and surface transportation system, moving over 99 percent of the nation's overseas cargo. And, without exception, ports are critical to every state in the U.S. On average, each of our 50 states relies on 13-15 ports to handle its imports and exports, which adds up to over $5.5 billion worth of goods moving in and out of U.S. ports ***every day.*** The U.S. Department of Transportation projects that, compared to 2001, total freight moved through U.S. ports will increase by

more than 50 percent by 2020 and the volume of international container traffic will more than double.

Public ports generate significant local and regional economic growth, including creation of jobs. Total direct and indirect annual impact of the U.S. port industry includes:

- 8.4 million jobs, accounting for $314 billion in personal income and nearly $2 trillion in marine cargo-related spending (Martin Associates, Lancaster PA, 2007);
- More than 1 billion tons of domestic goods moved via water in the U.S. (U.S. Army Corps of Engineers, 2006);
- More than $23.2 billion in U.S. Customs duty revenues in fiscal 2007, representing 70 percent of all Customs duties collected (U.S. Customs & Border Protection, 2007).

The U.S. maritime industry and efficient public port authorities have been the world's gold standard for nearly a century. However, the gold is tarnishing a bit due to lack of maintenance of many of our federal entrance channels and the high cost of new channel deepening projects.

Keeping Faith with Project Users

The Harbor Maintenance Tax, first introduced in the historic 1986 WRDA, was then believed to be the answer to having users pay for benefits received from the federal government and providing a steady and reliable source of dedicated revenue for maintaining our nation's ports and harbors. Only the "users pay" part has been honored. Tax collections have provided sufficient revenue, but have been diverted to offset other expenses of the federal government. Current collections of about $1.3 billion annually approximate the $1.3 billion to $1.6 billion a year estimated by the Army Corps of Engineers as needed to meet dredging needs. Only about half that amount is actually appropriated and expended annually.

Lack of maintenance dredging has far reaching negative economic and social consequences impacting: ship calls at ports, jobs created, income produced and higher transportation costs to exporters and consumers of imported goods. The problem is particularly acute for Gulf Coast ports, as well as those on the Great Lakes, where sedimentation rates are high and the need for economic stimulus is greatest.

Hurdles to Needed New Deepening Projects

Dredging critics have tried to characterize new channel deepening projects as a "race to the bottom" among competing ports. The reverse is actually true, as seen in the 2007 WRDA where only two major channel deepening projects were authorized for the ports of Miami and Corpus Christi in spite of the long seven year interval between bills. A large part of the reason for few new projects is the burden of costs incurred by the local

sponsor port. As a result of the two decades old cost-share formula tying the federal/non-federal formula to a 45 feet deep channel as the index, ports needing to deepen to today's standard of 50 feet or more to accommodate the world fleet, must pay 60 percent of the cost of construction and pay 50 percent of maintenance costs for the increment over 45 feet. The local sponsor port also must bear 100 percent of the costs of deepening local channels and berthing areas, as well as multi-million dollar landside improvements to fully realize the benefits of the deeper channel.

We request that the Committee **include a provision in the 2008 WRDA to raise the index point for the deep draft navigation cost-share formula to 55 feet** in acknowledgement of the changed conditions in ship sizes and the significant growth in cargo since 1986. We do not believe that this represents any change in the "user pay" policies established in the 1986 WRDA. It simply recognizes that an adjustment is required in a physical index that is over 20 years old.

Need for Port and Harbor Dues Authority

AAPA believes that ports should have broad authorities to levee fees for raising the local share of federal dredging projects. We believe that common law and precedent provide that authority, but that Section 208 of the 1986 WRDA severely limits this ability. AAPA has been advocating for several years that Congress replace section 208 with a general provision recognizing a port authority's existing ability to levy fees. This ability to levy fees was seriously eroded when section 208 was originally enacted because of the adoption of onerous limitations and requirements. These include §208(a)(3), which severely constrains the universe of vessels a fee may be levied upon; §208(a)(4), which requires non-Federal interests to undertake a burdensome assessment of the need for, and application and effects of, such fees; and, §208(a)(5) & (6), which proscribe strict procedural obligations on non-Federal sponsors for noticing the proposed fee and administering the collection and enforcement of the fee.

We recommend that all of Section 208 be replaced by a general authority restating the common law principal that ports can assess fees to recover the cost of their services. We would be willing to work with committee staff in crafting such a provision.

Equitable Relocation of Utilities

As a result of Corps policy and practice, project sponsors are charged with the removal or relocation of utilities necessary to proceed with a construction project regardless of the ownership of the utilities or the unfair burden of costs placed on the sponsors. AAPA believes that the Corps should exercise its authority under Section 10 of the Rivers and Harbor Act of 1890 or use its navigation servitude authority to direct the removal or relocation of utilities within navigation channels. We recommend that Section 101 (a)(4) of the 1986 WRDA be deleted and that the WRDA express Congress' view that the

Corps should exercise its existing authority to direct the removal and/or relocation of utilities within navigation channels at 100 percent owner expense.

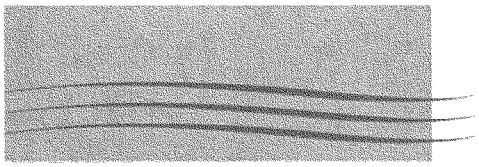
Dredging Challenges

Due to a number of complex circumstances, including congressionally mandated restrictions on the Corps' use of multi-year contracts and ability to move funding to projects with greatest need and appropriation levels for maintenance dredging below Harbor Maintenance Tax annual revenue collections, there is a dredging crisis in America. The problem is particularly acute for ports located on the Gulf and Great Lakes, where there is no Corps dredge available to assist in the absence of a competitive private fleet.

In the 2007 WRDA, Congress took a significant step forward in removing restrictions on the use of the Corps dredges *Essayons* and *Yaquina* due to lack of availability of industry equipment and lack of a competitive bidding environment in the Pacific Northwest. We believe that those same conditions are occurring in other regions as well. Due to uncertainty in the dredging industry, dredging contract amounts are being front loaded with high mobilization costs leaving, in far too many cases, insufficient funding to actually accomplish the required annual dredging. The ultimate solution is to spend Harbor Maintenance Tax revenue. Congress should appropriate each year at least the amount collected.

Conclusion

We appreciate this opportunity to express the need for a 2008 Water Resources Development Act from the public port industry's point of view and stand ready to assist the Committee in any way. Thank you.



WATER RESOURCES COALITION

Statement of

The Water Resources Coalition

Before the

Subcommittee on Water Resources and Environment

of the

House Committee on Transportation and Infrastructure

on

Proposals for a Water Resources Development Act of 2008

April 30, 2008

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STATEMENT OF
THE WATER RESOURCES COALITION
SUBCOMMITTEE ON WATER RESOURCES AND THE ENVIRONMENT
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
APRIL 30, 2008

The Water Resources Coalition (WRC) is pleased to offer this statement for the record for the hearing on proposals for a Water Resources Development Act of 2008.

The Administration Is Failing To Invest in America's Waterways Infrastructure

With each passing day, the inability of our nation's aging infrastructure to meet the needs of our growing population further threatens our economy and environmental quality. America's water resources system is critical to the nation's wellbeing.

Ports and waterways carry domestic and international cargo. Flood-control projects protect lives and prevent property damage. Coastal nourishment projects help to save lives and reduce property damages while providing critical public recreation as well as environmental habitat. In addition, projects for water supply, habitat protection, irrigation, and water-based recreation also provide significant benefits.

When Congress overrode the president's veto of the Water Resources Development Act (WRDA) in 2007, it made a commitment to investing in our nation's water resources. We recommend the Committee pursue oversight on how the U.S. Army Corps of Engineers is implementing that Act, along with the expected guidance documents and schedule for public involvement, so that a more robust WRDA 2008 can be developed if shortfalls have been identified during that process. In addition, we would offer the following thoughts and language for a WRDA 2008.

Water Resources Require National Efforts at Protection

Watersheds and basins—areas in which all water, sediments, and dissolved materials flow or drain from the land into a common river, lake, ocean, or other body of water—are vital to the economic and ecological health of the nation. On an annual basis, nearly $200 billion worth of food and fiber, $60 billion in manufactured products, and more than $40 billion in tourism spending depend on clean water and healthy watersheds, according to the U.S. Environmental Protection Agency (EPA).

Approximately 40 percent of the nation's major watersheds have water quality and habitat-related problems, the EPA concludes. For the most part, the underlying cause of threats to watershed quality and health is commercial and industrial development in the watershed. Among the principal pressures on watersheds are land alteration, urbanization, vegetation removal, agriculture and silviculture activities, and invasive species.

The Corps of Engineers, in concert with the EPA, has a significant role in the preservation of these vital natural water resources. Congress provided a more directed focus in WRDA 2007 with a number of specific provisions. We recommend that as part of WRDA 2008 the Corps be directed to produce a report show how sections 2010, 2013, 2017, 2020, 2032, 2033, 2036, 2037, 2038, 2039, and 2004 will benefit the nation on a watershed basis by assessing the progress that states are making toward integrated planning for these resources.

We urge Congress to ensure that watersheds are a focus of federal protections for water resources nationally. This watershed approach must address natural resource issues that cross jurisdictions and political boundaries. The Corps and the EPA must coordinate their programs to preserve water quality and water quantity on a regional and watershed basis. A successful watershed approach includes the support, participation, and leadership of local stakeholders and land users.

Harbor Maintenance Trust Fund

We are troubled about the impacts on federal ports and harbors that cannot be fully maintained with existing U.S. Army Corps of Engineers Operations and Maintenance funding levels. We support full access to the annual revenues generated by the Harbor Maintenance Trust Fund (HMTF) ad valorem tax for the purpose of operations and maintenance dredging in the United States. In 2007, the HMTF taxes collected from shippers for the purpose of funding dredging projects in our nation amounted to more than $1.4 billion, yet only $751 million of dredging and related maintenance costs was reimbursed from the fund, while ports and harbors were not able to be dredged to their authorized project dimensions. It is time to create a budget mechanism guaranteeing that the nation's ports and harbor users see the harbor maintenance taxes they pay annually fully invested in its intended purpose – the maintenance dredging of Federal ports and harbors. .Congress should enact legislation setting the obligation authority each year equal to projected prior-year revenues collected in the HMTF.

Inland Waterways Trust Fund

To address the funding shortfall and increasing needs in the Inland Waterways Trust Fund, we respectfully recommend the Committee include a provision in WRDA 2008 to study the feasibility for increasing the fuel tax on the inland waterway system and the possibility of including other parts of that system that would greatly benefit from additional investment. Such a study could also assess other means for addressing revenue shortfalls.

National Levee Safety Program Needed Immediately

Title IX of the Water Resources Development Act of 2007 broadened the authority under which the Corps conducts the levee inventory program. This new authority is being implemented under the ongoing levee inventory and inspection program, an interagency

effort to improve management of the nation's flood- and storm-damage reduction infrastructure.

The results of the national project inventory and risk-based project assessments will be linked to the Federal Emergency Management Agency's ongoing flood mapping program, as well as to the Corps levee rehabilitation and inspection program.

The proposed budget for FY 2009 includes $10 million for the National Levee Inventory and Inspection and Levee Safety Program in the Operation and Maintenance account. The funds will be used to continue the national levee inventory, assessment, and database development started with an emergency supplemental appropriation of $30 million in FY 2006.

Congress should take the next step and establish a mandatory nationwide national levee safety program.

In addition, under current law, courts have allowed parties with damages from levee failures to bring suit against levee contractors, designers or engineering firms who build, design, and inspect for certification. This draws their firms into the liability net without regard to fault or negligence when performing to standards or criteria established by the federal agencies.

Construction, design, and engineering professionals are a critical part of the solution to deteriorating levees performance due to age, poor maintenance, over building, and changing natural and manmade hazards. Such entities do not control such factors as budgets, event statistics, risk analysis, and the like. Nor do they own, operate, or maintain the levees. Contractors, design professionals and their firms ought not to be placed in jeopardy when they cannot control the impacts on or the outcome and performance of their efforts.

Accordingly, Congress should amend WRDA to provide liability protection to entities directly involved in the design, engineering, or construction of levees built according to plans specified and approved by the federal government.

Backlog of Corps Projects Needs Attention

The Corps of Engineers has a construction backlog of between $38 and $83 billion. This consists of at least $38 billion worth of projects identified in the Administration's FY 2009 budget proposal, another $23 billion authorized by the Water Resources Development Act of 2007, and a further $22 billion in "inactive" projects—projects that were authorized many years ago and never funded or that lack a current sponsor.

To address this backlog, the Coalition makes the following recommendations:

- The Corps should review the backlog of projects in its inventory.

- Congress should encourage the Corps to expedite implementation of section 2046 in WRDA 2007 relating to project deauthorizations; and
- Congress should develop a formal procedure for listing unfunded projects for deauthorization on an annual reporting basis rather than on a biennial basis

Water Supplies Need Federal Focus

In March 2008 the Coalition recommended that Congress establish clear authority and direction to the Corps to develop single purpose water supply projects to capture the melting snowpack that may occur as a result of climate change. The provisions of the Water Supply Act of 1958 and WRDA 1986 are overly burdensome with regard to cost-sharing to accomplish this goal.

The Coalition would suggest the following:

- Adding a provision in WRDA 2008 that if a state or local governmental entity chooses to develop a raw water supply, then up to 50 percent of the funding may come from the federal government provided: (1) the proposal is specifically identified in a state water plan or its equivalent; (2) the area to be served has in place a Corps approved water conservation plan and; (3) the project is recommended by the governor of the respective state.

- Including a provision similar to the Senate-reported version of WRDA 2007 concerning "Improvement of Water Management at Corps of Engineers Reservoirs" (contained in section 2019). The provision would direct the Corps to integrate contemporary water resources needs into the operation of existing reservoirs to ensure that the nation makes the best use of these reservoirs to meet future water needs in a sustainable manner.

This concludes the statement of the Water Resources Coalition. If you have any questions, please contact Brian Pallasch of the American Society of Civil Engineers at (202) 789-7842 or bpallasch@asce.org or Marco Giamberardino of the Associated General Contractors of America at (703) 837-5325 or giamberm@agc.org.

Thank you.

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