Testimony Presented on Behalf of Robert McCoy, President/CEO, Amherst Madison

on behalf of Waterways Council, Inc.

Examining the Benefits of Investing in U.S. Army Corps of Engineers Water Infrastructure Projects

Committee on Environment and Public Works

United States Senate

July 28, 2021

Chairman Carper and Ranking Member Capito, and members of the Committee, thank you for the opportunity to speak today on the benefits of investing in U.S. Army Corps of Engineers (the Corps) water infrastructure projects. My comments today will highlight the improvements made in the Water Resources and Development Act of 2020 (WRDA) and why a comprehensive infrastructure bill that includes significant funding for lock and dam modernization will provide and sustain more jobs, increase efficiency, be safer, and make our inland waterways system more resilient.

My name is Robert McCoy, and I am the President and CEO of Amherst Madison, a Trustee of the National Waterways Foundation, a member of the Board of Directors of Waterways Council, Inc., and a former member of the Inland Waterways Users Board. Amherst Madison is a marine transportation, construction, and repair business located on the Kanawha River in Charleston, West Virginia. We have been in business since 1893 and we are a 100% employee-owned company driven by over 340 loyal, experienced, and well-trained men and women many of whom are 2nd and 3rd generation employees. We are not only a user of the

inland waterways system but also a contractor that maintains, repairs, and builds the infrastructure necessary to keep our inland waterways moving. Our area of operation extends from above Pittsburgh, PA, and includes the full length of the Ohio River and its tributaries.

West Virginia encompasses 680 miles of navigable inland waterways, ranking it 16th in the nation, and is home to three river systems—the Ohio, Monongahela, and the Kanawha Rivers. In 2018, our ports, inland waterways, and inland-waterways-dependent industries supported 138,200 jobs, $8.5 billion in personal income, $15.2 billion in Gross State Product, and $35.8 billion in total output that gave rise to more than $1.3 billion in state & local tax revenue[1]. However, river systems that create recreational and economic opportunities throughout the state are often out of sight, out of mind to many Americans.

What ensures the many national, regional, and local benefits provided by our inland waterway system are the locks and dams on our state's rivers, and the other major inland rivers, that act much like a ladder so vessels can navigate across systems at varying depths and not get stuck or grounded. Football-field-sized tows comprised of multiple barges carry our nation's critical freight to destinations within the U.S. and facilitate competition for shippers to the world export market. The "building block" commodities they carry include energy products, fertilizer, grain and soybeans, sand and salt for icy roads, aggregate materials for the construction industry, booster rockets for NASA, military equipment, and much more. Each of our nation's locks and dams has a different story, but collectively they provide cost advantages that incentivize the

[1] https://waterwayscouncil.org/file/302/HO_WaterwaysProfile_WV.pdf

movement of more than 500 million tons across the entire system. Our Rivers are the fourth "R" of a critical national multimodal transportation system that also includes Roads, Rail, and Runways.

While our river system provides tremendous benefits, more than half of the portion of the system that is operated by the Corps is now more than 50 years old, which is their design life established by the Corps. Some system segments, for example, older portions located on the Upper Mississippi and Illinois Rivers, are relying on outdated 600-foot-long locks that are unable to accommodate today's inland waterways standard 15-barge tows without separating or "breaking" the tow into two sections to pass through the lock. This multistep process decreases efficiency, increases idle times, and endangers the mariners who must break the tows apart and reconnect them with each lock transit. Beyond the need for modernization to improve the system's efficiency and facilitate the nation's economic well-being and security, these locks and dams require constant attention and operations and maintenance funding support to keep them open and functioning.

Reflecting the concept of "Users Pay, Users Say", Congress created the Inland Waterways Users Board (IWUB). The IWUB is a Federal advisory committee established by Section 302 of WRDA 86, to give commercial users a strong voice in the investment decision making they are supporting with their cost-sharing tax payments. The IWUB annually provides recommendations to Congress and the Secretary of the Army through its annual report. The 33rd annual report was transmitted to Congress earlier this year. I have included the report as an appendix below.

Since 2016, the first full year that the newly increased inland waterways diesel fuel tax was in effect, the inland waterways capital investment program (Construction account) has ranged from $409 million at the high end to $323.1 million at the low end. These higher funding levels were achieved through (1) individual cost-share changes for construction of Olmsted Locks and Dam in WRDA 2014 and for the Chickamauga Lock in the FY19 and FY20 Energy and Water, and Related Agencies funding bills, and (2) enactment of industry-supported nine-cent-per-gallon increased in the diesel fuel tax that commercial users of the inland system pay[2]. These policy changes led to quick progress for ongoing construction projects, including Olmsted becoming operational four years ahead of schedule and $275 million below the Post Authorization Change Report estimated cost.

Last year, Section 109 of WRDA 2020 established an important new statutory cost-share formula for the construction and major rehabilitation of any inland waterways system navigation project receiving an appropriation during FY21 through FY31. That provision changed the construction and major rehabilitation cost-share for inland navigation projects to 65% from the General Treasury and 35% from the Inland Waterways Trust Fund (IWTF). This provision, when fully appropriated, will deliver roughly an additional $100 million annually in construction funding for navigation improvements on the inland system. I cannot thank this committee enough for your support in modifying the cost-share. This Committee continues to take meaningful steps to advance our nation's inland waterways transportation system.

[2] In 2014, the inland barge industry proposed a 45% increase to our own diesel fuel tax, which took effect April 1, 2015. Commercial operators are the only users of the system to pay a dedicated tax for its care and modernization, despite the many industries benefiting from the system.

Also, in January this year, the Corps submitted the first update of the Capital Investment Strategy that this Committee called for in WRRDA 2014. The Corps' 2020 Capital Investment Strategy report illustrates, by completing the 15 highest priority projects (valued at $7 billion) over a 10-year timeframe rather than the more than 30 years under the baseline funding scenario, the Corps will save $2.2 billion, and complete construction 20 years earlier than expected[3]. A study under the sponsorship of the National Waterways Foundation concluded that expediting the construction of the current portfolio of congressionally authorized projects will add 35,000 more jobs to the existing 541,000 jobs, create $14 billion in additional incomes, and decrease overall system construction costs and emissions through greater efficiency[4]. As the most environmentally friendly mode of surface transportation, the barge industry can move cargo 647 ton-miles per gallon of fuel, surpassing other surface modes of transportation (145 ton-miles per gallon of fuel for trucks and 477 ton-miles per gallon of fuel for locomotives). This is incredibly impressive since many of our tows traverse a number of undersized 80-year-old locks and dams, originally built for steamboat traffic and are 600-feet in length

As you continue to work on an infrastructure package and begin working on WRDA 2022, I hope you all remember the strides that have been made to improve the overall inland waterways transportation system. With the adjustments made in WRDA 2020 by this Committee, inclusion in an infrastructure package, and full appropriation of annual IWTF receipts, we

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[3]https://www.iwr.usace.army.mil/Portals/70/docs/IWUB/Inland%20Waterways%20Capital%20Investment%20Strategy%20Report%202020%20Final%20Transmitted%20to%20Congress%204Jan21.pdf?ver=zAvoCiOFncpHG9WgP4JU2g%3d%3d

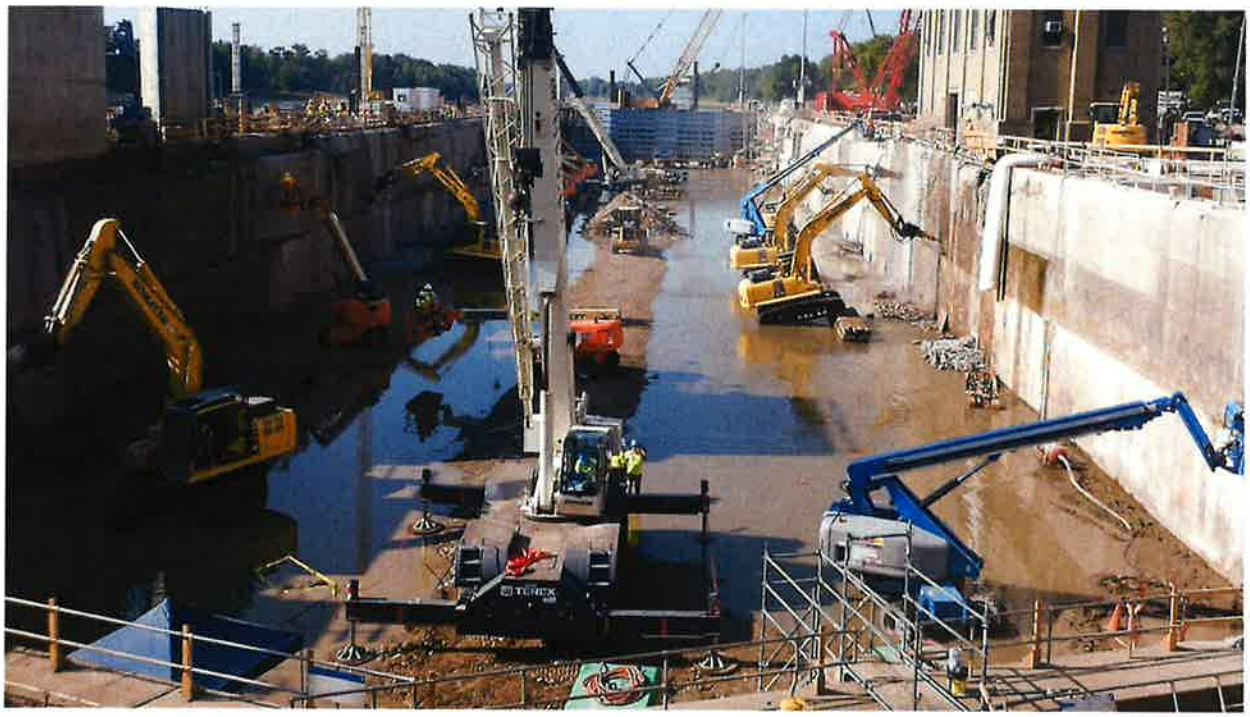
[4] http://nationalwaterwaysfoundation.org/documents/INLANDNAVIGATIONINTHEUSDECEMBER2014.pdf

can build a more resilient and efficient inland waterways system. Thank you, and I look forward to answering your questions.

INLAND WATERWAYS USERS BOARD
33RD ANNUAL REPORT

To the SECRETARY OF THE ARMY
And the UNITED STATES CONGRESS

December 2020



LaGrange Lock and Dam Major Rehabilitation

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INTRODUCTION

In order to enhance and sustain our economic and social well-being, the Nation needs, and in fact has, a resilient transportation system. As one of that system's foundational "4 R's" -- roads, rails, runways, and rivers -- the inland waterways as a major transportation system is a key contributor to the overall transportation system's resilience. Of the 4 R's, river transportation is the safest, most environmentally responsible, and most efficient mode of transporting bulk commodities that are critical to our Nation's economy. Each year, approximately one-seventh of the Nation's total intercity commercial tonnage travels on the river transportation system, which, in addition to the economic advantages of river transportation for our Nation, alleviates significant congestion and wear and tear on our national highway system. Additionally, the national infrastructure that creates the pools the river system depends on to support navigation, is essential to providing drinking water for tens of millions of Americans, generates hydropower to meet national energy demand, provides cooling water for manufacturing facilities and controls waterflow to protect communities from flooding and to help grow agricultural products, all of which further sustain the Nation's economy.

America's inland waterways system is comprised of 12,000 miles of navigable waterways in 38 states. The U.S. has the largest navigable inland waterways system in the world. Each year, the system typically moves almost 600 million tons of freight valued at approximately $250 billion over what is, mile-for-mile, the safest and most environmentally responsible mode of goods transport.

The inland waterways offer the lowest carbon footprint among other modes of surface transportation, with little noise or air pollution. Barge transportation is the most fuel-efficient mode of transportation, with towboats moving a ton of cargo 647 ton-miles per gallon of fuel, compared to trucks moving it 145 miles for each gallon of fuel burned and locomotives transporting that cargo 477 ton-miles per gallon. A standard locking river inland configuration of one towboat pushing 15 barges moves as much cargo as 1,050 semi-trucks on our highly congested roadways, or six locomotives pulling 216 rail cars. A single towboat pushing a standard 36 barge tow on the Lower Mississippi River moves the equivalent of 2,520 semi-trucks and 518 rail cars.

The U.S. has long recognized the vital contribution that waterborne transportation makes to overall prosperity. Achieving an ever-more-sustainable and resilient inland waterways system has been a commonly held national goal for more than 200 years. Navigation channels have been created and locks and dams constructed with continually advancing features to increase the system's capacity, improve its performance, and prevent or minimize the risks posed to the system. Just as public expenditures to create and maintain these navigation channels and construct and maintain these locks and dams have been among the Nation's earliest infrastructure investments, similar investments are just as critical today to ensure an efficient 21st century freight system and to maintain the critical competitive advantages the waterways system creates for our Nation's economy.

Numerous studies have documented the enormous value our inland waterways system delivers to the Nation. For example, the U.S. Department of Agriculture (USDA) 2019 report, "Importance

of Inland Waterways to U.S. Agriculture" highlighted in the Users Board's 32nd Annual Report and discussed further in this Annual Report, conclusively makes the case for significant additional investment in the modernization of the Nation's inland waterways system infrastructure. Among its findings, is that "due to its efficiency and lower costs, the inland waterways system saves between $7 billion and $9 billion annually over the cost of shipping by other modes."

Congress continues to embrace the national goal of adding resiliency improvements to the inland waterways system. In recent years, modernization project authorizations like the Navigation and Ecosystem Sustainability Program (NESP), which will add redundant lock capacity at seven existing projects on the Upper Mississippi River and on the Illinois Waterway, and the Upper Ohio River Navigation Project, which will modernize and upgrade the redundancy of the three oldest lock and dam projects on the Ohio River, have been approved. When constructed, these newly authorized projects will enhance throughput on these waterways and provide significant transportation resiliency benefits related to weather conditions, economic circumstances, security considerations, and overall transportation system sustainability. To this end, in addition to the Kentucky Lock Addition and Chickamauga Lock and Dam projects currently under construction, Congress has authorized the construction of 15 priority new modernization projects costing a total of $7.1 billion to be built by the U.S. Army Corps of Engineers (the Corps).

It is very much in the national interest that these high-priority navigation infrastructure projects be built expeditiously considering the critical investments in the Nation's future that they represent. As we noted in last year's Inland Waterways Users Board 32nd Annual Report, our country's international competitors are not inclined to sit back and cede advantage to the United States. On the contrary, foreign competition from countries like Brazil, which is prioritizing the improvement of its internal land and water transportation arteries, and from China, which is investing aggressively in its own and South America's transportation infrastructure, is expected to continue to intensify. China, in particular, currently is engaged in a mammoth worldwide infrastructure investment campaign designed to expand trade links and advance China's openly-stated goal of supplanting the United States as the world's preeminent economic power. Since this "Belt and Road Initiative" began approximately seven years ago, it has been reported that more than 130 countries have signed deals or are pursuing the possibility of participating in the program. The World Bank estimated two years ago that at least $575 billion worth of projects had been built or were at that time progressing.

The United States must meet this challenge.

As outlined in greater detail in this report, in September 2020 the Corps submitted a draft of the Capital Investment Strategy (CIS) for the inland waterways. This report reflects significant partnership and work effort between the Corps and industry during 2020 to evaluate and prioritize the highest priority needs amongst our Nations' overall aging and depleted waterways infrastructure. In accordance with Water Resources Reform and Development Act of 2014 (WRRDA 2014), the Capital Investment Strategy is re-evaluated every five years and is intended to provide the funding priorities for infrastructure projects on the inland waterways. With the prospect of an infrastructure bill, the CIS provides a current roadmap that should be used for allocating additional project funding.

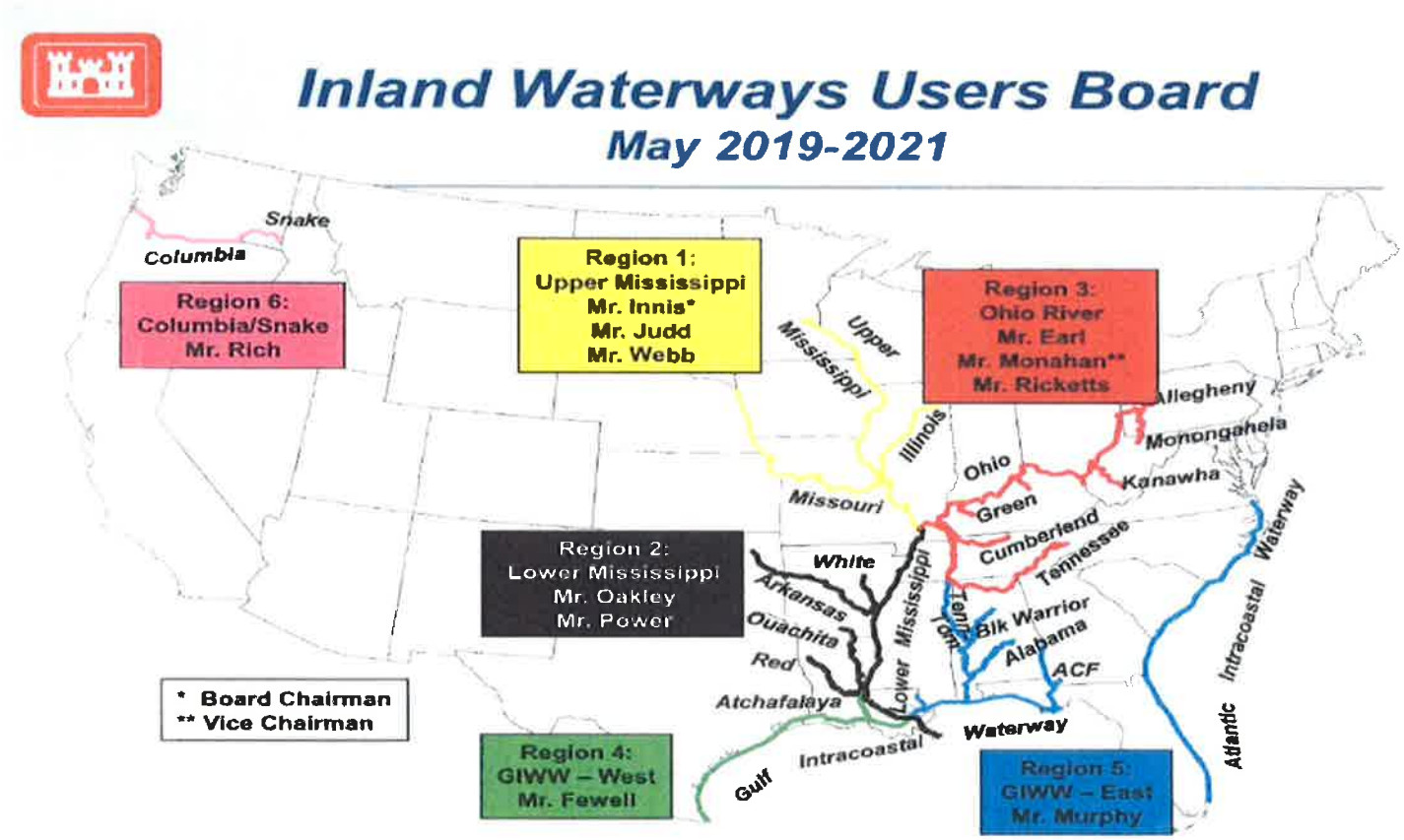
Investment in modernization of the locks and dams of our inland waterways system is not consumptive spending. Instead, it is future-oriented spending that will increase economic activity, employment, and prosperity for our great Nation. These investments are essential to sustain and improve our country's security and standard of living for our children and their children. The Corps has demonstrated that, in partnership with the American worker, if provided efficient funding and appropriate resources to execute projects without interruption, it can and will restore our inland waterways infrastructure to a state that supports the continued prosperity of our Nation. The Users Board believes that to be a matter of high priority for all of us and appreciates the continued support of Congress for this critical infrastructure reinvestment objective.

INLAND WATERWAYS USERS BOARD IN 2020

Users Board Membership

The Inland Waterways Users Board is an independent Federal advisory committee established by Section 302 of Public Law 99-662, the Water Resources Development Act of 1986 (WRDA 86). The Secretary of the Army appoints its eleven representative organizations. For the purpose of making these appointments, the inland waterways subjected to fuel taxes have been subdivided into six geographic regions, with the intent that each region be represented by at least one Board member based on the regional concentration of the respective member's firm's traffic on the waterways. Figure 1 illustrates the Corps-assigned regional representation determinations for the 11 current Users Board Members.

Figure 1: Users Board Membership, May 2019-2021



The Department of the Army is in the process of selecting replacements for five Users Board members whose appointment terms are scheduled to expire on May 27, 2021. Significant preliminary administrative work has been performed, including the solicitation and review of nominations to fill the five expiring appointments. The Board urges the Corps to continue to support as a priority matter the Army Department's efforts to finalize the necessary replacement appointments to the Users Board for the five departing members as soon as possible and in a manner that assures full Users Board membership during 2021.

Meetings

Section 2002 of the Water Resources Reform and Development Act of 2014 (WRRDA) amended Section 302 of WRDA 86 to require (1) the Users Board to "meet not less frequently than semi-annually" and (2) the Secretary of the Army to "communicate not less frequently than once each quarter to the Users Board the status of inland waterways system project activity throughout the nation." Pursuant to this requirement, the Users Board held three formal meetings during calendar year 2020, as follows:

- Meeting No. 93 on February 19th in Fort Smith, Arkansas;
- Meeting No. 94 on July 22nd online virtually; and
- Meeting No. 95 on October 30th online virtually.

On the day preceding Board Meeting No. 93, a project site visit and briefing by the U.S. Army Corps of Engineers was conducted, at Robert S. Kerr Lock & Dam at Sallisaw, OK. No site visit or briefing was held prior to Board Meeting No. 94. On the day preceding Board Meeting No. 95, a project visit to Mississippi River Mel Price Locks and Dam, Alton IL, and Illinois Waterway LaGrange Lock and Dam, IL was hosted and briefings were held by Corps personnel for the Users Board.

Prior public notice of all three Users Board meetings was published in the Federal Register, and all three meetings were open to the public and held under the provisions of the Federal Advisory Committee Act of 1972, as amended.

INLAND WATERWAYS TRUST FUND

Revenues

Annual revenues deposited into the Inland Waterways Trust Fund (IWTF) during Fiscal Year (FY) 2020 declined somewhat from amounts deposited in recent years. According to the Treasury Department's IWTF status report for the month ending September 30, 2020, revenue totaling $112.4 million was deposited into the IWTF during FY 2020, $111.7 million in diesel fuel taxes and $0.7 million in interest. The $112.4 million total constituted an $8.8 million decrease below the annual total for FY 2019 and a $4.4 million IWTF revenue decrease below the total for FY 2018, as reflected in Table 1.

Table 1: Annual IWTF Revenues (Millions of Dollars)

Fiscal Year	Diesel Tax Receipts	Interest	Total Revenues
2014*	$81.7	$0.0	$81.8
2015†	$97.9	$0.0	$97.9
2016	$110.9	$0.2	$111.1
2017	$113.7	$0.7	$114.4
2018	$115.0	$1.8	$116.8
2019	$117.0	$4.2	$121.2
2020	$111.7	$0.7	$112.4

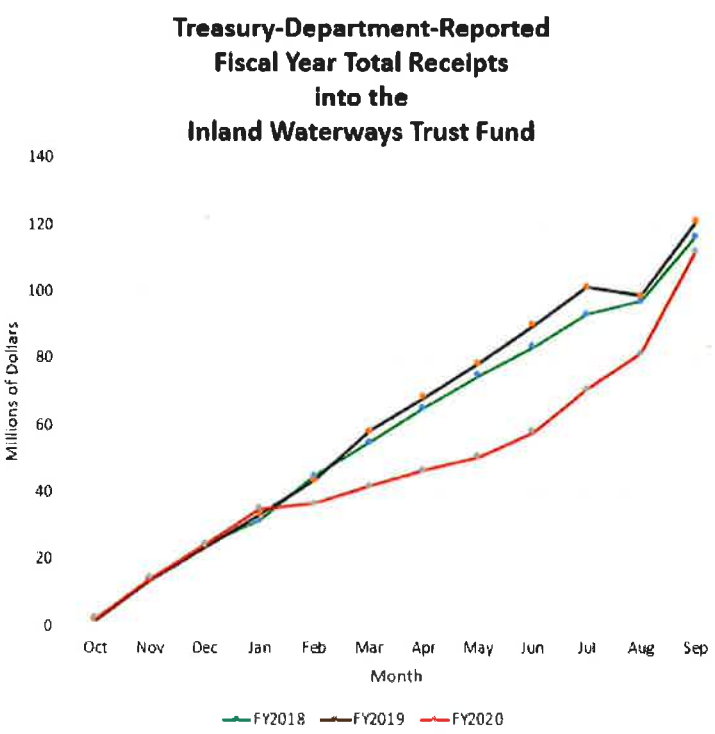
On average, annual receipts into the Inland Waterways Trust Fund during the five years during which the current 29 cents-per-gallon diesel fuel tax was in effect for the full year (FY's 2016 through 2020) amounted to $115.18 million per year.

For much of FY 2020, it appeared that the full-year revenue total for the year would be appreciably lower than the $112.4 million actually deposited into the Trust Fund. Beginning with the amount which the Treasury Department reported for the month of February 2020 and continuing for each of the next four months, Treasury's estimates of aggregated monthly IWTF receipts were significantly lower than the amounts Treasury had reported for the same months in both FY 2018 and FY 2019. IWTF revenues for the month began to exceed prior year comparable-month amounts in the July 2020 and August 2020 Treasury reports. Fortunately, Treasury's end-of-fiscal-year report for September 2020 reflected September's receipts recouping much of the lost ground. Figure 2 shows the month-by-month aggregated IWTF revenue receipts reported each month by the Treasury Department for Fiscal Years 2018, 2019, and 2020.

* Full year fuel tax collection at 20 cents per gallon.

† Half-year fuel tax collection at 20 cents per gallon and half-year at 29 cents per gallon, effective April 1, 2015

Figure 2:



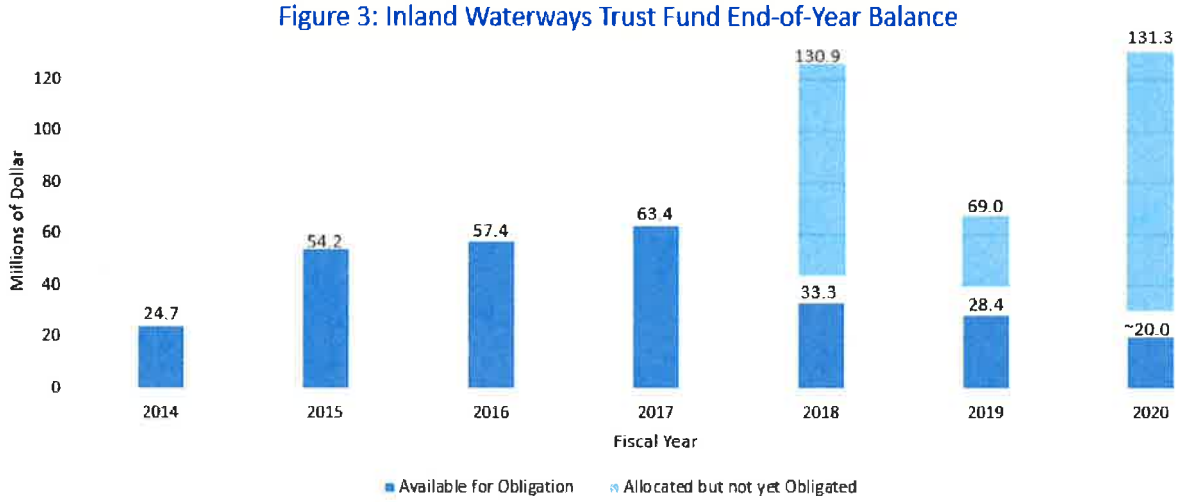
	FY2018	FY2019	FY2020
OCT	2.12	2.12	2.50
NOV	14.10	13.93	14.71
DEC	24.83	24.18	24.82
JAN	31.72	33.50	35.33
FEB	44.99	43.73	36.75
MAR	54.98	58.33	41.92
APR	65.29	68.47	46.76
MAY	74.99	78.64	50.96
JUN	83.68	90.10	58.24
JUL	93.46	101.51	70.93
AUG	97.22	99.10	81.84
SEP	116.81	121.24	112.38

The revenue decline which began in February 2020 coincided with and principally was caused by the onset of the COVID-19 pandemic in the United States and throughout the world. The decline continued to worsen until the report for July, which was the first report to reflect the beginning-to-improve overall economic conditions in the Nation. The Board believes that two other factors explaining FY 2020's lower-than-expected IWTF receipts for the year were the occurrence of unusually adverse weather conditions, including a record-breaking number of named hurricanes in 2020 and persistent dangerous high-water conditions on much of the inland waterways system during the year, and the lengthy closure (discussed later in this report) of the Illinois Waterway for major maintenance on five of that waterway's locks and dams. A fourth contributing factor to FY 2020's reduced level of IWTF receipts was low demand in the latter third of the fiscal year for commodity transportation generally due to the collapse of the worldwide petroleum markets and international trade disruption with China.

End-of-Year IWTF Balance

Figure 3 illustrates how the end-of-fiscal-year balance in the Inland Waterways Trust Fund has changed from year to year since Fiscal Year 2014. The $69 million balance at the end of Fiscal Year 2019 represented significant improvement from the $130.9 million end-of-year balance for Fiscal Year 2018. This improvement resulted in an unusually-large "catch-up" transfer from the IWTF to the Corps during FY 2019 of $183.2 million to compensate for the abnormally-low $49.3 million transfer in FY 2018.[1]

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



Unfortunately, FY 2020 has ended with a return to a far-too-high end-of-year Trust Fund balance of $131.3 million. According to the Treasury Department's end-of-FY 2020 report, only $50 million was transferred to the Corps of Engineers during the fiscal year for project construction work performed during the year. For an IWTF project construction program having five on-going inland waterways construction projects (Olmsted, Monongahela River (Lower Mon), Kentucky, Chickamauga, and LaGrange) and project-specific allocated appropriations totaling $329.8 million in FY 2019 and $336.3 million in FY 2020, this high $131.3 million end-of-year balance in the Trust Fund raises questions about whether artificial Office of Management and Budget-imposed funding constraints are preventing the Corps' project execution from being as efficient as it could be.

The Users Board is concerned about FY 2020's high end-of-year balance. The Board again notes, this time with growing concern that, overall, the end-of-year balance in the IWTF is gradually increasing and urges the Corps to fully employ IWTF resources to optimize the construction productivity of those resources while continuing to operate in a fiscally-sound manner. The Users Board believes a significantly lower minimum reserve balance in the IWTF of approximately $20 million would provide ample cushion for variations in IWTF receipts but not unnecessarily restrict spending on the critical projects in the pipeline.

[1] As indicated in the Board's 31st Annual Report, the Corps explained FY 2018's low obligation level as being caused by not having enough time to obligate and spend more due to how late in the year the Consolidated Appropriations Act (P.L. 115-141) was signed into law.

ECONOMIC RECOVERY THROUGH INFRASTRUCTURE INVESTMENT

President Biden has expressed his intention to advance a major infrastructure-investment-based economic recovery initiative early in the First Session of the 117th Congress. Congressional leaders in both political parties and in both the House of Representatives and the Senate also have offered statements of strong support for substantial new investment in the Nation's infrastructure.

Users Board members unanimously endorse including in this legislation significant additional funding for the construction of the Nation's inland waterways system transportation infrastructure. Providing this funding, in the Board's view, will create a sustainable advantage to American industries that ship their products on our waterways and, by increasing the reliability and efficiency of the waterways, make American industry more competitive at home and in the world market. At least $3 billion of infrastructure funds should be appropriated in this comprehensive infrastructure investment legislation for the list of ongoing and new start construction projects to modernize the inland waterways system. The Corps September 2020 draft Capital Infrastructure Strategy outlines the shared view of the top 15 new start project priorities from the Users Board and Corps which would require $7.1 billion in total efficient funding, as follows:

Remaining Cost of Projects Currently Under Construction

Project	River/State	Amount
Chickamauga Lock and Dam	Tennessee River/ TN	$230,300,000
Kentucky Lock and Dam	Tennessee River/ KY	$562,055,099
	Total=	**$792,355,099**

New Start Construction Projects

Project	River/State	Amount
Upper Mississippi River Lock and Dam 25	Mississippi River/ MO & IL	$626,024,000
Three Rivers	MKARNS/AR & OK	$201,652,000
Montgomery Lock	Ohio River/ PA	$677,570,000
LaGrange Lock	Illinois River/ IL	$507,433,000
Upper Mississippi River Lock and Dam 24	Mississippi River/ MO & IL	$686,083,000
MKARNS 12 Foot Channel	MKARNs/AR & OK	$234,428,000
Emsworth Lock	Ohio River/ PA	$463,180,000
Upper Mississippi River Lock and Dam 22	Mississippi River/ MO & IL	$578,532,000
Upper Mississippi River Lock and Dam 21	Mississippi River/ MO & IL	$749,869,000
Dashields Lock	Ohio River/ PA	$454,738,000
Peoria Lock	Illinois River/ IL	$547,838,000
Upper Mississippi River Lock and Dam 20	Mississippi River/ MO & IL	$496,502,000
Thomas O'Brien Major Rehab	Little Calumet River/ IL	$53,000,000
Brazos River Flood Gate	Gulf Intracoastal Waterway/ TX	$158,147,000
Colorado River Lock	Gulf Intracoastal Waterway/ TX	$251,630,000
	Total =	**$6,276,849,000**

Providing this additional funding will greatly expedite the construction initiation and completion of these inland waterway modernization investments, minimize the costs necessary to complete these projects, and result in the delivery of the projects' intended national economic development benefits far earlier than could be achieved without the additional funding. A few years ago, the National Waterways Foundation released a study performed by researchers at the Universities of Kentucky and Tennessee that analyzed the economic impacts of preserving the inland waterways system and expediting the construction of Congressionally-authorized lock and dam modernizations so that they would be completed in 10 years rather than the then-current estimate of more than 20 years.[‡] The study results concluded that preserving the system is critical, helping to sustain nearly 541,000 full-time jobs and $21 billion in annual incomes. Further, the study found that expediting modernization over a 10-year timeframe would hasten the addition of another 35,000 jobs to this total, add $14 billion in additional incomes over 10 years, and decrease the overall system construction costs.

Another recent study documenting the critical role that the inland waterways system plays in the Nation's economy was published in August of 2019. Sponsored by the U.S. Department of Agriculture, the "Importance of Inland Waterways to U.S. Agriculture" was prepared, as its title suggests, to document and quantify the importance of the inland waterways system to the U.S. economy and, specifically, to U.S agriculture. As a starting point, the study noted that "due to its efficiency and lower costs, the inland waterways system saves between $7 billion and $9 billion annually over the cost of shipping by other modes." The USDA report analyzed three funding scenarios: status quo spending through the year 2045, increased investment to complete all authorized inland navigation projects in 10 years, and decreased investment through 2045. Compared with the status quo, the increased investment scenario led, among other things, to a 39 percent increase in Gross Domestic Product (GDP), while the reduced investment scenario led to a 38 percent/$70 billion decrease in GDP. The $72 billion increase in GDP with the increased investment scenario delivered an estimated 11.4 x multiple on the incremental funding required through 2045 alone and resulted in a 20 percent/77,000 increase in employment, a 40 percent/$142 billion increase in sales, and significant increases in both the volume and market value of U.S. farm exports.

Recent work by the U.S. Army Corps of Engineers is helpful in quantifying the magnitude of savings, both in terms of costs avoided and completion delays prevented, as a result of including $7.1 billion for inland waterway project construction in infrastructure investment legislation. The Corps' September 2020 draft of the Capital Investment Strategy analyzed three hypothetical funding scenarios, one of which was labeled the "10-Year Construction" scenario. That scenario allocated and staged the necessary funding to the 15 projects listed above such that "the 15 projects would all be completed in FY 2033 at an estimated cost of $7.05 billion". Table 2 below is re-produced from Table 17 in the draft CIS report which shows the project-specific allocations each year through FY 2033 for the 10-Year Construction scenario.

The Corps' September 2020 draft CIS report provided similar information analyzing what the report characterized as the "Baseline $240 million scenario", concluding that under the Baseline

[‡]See, http://nationalwaterwaysfoundation.org/documents/INLANDNAVIGATIONINTHEUSDECEMBER2014.PDF

$240 million scenario "The 15 projects would be completed in FY 2053 at an estimated cost of $9.23 billion." In other words, proceeding to construct the 15 projects for $7.05 billion under the expedited 10-Year Construction scenario would save $2.18 billion and return to the Nation 20 years earlier the economic benefits that Congress authorized those projects to deliver. In addition to the savings that could be captured through efficient funding, these projects all deliver significant return on investment to the Nation through tangible economic benefits.

Table 2: Ten-Year Scenario Construction and Design Costs*

20-YR DESIGN TOTAL:	$ 345.56	Design Cost	$ 35.5	$ 51.9	$ 46.9	$ 61.8	$ 52.4	$ 59.9	$ 37.1	$ -	$ -	$ -	$ -	$ -	$ -
20-YR CONSTRUCTION TOTAL:	$ 7,050.60	Construction Cost	$ 247.7	$ 248.5	$ 592.0	$ 534.2	$ 755.7	$ 783.3	$ 950.3	$ 910.4	$ 723.3	$ 570.4	$ 453.9	$ 212.0	$ 39.0
Project	Project Description	Waterway	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	FY2033
Olmsted Locks & Dam	New Locks and Dam	Ohio													
Locks & Dams 2,3, & 4 Monongahela River Navigation	New Lock	Monongahela													
Kentucky Lock Addition	New Lock	Tennessee	169.4	169.1	186.3	121.0									
Chickamauga Lock	New Lock	Tennessee	78.3	79.4	95.4	47.0									
NESP Upper Miss. River L&D 25	New Lock	Mississippi	10.3	6.4	103.8	107.0	110.2	113.5	116.9	24.2					
Three Rivers	Channel Protection	MKARNS	5.2	5.3	66.4	79.7	82.1	10.5							
Upper Ohio – Montgomery L&D	New 600 ft Lock	Ohio	7.2	1.1	56.8	93.9	153.5	187.2	132.8	24.2					
NESP IWW LaGrange L&D	New 1200 ft Lock	Illinois	12.9	10.6	83.2	85.7	88.2	90.9	93.6	31.0					
NESP Upper Miss. River L&D 24	New 1200 ft Lock	Mississippi		8.0	13.7	14.1	105.1	109.3	112.6	115.9	119.4	35.7			
MKARNS 12' Channel	Channel Deepening	MKARNS			8.2	8.4	54.3	56.0	57.7	59.4	41.5	16.6			
NESP Upper Miss. River L&D 22	New 1200 ft Lock	Mississippi		6.9	10.9	6.8	76.8	79.1	81.4	83.9	86.4	24.6			
Upper Ohio – Emsworth L&D	New 600 ft Lock	Ohio		13.7	14.1	15.6	84.5	137.0	192.5	145.3	43.4				
NESP Upper Miss. River L&D 21	New 1200 ft Lock	Mississippi				8.4	14.5	14.9	116.5	120.0	123.6	127.3	131.2	37.9	
NESP IWW Peoria L&D	New 1200 ft Lock	Illinois				8.4	14.5	14.9	76.3	78.6	81.0	83.4	85.9	37.9	
Upper Ohio – Dashields L&D	New 600 ft lock	Ohio					14.7	15.2	16.8	87.3	141.2	192.4	149.9	46.7	
NESP Upper Miss. River L&D 20	New 1200 ft Lock	Mississippi					8.7	14.9	15.4	79.5	81.9	84.4	86.9	89.5	39.0
TJ O'Brien	Major Rehabilitation	Illinois							4.9	62.1	4.9				

blue = design

purple = construction

* title in the draft CIS report was "Twenty Year Construction and Design Costs", with the table showing no expenditures for fiscal years 2034

CALENDAR YEAR 2020: A YEAR IN REVIEW

Fiscal Year 2020 Work Plan

The Energy and Water Development and Related Agencies Appropriations Act for Fiscal Year 2020 (Division C of P.L. 116-94, Further Consolidated Appropriations Act, 2020) directed the U.S. Army Corps of Engineers to provide within 60 days of enactment the work plan delineating how the funds being appropriated were to be allocated, including the significant increased amounts Congress provided in addition to the barebones deficient Administration budget request. The Corps publicly released the FY 2020 Work Plan in a timely fashion on February 10, 2020. The Users Board was delighted to see that the Corps work plan closely adhered to the recommendations made by the Board in its 32nd Annual Report, including continued Construction Account funding as follows:

- $111 million to complete Monongahela River Locks and Dams 2, 3 and 4 (Lower Mon);
- $63 million to complete Olmsted Locks and Dam;
- $61.1 million for Kentucky Lock; and
- $101.7 million for Chickamauga Lock and Dam.

None of the funds for the Olmsted, Kentucky or Chickamauga projects had been requested by the Administration in its FY 2020 budget proposal.

The Board was also very pleased to see that, consistent with the Board's recommendations in the 32nd Annual Report, the FY 2020 Work Plan allocated just under $18.3 million for Preconstruction Engineering and Design (PED) of the Board's top-three candidate new start construction projects as follows:

- $7.7 million for the Upper Ohio River Navigation project's Montgomery Lock;
- $4.5 million to continue PED for the Upper Mississippi River – Illinois Waterway Navigation and Ecosystem Sustainability Program (NESP); and
- $6.1 million for the Three Rivers project in southeast Arkansas.

This level of new PED funding positions NESP and Montgomery Lock to begin construction in FY 2021 and Three Rivers to begin construction in FY 2022 assuming subsequent PED funding need is met.

Fiscal Year 2021 Administration Budget Proposal

On February 10, 2020, the same day that the FY 2020 Work Plan was publicly released, the Administration released the details of the Administration's proposed FY 2021 budget for the U.S. Army Corps of Engineers Civil Works Program. Unlike the very strong FY 2020 Work Plan, which was driven by Congress' healthy increased level of appropriations for FY 2020, the Administration's FY 2021 budget proposal for the Corps was grossly deficient. Overall, the Administration proposed to cut the Civil Works Program to a level 22 percent below the $7.65 billion appropriated in FY 2020 for Civil Works. Most troubling from the Users Board's perspective, despite entering FY 2021 with a balance of $131.3 million in the Inland Waterways Trust Fund and despite projecting that an additional $115 million in inland waterways diesel fuel taxes would be collected and be deposited into the Trust Fund during FY 2021, the Administration proposed to zero-fund IWTF construction projects, including the funds needed to continue the ongoing Kentucky and Chickamauga projects. Making matters worse, the Administration's budget proposed to significantly increase the amount paid each year by the commercial navigation users of the inland waterways. The committee report accompanying the Senate Energy and Water Development Subcommittee's draft FY 2021 appropriations bill for the Corps Civil Works Program states "It is absurd not to spend any of the fees already being collected while imposing additional fees on the same commercial users." The Users Board completely agrees.

Illinois Waterway Closure

The Users Board would like to highlight and express its appreciation to the Corps for the extraordinary lock and dam rehabilitation work that the Corps successfully accomplished on the Illinois Waterway in 2020. Despite lingering high-water conditions and myriad management challenges associated with the raging nationwide COVID-19 pandemic, the Corps was able to complete during the July 1st to October 29th timeframe what the Rock Island District Commander has described as "the largest investment in the Illinois Waterway since its inception" involving the simultaneous closure, and rehabilitation and repairs costing more than $200 million of five lock and dam projects. Never before had the Illinois Waterway been completely shut down to navigation for so long during the middle of the shipping season.

From an engineering, logistical, and construction management perspective, the Corps challenge was enormous to conduct major repair work simultaneously on the LaGrange, Peoria, Starved Rock, Marseilles, and Dresden Island locks and dams. Beyond that, more than three years of exchanging information, planning, and coordinating with stakeholders preceded the closures, which was essential for the Corps to understand the commercial and other needs of the stakeholders and for the shipping community to adjust their transportation requirements in a way to try to minimize adverse economic impacts. In the end, the entire waterway was able to reopen to navigation traffic on October 29th, the original system-wide target completion date.

On behalf of the entire navigation industry, the Users Board unanimously congratulates and thanks the Corps for this exceptional accomplishment.

Fiscal Year 2021 Appropriations

The Fiscal Year 2021 Energy and Water Development and Related Agencies Appropriations Act (E&WD Act), which funds, among other things, the Department of Energy and the U.S. Army Corps of Engineers Civil Works Program, became law in the final days of the 116th Congress as Division D of the Consolidated Appropriations Act for 2021 (P.L. 116-260). At $7.795 billion, the overall Civil Works Program received record-level funding for the sixth consecutive fiscal year. Of special importance to the users of the inland waterways system, IWTF-supported construction projects were provided $322.8 million of funding, a total rejection of the Administration's irresponsible budget proposal to zero-fund even ongoing IWTF projects. Also, of importance to inland waterway interests, the FY 2021 E&WD Act:

- requires one lock and dam construction "new start" project during Fiscal Year 2021,
- increases appropriations for operation and maintenance of inland navigation projects by at least $60 million -- and perhaps as much as $100 million -- above the Administration's recommended $726 million budget amount, and
- provides an increase of more than $50 million to fund feasibility and preconstruction study work, including Preconstruction Engineering and Design (PED) for important inland navigation projects like the Upper Mississippi River – Illinois Waterway Navigation and Ecosystem Sustainability Program (NESP), the Upper Ohio River Navigation Project, and the Three Rivers project in Arkansas, as well as for projects in other Corps mission areas.

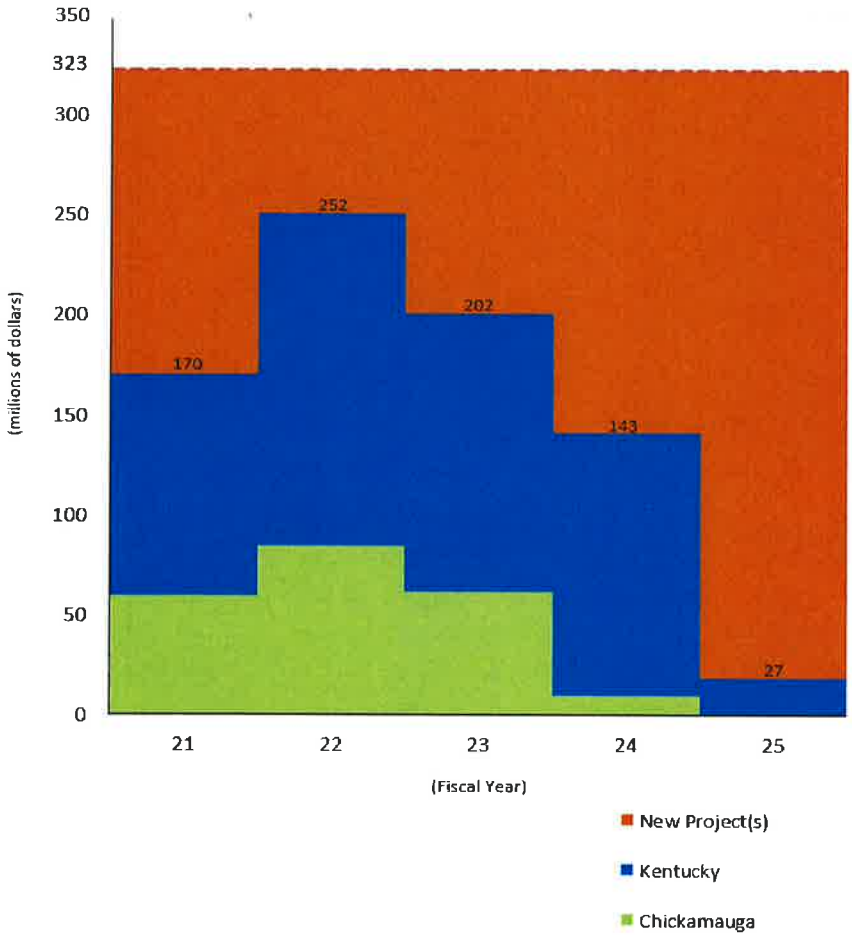
According to the most-current information provided to the Users Board by the Corps at the late-October Board meeting, the two ongoing lock and dam modernization projects still in need of additional appropriations, Kentucky Lock and Chickamauga Lock and Dam, require $110 million and $60 million, respectively, to maintain efficient construction schedules in FY 2021. If these efficient funding amounts remain unchanged, with $322.8 million appropriated for FY 2021, more than $150 million in additional FY 2021 appropriations will be available for the new start project and to expedite ongoing Kentucky and Chickamauga construction work.

Consistent with Section 109 of WRDA 2020, the FY 2021 E&WD Act establishes the same 65 percent/35 percent cost share formula for IWTF-supported projects that WRDA 2020 requires through FY 2031 for all funded inland navigation projects. Looking at the 5-year timeframe that begins with FY 2021 and ends with FY 2025 is instructive. Table 3 lists the efficient funding amounts each year for the ongoing Kentucky and Chickamauga projects and compares those amounts to an assumed constant $323 million annual construction program through the end of FY 2025. Figure 4 displays this same information in a slightly different fashion. Both Table 3 and Figure 4 make clear that, over the course of the entire 5-year period, significant funds should be available to begin and continue construction of the next generation of inland waterways system modernization projects.

Table 3: IWTF Project Funding Profile

	FY 21	FY22	FY23	FY24	FY25	TOTAL
Chickamauga	60	89	63	11	8	231
Kentucky	110	163	139	132	19	563
Subtotal	170	252	202	143	27	794
Fully Funded	323	323	323	323	323	1,615
Remaining Available	153	71	121	180	296	821

Figure 4: IWTF Project Funding Overview



Water Resources Development Act of 2020 (WRDA 2020)

On December 21, 2020, Congress overwhelmingly passed the Consolidated Appropriations Act, 2021 (P.L. 116-260). Division AA of the bill contained the text of the Water Resources Development Act of 2020 (WRDA 2020), bipartisan authorization legislation for the U.S. Army Corps of Engineers Civil Works Program that had been developed by the House Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works.

From the Users Board's perspective, enactment of WRDA 2020 was noteworthy for a number of reasons. It continued the practice in recent years of finalizing on a biennial basis authorization legislation for the policies and projects of the U.S. Army Corps of Engineers. It increased the Section 902(b) authorized appropriations ceiling for the ongoing Kentucky Lock project. It authorized construction of the Colorado River Locks and the Brazos River Floodgates projects on the Gulf Intracoastal Waterway (GIWW). Perhaps most significantly, Section 109 of WRDA 2020 established a new statutory cost share formula for the construction and major rehabilitation of any inland waterways system navigation project receiving an appropriation during FYs 2021 through 2031.

In recent years the Inland Waterways Users Board and many others consistently recommended that the cost share policy applicable to constructing inland waterways system navigation projects be changed to enable these projects to be completed much more quickly and at substantially lower total costs. During 2020 Congress heeded these recommendations and included language in the Water Resources Development Act of 2020 to address what the bill's House Floor Managers correctly characterized as this "critical need." Section 109 of WRDA 2020 establishes that, for any inland waterways navigation project "that receive(s) a construction appropriation during any of fiscal years 2021 through 2031, 35 percent of the cost of the project shall be paid from amounts appropriated from the Inland Waterways Trust Fund…". Section 109 further provides that this cost share formula -- 35 percent from the IWTF and 65 percent from general revenues -- shall continue "until construction of the project is complete", where that completion occurs after FY 2031.

Users Board members view enactment of WRDA 2020 and Section 109 as a major positive development and thank the bipartisan leadership of the House of Representatives and the Senate and their respective Committees on Transportation and Infrastructure and Environment and Public Works for this significant accomplishment. While not exactly the formula that the Users Board had recommended, the change to 65/35 constitutes real public policy progress in the Nation's continuing efforts to modernize our critically important transportation infrastructure. When fully appropriated each year, the Users Board notes that the improved formula will increase the size of the Nation's inland navigation project construction program that can be supported each year by the 29-cents-per-gallon diesel fuel tax the commercial users of the inland waterways system currently pay into the IWTF by almost 47 percent, or roughly $100 million each year over the 2021-through-2031 timeframe, with significant additional amounts extending beyond that. The Board was also gratified to see the direction expressed by the House Floor Managers that the additional programmatic support being provided through the new cost share formula is intended to be prioritized for the Navigation and Ecosystem Sustainability Program

(NESP), the Upper Ohio River Navigation project, and the Three Rivers project in Southeast Arkansas, the three projects that are the Board's highest new start construction priorities.

Capital Investment Strategy

Substantial progress was made during 2020 in updating and revising the Corps' 2016 Capital Investment Strategy (CIS). Users Board members' views were solicited and input was provided on the information and analytical methodology to be used in setting construction project priorities in the updated CIS report. Corps leaders briefed the Users Board at each of the three public Board meetings during 2020 on the status of the CIS revision effort, culminating in a review during the October 30th virtual meeting of the draft report submitted by the Corps and Assistant Secretary of the Army for Civil Works to the Office of Management and Budget (OMB) for approval. Board members learned at the October 30th meeting that OMB had notified the Corps the previous evening that revisions to the draft CIS report were required, although no information was provided to the Board about the specifics of the required changes or when the report was expected to be finalized.

The September 2020 draft CIS report briefed to the Board identified 15 top-priority capital investment projects for new start construction selection and funding, grouped into four categories as depicted in Table 4.

Table 4: New Start Construction Projects

Group	Project Title	Project Location	State(s)	Fully Funded Cost ($K)
A	UMR-IWW System NESP	L&D 25 (Mississippi River)	MO/IL	$626,024
A	Three Rivers	MKARNS	AR	$201,652
A	Upper Ohio Navigation Locks & Dams Improvements	Montgomery Locks & Dam	PA	$677,570
A	UMR-IWW System NESP	LaGrange L&D (IWW)	IL	$507,433
B	UMR-IWW System NESP	L&D 24 (Mississippi River)	MO/IL	686,083
B	MKARNS 12 ft. Channel	MKARNS	AR/OK	$234,428
B	Upper Ohio Navigation Locks & Dams Improvements	Emsworth Locks & Dam	PA	$463,180
B	UMR-IWW System NESP	L&D 22 (Mississippi River)	MO/IL	$578,532
C	UMR-IWW System NESP	L&D 21 (Mississippi River)	IL	$749,869
C	Upper Ohio Navigation Locks & Dams Improvements	Dashields Locks & Dam	PA	$454,738
C	UMR-IWW System NESP	Peoria L&D (IWW)	MO	$547,838
D	UMR-IWW System NESP	L&D 20 (Mississippi River)	MO	$496,502
D	Thomas O'Brien L&D Major Rehabilitation	IWW	IL	$53,000

Three funding scenarios were explored for these priority projects: a "Baseline $240M/Year" scenario, an "Enhanced $400M/Year" scenario, and a "10-year" scenario. The Corps' draft CIS report summarized the comparative results of the three scenarios as follows:

- "The Baseline $240M/Year Scenario represents a $5.696 billion program over the next 20 years, requires that IWTF revenues increase at 1.5% per year, and, during this time, nine projects will complete construction and two projects are in construction. There would be still four projects remaining to start construction, which would be complete in 2053 at an estimated total cost of $9.23 billion.

- The Enhanced $400M/Year Scenario represents a $7.80 billion program from 2021 to 2039 with all 15 projects complete.

- The 10-Year Scenario represents a $7.05 billion program from 2021 to 2033 with all 15 projects complete."

USERS BOARD RECOMMENDATIONS

- **In developing and implementing the FY 2021 Work Plan, the U.S. Army Corps of Engineers should follow Congressional direction and "make use of all estimated annual revenues, which includes a total appropriation of $113,000,000 from the IWTF for ongoing construction projects and one new IWTF cost-shared project to be started in fiscal year 2021."** This should total approximately $323 million in FY 2021 funding for inland navigation modernization projects. For ongoing projects (Chickamauga and Kentucky), funds should be allocated in amounts at least equal to the efficient funding levels reported by the Corps for each of those projects at the October 30, 2020 Users Board Meeting No. 95. Additional FY 2021 appropriated funding above those amounts should be allocated to one or both project(s), consistent with the need to optimize the efficient use of those additional amounts and also to fund the FY 2021 construction new start required by Congress. The Corps should select new start construction projects based on the priorities outlined in the draft 2020 Capital Investment Strategy report (i.e., Mississippi River Lock and Dam 25 (NESP), Ohio River Montgomery Lock, and Three Rivers). All three of these candidate new start projects share strong industry and Congressional support. See Appendix C, for example, concerning Congressional support for NESP.

- **In any comprehensive infrastructure investment legislation enacted during 2021, Congress should appropriate significant additional funding for the construction and major rehabilitation of capital navigation improvement projects on the inland waterways system.** As the Corps' draft Capital Investment Strategy report illustrates, expediting completion of the 15 highest priority inland navigation modernization projects valued at $7.1 billion to occur over a ten-year timeframe rather than the more than 30 years under the draft report's baseline scenario will save almost $2.2 billion and complete all 15 projects 20 years earlier. It will also support thousands of high-paying American jobs, create a sustainable advantage for American industries that ship their products on our waterways, and, by increasing the reliability and efficiency of the waterways, make American industry more competitive at home and in the world market. At least $3 billion of additional infrastructure funds should be appropriated in the comprehensive infrastructure investment legislation for the list of ongoing and new start construction projects contained in the Corps of Engineers September 2020 draft Capital Investment Strategy based on the priorities outlined therein. Providing this level of additional infrastructure investment funding also will be consistent with 2020's House-passed H.R. 2, the Moving Forward Act, which called for $3 billion as a "down payment" for inland waterways lock and dam construction and major rehabilitation.

- **Exclusive of any funding provided in comprehensive infrastructure legislation or in emergency relief legislation, the Administration's budget proposal for FY 2022 should be based on an assumed revenue stream into the IWTF for FY 2022 of $115 million.** Users Board members believe that the Nation's economy is likely to continue to experience improvement during FY 2022 and that, given average annual Trust Fund revenues for the past five years (FY 2016 through FY 2020) of $115.2 million, the recommended $115 million amount is a conservative and prudent planning assumption to use for FY 2022. The

Board also believes that maintaining a minimum $20 million balance in the IWTF is appropriate and prudent from a financial management perspective.

- **Both the Administration's FY 2022 budget proposal and final Congressional enactment of the Energy and Water Development and Related Agencies Appropriations Act for FY 2022 should call for the appropriation of the full amount supportable by the diesel fuel tax receipts deposited into the Inland Waterways Trust Fund for the construction and major rehabilitation of inland navigation projects.** Based on $115 million IWTF revenues and WRDA 2020's new 65/35 cost share formula, this should total approximately $330 million for inland navigation capital projects for FY 2022. Efficient funding amounts should be provided for ongoing projects, including Chickamauga, Kentucky, and the FY 2021 new start. In addition, FY 2022 funding should be provided for two additional new start construction projects, which should be selected from the Users Board's top-priority candidates (i.e., Lock and Dam 25, Montgomery Lock, and Three Rivers). The Users Board believes this all can be accomplished with funding likely to be available for FY 2022.

- **For Fiscal Year 2022, the Administration and Congress should continue to increase the robust levels of funding provided during each of the past four fiscal years for the Civil Works Program's Operation and Maintenance (O&M) account and, within that account, for O&M activities affecting inland and coastal navigation throughout the Nation.** Additional funding will help the Corps to address deferred maintenance in O&M and will be completely consistent with the broadly-supported objectives of improving our national standard of living, growing the Nation's economy, and increasing our international competitiveness.

- **The Administration should act expeditiously to make Inland Waterways Users Board appointments in a timeframe adequate to prevent a gap in Users Board membership when the terms of five current Users Board members expire on May 27, 2021.** Significant preliminary work has been done and the necessary appointments should be finalized at the earliest possible opportunity to assure full Users Board membership during the entirety of 2021.

ACKNOWLEDGEMENTS

The Inland Waterways Users Board wishes to thank the U.S. Army Corps of Engineers for the support the Corps provides to the Board. The Users Board congratulates Lieutenant General (LTG) Scott A. Spellmon on his promotion and Senate confirmation this year as the Nation's 55th Chief of Engineers and particularly thanks him for his active engagement with the Board in his previous role as the Board's Executive Director during his assignment as Deputy Commanding General for Civil and Emergency Operations. The Board welcomes Major General (MG) William H. Graham, LTG Spellmon's successor as Deputy Commanding General for Civil and Emergency Operations and as the Board's Executive Director, and appreciates the interest and involvement MG Graham has demonstrated during Meetings Nos. 94 and 95. Finally, the Board also expresses its appreciation to Mr. Mark R. Pointon, the Designated Federal Officer for the Board, and to the Corps division and district staff, Corps Headquarters staff, and Corps Institute for Water Resources staff who all have provided thorough and timely information throughout the year.

Appendix A

History

The Inland Waterways Fuel Tax was established to support inland waterways infrastructure development and rehabilitation. Commercial users are required to pay this tax on fuel consumed in inland waterways transportation. Revenues from the tax are deposited in the Inland Waterways Trust Fund and generally fund 50% of the cost of inland navigation projects each year as authorized. From the beginning of 1995 through March 31, 2015, the amount of tax paid by commercial users was $.20 per gallon of fuel, which in recent years generated approximately $80 to $85 million in contributions annually to the Inland Waterways Trust Fund. With the President's December 2014 signing of Public Law 113-295, the diesel fuel tax rate increased to $.29 per gallon effective April 1, 2015, generating additional revenues for the Inland Waterways Trust Fund.

Reflecting the concept of "Users Pay, Users Say", the Water Resources Development Act of 1986 (Public Law 99-662) (WRDA 86) established the Inland Waterways Users Board (the Board), a Federal advisory committee, to give commercial users a strong voice in the investment decision-making they are supporting with their cost-sharing tax payments. The principal responsibility of the Board is to recommend to the Congress, the Secretary of the Army and the U.S. Army Corps of Engineers the prioritization of new and replacement inland navigation construction and major rehabilitation projects. Specifically, Section 302 of WRDA 86 tasked the Board as follows:

> *"The Users Board shall meet at least semi-annually to develop and make recommendations to the Secretary regarding construction and rehabilitation priorities and spending levels on the commercial navigational features and components of the inland waterways and inland harbors of the United States for the following fiscal years. Any advice or recommendation made by the Users Board to the Secretary shall reflect the independent judgment of the Users Board. The Users Board shall, by December 31, 1987, and annually thereafter file such recommendations with the Secretary and with the Congress."*

On June 10, the President signed the Water Resources Reform and Development Act (Public Law 113-121) which, among other things, modified WRDA 86's Section 302 to amend and increase the responsibilities of the Users Board. Section 2002 of WRRDA replaced subsection (b) of the 1986 Act's Section 302 as follows:

> *"(1) IN GENERAL. – The Users Board shall meet not less frequently than semiannually to develop and make recommendations to the Secretary and Congress regarding the inland waterways and inland harbors of the United States.*
> *(2) ADVICE AND RECOMMENDATIONS. – For commercial navigation features and components of the inland waterways and inland harbors of the United States, the Users Board shall provide –*
> > *(A) prior to the development of the budget proposal of the President for a given fiscal year, advice and recommendations to the Secretary regarding construction and rehabilitation priorities and spending levels;*
> > *(B) advice and recommendations to Congress regarding any feasibility report for a project on the inland waterway system that has been submitted to Congress*

pursuant to section 7001 of the Water Resources Reform and Development Act of 2014;

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

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

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

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

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

...(d) CAPITAL INVESTMENT PROGRAM. –

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

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

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

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

(B) ensure efficient funding of inland waterways projects.

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

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

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

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

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

"(f) ADMINISTRATION. –

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

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

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

Appendix B

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

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

SOURCES: Public Law 95-502, October 21, 1978, and Public Law 99-662, November 17, 1986.

1. Alabama-Coosa Rivers: From junction with the Tombigbee River at river mile (hereinafter referred to as RM) 0 to junction with Coosa River at RM 314.

2. Allegheny River: From confluence with the Monongahela River to form the Ohio River at RM 0 to the head of the existing project at East Brady, Pennsylvania, RM 72.

3. Apalachicola-Chattahoochee and Flint Rivers (ACF): Apalachicola River from mouth at Apalachicola Bay (intersection with the Gulf Intracoastal Waterway) RM 0 to junction with Chattahoochee and Flint Rivers at RM 107.8. Chattahoochee River from junction with Apalachicola and Flint Rivers at RM 0 to Columbus, Georgia at RM 155 and Flint River, from junction with Apalachicola and Chattahoochee Rivers at RM 0 to Bainbridge, Georgia, at RM 28.

4. Arkansas River (McClellan-Kerr Arkansas River Navigation System): From junction with Mississippi River at RM 0 to Port of Catoosa, Oklahoma, at RM 448.2.

5. Atchafalaya River: From RM 0 at its intersection with the Gulf Intracoastal Waterway at Morgan City, Louisiana, upstream to junction with Red River at RM 116.8.

6. Atlantic Intracoastal Waterway: Two inland waterway routes approximately paralleling the Atlantic coast between Norfolk, Virginia, and Miami, Florida, for 1,192 miles via both the Albemarle and Chesapeake Canal and Great Dismal Swamp Canal routes.

7. Black Warrior-Tombigbee-Mobile Rivers: Black Warrior River System from RM 2.9, Mobile River (at Chickasaw Creek) to confluence with Tombigbee River at RM 45. Tombigbee River (to Demopolis at RM 215.4) to port of Birmingham, RM's 374-411 and upstream to head of navigation on Mulberry Fork (RM 429.6), Locust Fork (RM 407.8), and Sipsey Fork (RM 430.4).

8. Columbia River (Columbia-Snake Rivers Inland Waterways): From the Dalles at RM 191.5 to Pasco, Washington (McNary Pool), at RM 330, Snake River from RM 0 at the mouth to RM 231.5 at Johnson Bar Landing, Idaho.

9. Cumberland River: Junction with Ohio River at RM 0 to head of navigation, upstream to Carthage, Tennessee, at RM 313.5.

10. Green and Barren Rivers: Green River from junction with the Ohio River at RM 0 to head of navigation at RM 149.1.

11. Gulf Intracoastal Waterway: From St. Mark's River, Florida, to Brownsville, Texas, 1,134.5 miles.

12. Illinois Waterway (Calumet-Sag Channel): From the junction of the Illinois River with the Mississippi River RM 0 to Chicago Harbor at Lake Michigan, approximately RM 350.

13. Kanawha River: From junction with Ohio River at RM 0 to RM 90.6 at Deepwater, West Virginia.

14. Kaskaskia River: From junction with Mississippi River at RM 0 to RM 36.2 at Fayetteville, Illinois.

15. Kentucky River: From junction with Ohio River at RM 0 to confluence of Middle and North Forks at RM 258.6.

16. Lower Mississippi River: From Baton Rouge, Louisiana, RM 233.9 to Cairo, Illinois, RM 953.8.

17. Upper Mississippi River: From Cairo, Illinois, RM 953.8 to Minneapolis, Minnesota, RM 1,811.4.

18. Missouri River: From junction with Mississippi River at RM 0 to Sioux City, Iowa, at RM 734.8.

19. Monongahela River: From junction with Allegheny River to form the Ohio River at RM 0 to junction of the Tygart and West Fork Rivers, Fairmont, West Virginia, at RM 128.7.

20. Ohio River: From junction with the Mississippi River at RM 0 to junction of the Allegheny and Monongahela Rivers at Pittsburgh, Pennsylvania, at RM 981.

21. Ouachita-Black Rivers: From the mouth of the Black River at its junction with the Red River at RM 0 to RM 351 at Camden, Arkansas.

22. Pearl River: From junction of West Pearl River with the Rigolets at RM 0 to Bogalusa, Louisiana, RM 58.

23. Red River: From RM 0 to the mouth of Cypress Bayou at RM 236.

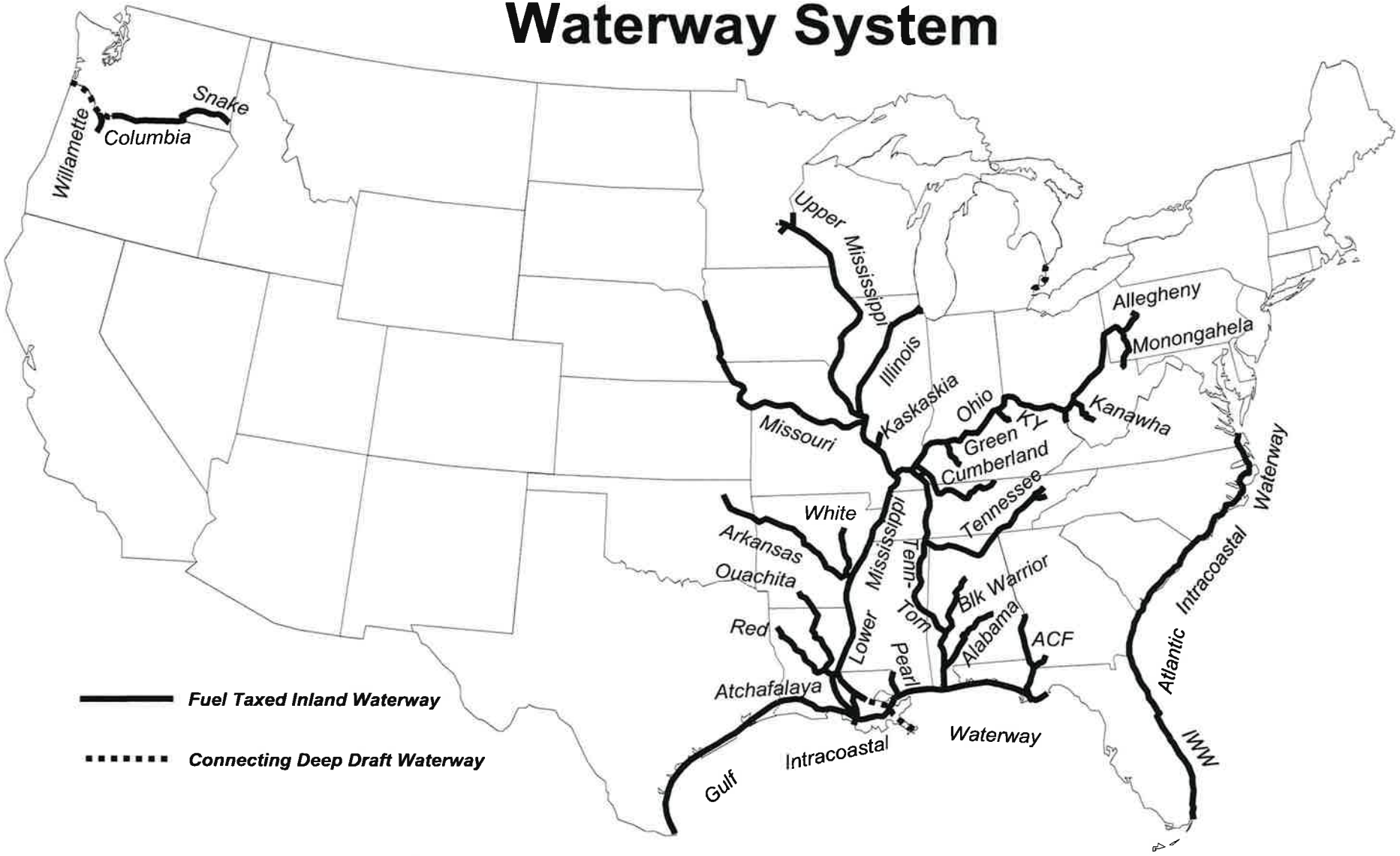
24. Tennessee River: From junction with Ohio River at RM 0 to confluence with Holstein and French Rivers at RM 652.

25. White River: From RM 9.8 to RM 255 at Newport, Arkansas.

26. Willamette River: From RM 21 upstream of Portland, Oregon, to Harrisburg, Oregon, at RM 194.

27. Tennessee-Tombigbee Waterway: From its confluence with the Tennessee River to the Warrior River at Demopolis, Alabama.

The Fuel-Taxed Inland and Intracoastal Waterway System



Appendix C

Congress of the United States
Washington, DC 20515

October 26, 2020

The Honorable R.D. James
Assistant Secretary of the Army for Civil Works
Office of the Assistant Secretary of the Army
108 Army Pentagon
Washington DC, 20310

Lieutenant General Scott A. Spellmon
Chief of Engineers and Commanding General
U.S. Army Corps of Engineers
441 G Street NW
Washington, DC 20314-1000

Dear Assistant Secretary James and Lieutenant General Scott A. Spellmon:

As you prepare the U.S. Army Corps of Engineers Work Plan for Fiscal Year (FY) 2021 Civil Works, we urge you to include a new start for a construction project through the Navigation and Ecosystem Sustainability Program (NESP). We appreciate that the Corps included $4.5 million for preconstruction engineering and design (PED) of the Upper Mississippi River and Illinois Waterway System projects in the FY20 Work Plan. A new start will allow the momentum of this work to continue; it is our understanding that, with a new start, the Corps would be ready for a construction award worth several million dollars for a project under NESP.

Authorized in 2007, NESP is a critically important multi-purpose program that allows the Corps to address both navigation and ecosystem restoration in an integrated approach that construct new locks at seven existing sites, thereby opening the river up to two-way traffic. Additionally, NESP provides a comprehensive ecosystem restoration for the Upper Mississippi and Illinois Rivers. Our nation's water infrastructure plays a critical role in maintaining our competitiveness in the global economy by ensuring the safest, least expensive, most environmentally-friendly, and most efficient movement of goods to market, but the current backlog of outstanding water infrastructure projects pending before the Corps is putting that competitiveness at risk. As this infrastructure continues to age (currently well past its intended lifetime) the risk of catastrophic failure grows. It is imperative that we address this issue before – not after – such a failure occurs.

NESP maintains broad, bipartisan support in Congress, and, in recent fiscal years, both the House and Senate Energy and Water Appropriations bills and reports have included continued funding for PED and called for the Corps to advance projects authorized in Title VIII of the Water Resources Development Act of 2007 (PL 110-114).

We urge the Corps to move forward with a new construction start for NESP in the FY21 Work Plan. Thank you for your time and consideration of this important request.