



INLAND WATERWAYS USERS BOARD

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

March 30, 2015

The Honorable John A. Boehner
Speaker
U.S. House of Representatives
H-232, Capitol Building
Washington, DC 20515

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

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

The Honorable Harry Reid
Minority Leader
U.S. Senate
S-221, Capitol Building
Washington, DC 20510

Dear Speaker Boehner, Leader McConnell, Leader Pelosi, and Leader Reid:

This letter is submitted pursuant to Section 2002(d) of the Water Resources Reform and Development Act of 2014 (Public Law 113-121, June 10, 2014, hereinafter referred to as "WRRDA"). Section 2002(d) requires the Inland Waterways Users Board ("Board" or "Users Board"), among other things, to "provide...not later than 60 days after the date of the submission of the budget proposal of the President to the Congress, advice and recommendations to Congress regarding construction and rehabilitation priorities and spending levels" for commercial navigation features and components of the inland waterways and inland harbors of the United States.

The Inland Waterways Users Board is a federal advisory committee established almost thirty years ago by the Water Resources Development Act of 1986 (Public Law 99-662). Comprised of a balanced, regionally-varied mix of the primary users and shippers utilizing the inland and intracoastal waterways for commercial purposes, the Users Board was created to give commercial users a strong voice in the investment decision-making the users are supporting with their continuing diesel-fuel-based cost-sharing tax payments.

President Obama submitted his proposed federal budget for Fiscal Year 2016 on February 2, 2015. In his official "Budget Message of the President" accompanying the Fiscal Year 2016 (FY 2016) proposal, the President spoke in encouraging language about the importance of infrastructure investment.

"Building a durable and reliable 21st Century infrastructure creates good jobs that cannot be outsourced and will provide American workers and businesses with transportation and communication networks they need to help grow the economy."

We completely agree.

“When we build...infrastructure, we are not just putting construction workers and engineers to work---we are also revitalizing communities, protecting public health and safety, connecting people to jobs, empowering entrepreneurs, and making it easier for American businesses to export goods around the world.”

Again, we completely agree.

However, after making these statements and correctly pointing out that “public infrastructure investment promotes economic growth by boosting aggregate demand in the short run and improving economic efficiency in the long run”, the President’s FY 2016 budget proposes to reduce overall U.S. Army Corps of Engineers infrastructure investment to a level 13% below Fiscal Year 2015 appropriated funding and, within that overall level, to significantly reduce capital spending for the Nation’s inland waterways transportation system. While we agree with the premise of positive economic benefit to the nation from infrastructure investment, we completely disagree with the proposed budget’s conclusion that Corps of Engineers investment in inland waterways transportation system should be reduced in FY 2016.

President’s Budget Proposal

Table 1 displays summary information about the President's FY 2016 Budget relative to the President’s Budget request for FY 2015 and compared to what Congress appropriated for FY 2015 in the Consolidated and Further Continuing Appropriations Act, 2015 (P.L. 113-235, a.k.a. “CRomnibus”).

Table 1 : Corps of Engineers Funding

	FY 2015 President’s Budget (millions of dollars)	FY 2015 CRomnibus Act (millions of dollars)	FY 2016 President’s Budget (millions of dollars)
Construction	\$1,125	\$1,639	\$1,172
• IWTF Projects	\$169	\$281	\$234
Operation and Maintenance	\$2,600	\$2,908	\$2,710
• Inland Navigation	\$612	\$654	\$691
Other Accounts	\$836	\$907	\$850
Total Appropriation	\$4,561	\$5,454	\$4,732

The President's Budget for FY 2016 provides \$4.732 billion in discretionary funding for the Civil Works program of the U.S. Army Corps of Engineers. This represents a \$722 million or 13.2% reduction below the level of \$5.454 billion that Congress appropriated for FY 2015 for the Civil Works program.

Within the overall program total of \$4.732 billion, the President's Budget proposes to (1) reduce the Construction account by 28.5% to \$1.172 billion in FY 2016, a \$467 million reduction from the FY 2015 appropriated level of \$1.639 billion and (2) reduce the Operation and Maintenance account by 6.8% to the proposed level of \$2.710 billion, a \$198 million reduction from the FY 2015 appropriation of \$2.908 billion. The Construction account particularly would see significantly reduced funding to improve the nation's inland and intracoastal waterways.

In the Construction account, the President's Budget suggests that only 2 lock and dam modernization projects receive funding support from the Inland Waterways Trust Fund (IWTF): \$180 million for Olmsted Locks and Dam on the Ohio River and \$52 million for Locks and Dams 2, 3, and 4 on the Monongahela River. A third lock and dam project, Mel Price Lock and Dam on the Mississippi River, is budgeted at \$2 million for FY 2016 but, as a "deficiency correction", is funded from general revenues. As will be discussed in more detail below, the level of proposed FY 2016 funding for Trust Fund-supported projects is 17.4% below the \$281 million that Congress appropriated for FY 2015 and is well below what can be funded during FY 2016 based on inland waterway diesel fuel tax revenues expected to be received by the U.S. Treasury from commercial users of the inland waterways system for FY 2016. Only \$53 million would be appropriated from the Inland Waterways Trust Fund under the President's Budget, which would more than double the surplus in the IWTF by the end of FY 2016. This burgeoning-surplus result occurs under the proposed budget even with the budget's very low assumption that only \$110 million will be generated for the IWTF during FY 2016 from inland waterway diesel fuel tax revenues.

The President's Budget's \$2.71 billion for the Corps Operation and Maintenance (O&M) account would, according to Corps explanatory materials, provide \$691 million in FY 2016 for inland navigation O&M activities. Of the \$691 million, \$647 million would be dedicated to project funding. Highlights include:

- Upper Mississippi River: \$180 million
- Ohio River: \$131 million
- Gulf Intracoastal Waterway: \$49 million
- Illinois Waterway: \$46 million
- Tennessee River: \$25 million, and
- Black Warrior Tombigbee River: \$40 million.

In addition to amounts provided in the Operation and Maintenance account, the President's Budget also provides \$31 million in the Mississippi River and Tributaries (MR&T) account for FY 2016 inland navigation O&M activities. The President's Budget does not propose to fund implementation of Section 2013 of the WRRDA of 2014 (P.L. 113-121), which makes the Secretary of the Army responsible for the operation and maintenance of already-constructed

flood gates and pumping stations that cross a diesel-fuel-taxed portion of the inland waterways system.

The President's Budget contains a number of positive features that deserve highlighting. The proposed FY 2016 budget request for the full Civil Works program is \$171 million higher than the President's Budget proposal for FY 2015, a not-insignificant step in the right direction. Within that higher total, the President's FY 2016 Budget request proposes a \$65 million higher level of appropriations for lock and dam modernization projects than the President's Budget proposed for FY 2015. And the FY 2016 President's Budget proposal for the Corps Operation and Maintenance account is \$110 million higher than the FY 2015 President's Budget, including a FY 2016 proposal for inland navigation O&M that is both \$79 million higher than the President's proposal for FY 2015 and also \$49 million higher than was appropriated for FY 2015.

Notwithstanding these positive features, the Users Board is convinced that in FY 2016 we can and must do better than what the President's Budget proposes to improve the nation's inland waterways system.

2014 Congressionally-Directed Progress

Congress took a number of significant legislative steps during 2014 to address the need to reform the broken business model that for too long has resulted in Corps lock and dam modernization projects that are seriously behind schedule and over budget. Examples include:

- Enactment of the Water Resources Reform and Development Act of 2014 (Public Law 113-121, also referred to as "WRRDA") with overwhelming bipartisan support. WRRDA contained many recommendations to improve the Corps inland waterway project construction delivery model developed by a team of Corps and industry inland navigation experts. That team's report was endorsed unanimously by this Board;
- Overwhelming bipartisan approval of an industry-sought 9-cent increase in the then-current inland waterway diesel fuel user fee, as part of H.R. 647 (the ABLE Act of 2014), (ultimately signed into law as part of H.R. 5771 extending expired tax provisions, Public Law 113-295). This will provide significant additional funds to the Inland Waterways Trust Fund for inland waterway modernization construction funding;
- Necessary cost sharing amendment language and significantly increased FY 2014 appropriations to fund much-needed additional construction of priority Corps of Engineers lock and dam modernization projects in the Continuing Appropriations Act, 2014 (Public Law 113-46);
- Continued strong lock and dam construction appropriations for FY 2015 in the Consolidated and Further Continuing Appropriations Act , 2015 (Public Law 113-235); and
- Strong appropriations both in FYs 2014 and 2015 for the operation and maintenance of the Nation's waterways.

Prior to the legislative changes made during 2014 in the Continuing Appropriations Act, the Water Resources Reform and Development Act, and the ABLE Act, the 20-cents-per-gallon

barge diesel fuel tax only generated enough revenue each year to support annual appropriations of approximately \$150 million for Olmsted and \$10-20 million for other priority inland navigation modernization projects. The signing into law during 2014 of these new laws creates both additional flexibility and additional Inland Waterways Trust Fund revenues to support FY 2016 funding level for priority inland projects at a total of approximately \$370 million, roughly \$140 million higher than the level being recommended in the President's Budget.

While the President's Budget assumes that inland waterway diesel fuel tax revenues will amount to only \$110 million during FY 2016, the Board believes, based on recent experience, that a more likely FY 2016 IWTF revenue assumption should be in the range of \$115 million to \$120 million. Table 2 summarizes the IWTF revenue experience of the past four years, all of which occurred with an applicable diesel tax rate of 20 cents per gallon.

Table 2 : Annual Inland Waterway Diesel Fuel Tax Revenues

Fiscal Year	IWTF Revenues (millions of dollars)	Per-Penny Revenues (millions of dollars)
2011	\$84.0	\$4.20
2012	\$89.3	\$4.47
2013	\$75.2	\$3.76
2014	\$81.2	\$4.06
4-Year Average	\$82.4	\$4.12

If the 2011-2014 average is repeated during 2016, with an applicable inland waterway diesel fuel tax rate of 29 cents per gallon in effect for the entire fiscal year, just under \$120 million in revenues should be generated during FY 2016 for the Inland Waterways Trust Fund, \$10 million more than the President's Budget assumes.

Users Board Recommendations

In our December 2014 27th Annual Report to the Secretary of the Army and United States Congress, the Users Board made a number of recommendations, all of which we continue to support, with a few minor modifications discussed below that in general are made to account for new information obtained after the prior report was crafted. Most directly related to WRRDA Section 2002(d)'s mandate for the submission of the post-budget recommendations contained herein, the Board recommended in the December report that:

- "In allocating construction funding for inland waterway modernization projects during Fiscal Years 2015 and 2016, the Administration and Congress should use the project priority list contained in the existing Capital Development Plan.
- For Fiscal Year 2015, the Administration should obligate the maximum amount of funding supportable by expected FY 2015 revenues into the Inland Waterways Trust Fund and by Congressional appropriations from the Trust Fund for FY 2015, including \$180 million for Olmsted Locks and Dam, \$73 million for Lower Mon, and the

remainder toward other priority modernization projects identified in the Capital Development Plan.

- For Fiscal Year 2016, the Administration should request and Congress should provide for inland waterway modernization projects the maximum amount of appropriated funding supportable by expected revenues into the Inland Waterways Trust Fund during FY 2016, including \$180 million for Olmsted, \$52 million for Lower Mon and the remainder toward other priority modernization projects identified in the Capital Development Plan.”

In allocating the construction funding appropriated by Congress for FY 2015 in the CRomnibus legislation, the Administration generally followed the Board’s recommendations, except that the Corps FY 2015 Work Plan allocated \$25 million more for Olmsted and \$15 million less for Lower Mon than had been recommended in the 27th Annual Report. The Board is comfortable with these two changed allocations. The Board notes, however, that \$6 million in appropriated FY 2015 Construction account funding was not allocated in the originally promulgated FY 2015 Work Plan, and the Board recommends that this additional \$6 million be allocated without further delay to other priority modernization projects currently under construction.

The Board also notes that, because Congress approved the CRomnibus based on the then-existing 20 cents per gallon diesel tax and before the ABLE Act increased the inland waterway diesel tax to 29 cents per gallon, a funding level higher than the CRomnibus’ \$281 million for FY 2015 lock and dam modernization projects is supportable by expected FY 2015 tax revenues into the Trust Fund. This additional FY 2015 revenue will remain in the Trust Fund and add to the amount of inland waterway modernization investment that can be supported during FY 2016.

For FY 2016, the Board recommends that \$372 million be appropriated by Congress for construction of priority lock and dam modernization projects throughout the nation. Consistent with the priorities established in the Capital Development Plan, the Board recommends allocation of that FY 2016 funding as indicated in Table 3.

Table 3 : Inland Waterway Modernization Priorities

	FY 2015 Work Plan (millions of dollars)	FY 2016 President’s Budget (millions of dollars)	FY 2016 IWUB Recommendation (millions of dollars)
Olmsted	\$205	\$180	\$200
Lower Mon	\$58	\$52	\$52
Kentucky	\$12	-	\$50
Chickamauga	-	-	\$29
GIWW (High Island)	-	-	\$18
To Be Determined	\$6	-	\$23
LaGrange (PED)			\$5*
Total	\$281	\$232	\$372

*Not included in total; funded entirely from Investigation account until Construction is initiated.

Our December 2014 27th Annual Report also contained the following two recommendations related to important inland waterway system modernization priorities that currently require funding from the Corps Investigations account because those modernization priorities have not reached yet the construction stage:

- “Funding should be allocated during Fiscal Years 2015 and 2016 from the Corps Investigations appropriation account for Preconstruction Engineering and Design (PED) of one or two lock modernization projects on the Upper Mississippi River and Illinois Waterway system authorized in title VIII of the Water Resources Development Act of 2007 (Public Law 110-114).
- The Corps should continue to efficiently fund the General Re-evaluation Report for the Inner Harbor Navigation Canal Lock Replacement so that construction can be resumed on this priority project at the earliest opportunity.”

For the reasons described in the Annual Report, the Board, along with the governors of five states and scores of bipartisan Congressional leaders who have thus far communicated their views, continues to strongly support continuation on a priority basis of PED for the regionally and nationally significant NESP lock extensions. The Board also strongly supports funding for expeditious completion of the on-going IHNC general re-evaluation report.

Our 27th Annual Report also recommended that “For Fiscal Year 2016, the Administration and Congress should continue and, if possible, increase the robust levels of funding provided during Fiscal Years 2014 and 2015 for the Operation and Maintenance activities of the Corps affecting inland and coastal navigation throughout the nation”. As discussed earlier, the President’s Budget moves in the direction of following this recommendation, but its \$2.710 billion proposal for the Corps O&M account, while a \$110 million increase above the President’s requested FY 2015 level, nonetheless falls about \$200 million short of the FY 2015 appropriated level. The Board strongly supports an FY 2016 O&M account funding level of at least \$2.908 billion and would prefer to see that level increased to \$3.0 billion if at all possible. Within the O&M funds provided above the level requested by the President, the Board recommends that the Corps use a portion of the additional funds to implement Section 2013 of the Water Resources Reform and Development Act of 2014.

In closing, the entire Inland Waterways Users Board would like to express our profound appreciation for the increased focus and support that both the Administration and the Congress have provided, particularly in recent years, to address the modernization needs of the inland waterways system. We truly are investing in our Nation’s economic well-being, both today and in the future, when we invest in our inland waterways.

Sincerely,


Chairman

Mr. Martin T. Hettel
American Electric Power (AEP), River Operations
Chesterfield, Missouri

March 30, 2015
Date

Copies to:

Senator Orrin Hatch, Chairman, Senate Committee on Finance

Senator Ron Wyden, Ranking Member, Senate Committee on Finance

Senator Thad Cochran, Chairman, Senate Appropriations Committee

Senator Barbara Mikulski, Ranking Member, Senate Appropriations Committee

Senator James Inhofe, Chairman, Senate Committee on Environment and Public Works

Senator Barbara Boxer, Ranking Member, Senate Committee on Environment and Public Works

Congressman Hal Rogers, Chairman, House Appropriations Committee

Congresswoman Nita Lowey, Ranking Member, House Appropriations Committee

Congressman Paul Ryan, Chairman, House Committee on Ways and Means

Congressman Sandy Levin, Ranking Member, House Committee on Ways and Means

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

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