



## **INLAND WATERWAYS USERS BOARD**

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

April 13, 2018

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

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

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

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

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

Pursuant to Section 2002(d) of the Water Resources Reform and Development Act<sup>1</sup> (Public Law 113-121, June 10, 2014, herein after referred to as WRRDA), the Inland Waterways Users Board (“Board” or “Users Board”) hereby submits its fourth annual post-budget-submission “advice and recommendations” concerning investment in the Nation’s inland waterways system. The Users Board is a federal advisory committee established more than 30 years ago by the Water Resources Development Act of 1986 (Public Law 99-662). Comprised of a balanced, regionally-varied mix of the primary users and shippers utilizing the inland and intracoastal waterways for commercial purposes, the Users Board was created to give commercial users a strong voice in the investment decision-making the users are supporting with their continuing diesel-fuel-based cost-sharing tax payments. Appendix A contains the current membership and organizational structure of the Inland Waterways Users Board.

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<sup>1</sup> “ADVICE AND RECOMMENDATIONS. – For commercial navigation features and components of the inland waterways and inland harbors of the United States, the Users Board shall provide –... (D) not later than 60 days after the date of submission of the budget proposal of the President to Congress, advice and recommendations to Congress regarding construction and rehabilitation priorities and spending levels;”. Sec.2002(d)

## **BOTTOM LINE UP FRONT**

The Users Board deeply appreciates the commitment that Congress continues to demonstrate to protect and improve the nation's inland marine transportation system. Repeated Administration budget proposals to seriously underfund that system have been rejected and instead, particularly in recent years, policy changes have been enacted and appropriations provided enabling the U.S. Army Corps of Engineers (USACE or Corps) to efficiently construct ongoing priority lock and dam modernization projects on which operation of the system depends. In similar fashion, Congress has repeatedly rejected ill-advised Administration proposals to burden the inland waterways system with damaging new structural changes and fees. The Board unanimously applauds these Congressional actions and urges the Congress, through adoption of the recommendations contained in this report and in our recently submitted 30<sup>th</sup> Annual Report, to maintain the progress and positive program momentum that Congress has created.

## **RECENT NOTEWORTHY DEVELOPMENTS**

This report follows closely after our 30<sup>th</sup> Annual Report for 2017. Since the end of 2017 much of the information and the thrust of the recommendations contained in our Annual Report remain operative. However, there have been a number of new developments that are noteworthy relative to the Board views offered in this "60-day report." Those developments include updated efficient funding figures from the Corps of Engineers for the Board's priority construction projects, five months of Inland Waterways Trust Fund (IWTF) diesel tax receipt data for Fiscal Year (FY) 2018, five months of Fiscal Year 2018 tonnage data for commercial movements on the inland waterways system, official approval of the lower cost estimate to complete construction of the Olmsted Locks and Dam project, Congressional enactment of disaster relief supplemental appropriations legislation, Congressional enactment of the Fiscal Year 2018 omnibus appropriations act, submission of the President's proposed infrastructure investment principles, and submission of the proposed Federal Budget for Fiscal Year 2019. Each of these is discussed below, with the Fiscal Year 2019 President's Budget proposal given special attention later in this report.

**Full and efficient project funding:** The project specific funding recommendations contained in the Board's 30<sup>th</sup> Annual Report were based on then current Corps-provided information for Fiscal Years 2018 and 2019 for each of the Board's priority lock and dam modernization projects. The Corps routinely updates those figures and presented the revised full and efficient funding information at the Users Board's 86<sup>th</sup> meeting held on March 1<sup>st</sup> in Chattanooga, Tennessee. Table 1 displays the current Corps figures showing changes from the figures used in the annual report for the ongoing priority construction projects.

Table 1  
Full and Efficient Construction Funding:  
Ongoing IWTF Projects  
( Millions of Dollars)

		FY 2018	FY 2019
Olmsted Locks and Dam	Dec 2017	175.0	30.0
	Mar 2018	175.0	35.0
Lower Monongahela Locks and Dams 2-3-4	Dec 2017	105.0	106.0
	Mar 2018	99.0	87.0
Kentucky Lock Addition	Dec 2017	41.0	79.0
	Mar 2018	41.0	59.0
Chickamauga Lock	Dec 2017	78.0	100.0
	Mar 2018	78.0	100.0
Total	Dec 2017	399.0	315.0
	Mar 2018	393.0	281.0

The Corps also reported during the Users Board meeting in Chattanooga that, assuming the necessary new start project approval is timely, provided the Fiscal Years 2018 and 2019 full and efficient funding amounts necessary to complete the LaGrange Lock and Dam major rehabilitation project by the end of Fiscal Year 2020 are \$3.6 million and \$28.8 million respectively.

**Inland Waterways Trust Fund diesel fuel tax receipts:** As noted in the 30<sup>th</sup> Annual Report, Fiscal Year (FY) 2018 began with a balance of \$63.4 million in the IWTF. Inland waterway diesel fuel tax receipts for FY 2017 had added \$114.4 million in revenues to the Trust Fund, an amount higher than projected in the President’s Budget. This followed FY 2016 Trust Fund receipts of \$111 million, an amount also higher than the Administration had projected.

For FY 2018, we now have six monthly statements from the U.S. Department of Treasury providing expected IWTF receipts from inland waterway diesel fuel tax payments to the Treasury, as summarized in Table 2.

Table 2  
Inland Waterways Trust Fund  
Diesel Fuel Tax Receipts\*  
(Millions of Dollars)

	FY 2017	FY 2018
October	\$2.303	\$2.072
November	\$10.825	\$11.918
December	\$10.791	\$10.647
January	\$9.186	\$6.780
February	\$9.758	\$13.165
March	\$8.985	\$9.997
Total	\$51.040	\$54.428

\*U.S Department of Treasury monthly statements

Fiscal Year 2018 reported total receipts are approximately 6.6 percent higher than the Treasury-reported total for the comparable six months of Fiscal Year 2017. If this pattern were to continue for the remainder of Fiscal Year 2018, almost \$122 million would be added to the Inland Waterways Trust Fund for the current fiscal year. In our 30<sup>th</sup> Annual Report, the Board based its recommendations on an assumption that \$112 million would be added to the Trust Fund during FY 2018. We felt then that the \$112 million amount was a conservative assumption to use and continue to feel that way. Our analysis and recommendations continue to be based on this \$112 million revenue assumption both for Fiscal Years 2018 and 2019.

**Commercial inland waterway movements:** The Corps’ Waterborne Commerce Statistics Center tracks data concerning waterborne commerce taking place on the inland waterways system and publishes monthly reports summarizing that data. Five monthly reports have been issued for FY 2018. Table 3 below compares the reported amounts for FY 2018 with the comparable months of the two preceding fiscal years. As indicated in Table 3, the total reported tonnage for the current fiscal year is slightly below what was reported for the same five months in FY 2017, but is above the comparable amount reported for FY 2016. Comparing the trend data in Table 3 with that in Table 2, while the 2018 to 2017 tonnage trend reflected in Table 3 is different from the IWTF revenue trend reflected in Table 2 (i.e. down vs. up), the 2018 to 2016 tonnage trend like the revenue trend reflected in Table 2 (i.e. up in both) suggests that expected Trust Fund revenues for FY 2018 should be more than the \$111 million in FY 2016. This supports the use of the \$112 million IWTF revenue assumption for Fiscal Years 2018 and 2019.

Table 3  
Monthly Tonnage Movement Estimates for All Commodities on the  
Inland Waterways  
(Millions of Short Tons)

	FY 2016	FY 2017	FY 2018
October	50.7	50.1	53.9
November	48.3	46.3	46.9
December	44.2	45.1	47.8
January	40.0	49.3	45.0
February	43.1	54.6	43.9
Total	227.2	245.4	237.5

**Olmsted Locks and Dam cost estimate adjustment:** In our 30<sup>th</sup> Annual Report, the Board applauded the Corps for proceeding with recent construction of the previously troubled Olmsted Locks and Dam project in a way designed to deliver the project four years earlier than planned in the Olmsted Post-Authorization Change Report, and \$330 million below the official \$3.1 billion cost estimate approved for the project. Official project cost re-calculations have now been approved to recognize the \$330 million reduction such that the \$35 million being requested in the FY 2019 President’s Budget proposal for Olmsted will now fully fund remaining construction work on the Olmsted project, assuming Olmsted receives its required \$175 million efficient funding amount in the final FY 2018 Work Plan.

The Board notes that Olmsted-like project cost reductions also appear to be occurring for the Lower Monongahela Locks and Dams 2-3-4 project (Lower Mon) due to recent efficient funding. At the Users Board meeting in Chattanooga, the Corps indicated that, with continued efficient funding for Lower Mon, the project remains on course to be completed “well below” -- which the Board understands to mean at least \$75.3 million lower than -- Lower Mon’s approved \$1.2 billion estimated cost. The Board remains hopeful that the Corps is correct and will succeed in completing construction of this project below the current budget and ahead of the current schedule.

**Disaster relief emergency supplemental appropriations (P.L. 115-123, enacted on February 9, 2018):** In February, Congress passed and the President signed supplemental appropriation legislation providing \$17.4 billion to the Corps of Engineers for emergency disaster response, including the repair of damages to Corps projects caused by natural disasters. Of the \$17.4 billion total, \$15 billion was provided for constructing flood and storm damage reduction projects, \$10.4 billion of which is for states and insular areas affected by Hurricanes Harvey, Irma, and Maria, and \$4.6 billion of which is for projects in states and insular areas that have experienced more than one major disaster declaration between 2014 and 2017. The legislation also appropriated \$608 million in Operation and Maintenance funding of the \$17.4 billion total to dredge federal navigation projects and repair damages caused by natural disasters, \$770 million for work associated with the Mississippi River and Tributaries project, and \$135 million for study and preconstruction and engineering work under the Corps Investigations account. While this funding is targeted at disaster-related work, the Corps is given a measure of discretion and flexibility in allocating the funding to specific projects in the Work Plan, which is under development and currently expected to be released in the June timeframe. Appropriation of this \$17.4 billion in emergency relief funding will relieve some of the pressure that otherwise would have existed on the FY 2018 omnibus appropriation funding and can be expected to accrue to the benefit of the Corps navigation mission as well as to the flood and storm damage prevention missions. Together with the FY 2018 omnibus act’s \$6.83 billion appropriation for the Civil Works Program, the Corps will have just under \$22 billion in project funding to execute beginning this year, one of if not the largest programs in its history.

**Fiscal Year 2018 Omnibus Appropriations Act:** Following enactment of five Continuing Resolutions to provide partial-year funding for Corps of Engineers and other Federal programs, the President’s signing on March 13, 2018, of the Consolidated Appropriations Act, 2018 (P.L. 115-141, commonly referred to as the “omnibus appropriations act”) established full-year funding levels for federal agencies through the end of Fiscal Year 2018. In drafting this legislation, Congress rejected harmful Administration proposals and once again demonstrated Congress’ strong support for the navigation component of the Corps Civil Works Program and, in particular, for the need to invest in improving the nation’s inland waterways system.

Table 4 below summarizes overall levels of funding for the Corps Civil Works Program accounts most important to navigation (i.e. Investigations, Construction, Operation and Maintenance, and Mississippi River and Tributaries) in the FY 2018 omnibus appropriations act compared both to FY 2017 actual appropriations and to the FY 2018 President’s Budget proposal.

Table 4  
 FY 2018 Corps Civil Works Program Funding Comparison  
 (Millions of Dollars)

Account	FY 2017 Enacted	FY 2018 President's Budget	FY 2018 Omnibus
Investigations	121.0	86.0	123.0
Construction	1,876.0	1,020.0	2,085.0
Mississippi River and Tributaries	362.0	253.0	425.0
Operation and Maintenance	3,149.0	3,100.0	3,630.0
Other Accounts	530.0	543.0	564.0
Total	6,038.0	5,002.0	6,827.0

The \$6.827 billion overall FY 2018 Congressional appropriation constitutes the largest amount provided to the Corps in an annual appropriation bill. Instead of the Administration's proposal to reduce the Civil Works Program by \$1.254 billion (21 percent) in FY 2018, Congress increased Corps FY 2018 funding by \$789 million (13%) over FY 2017. Particularly important were (1) the increase to the Operation and Maintenance account to \$3.63 billion, the fifth consecutive year of record-level funding for this important account, and (2) the more than doubling to \$2.085 billion of the Administration's extremely ill-advised \$1.02 billion proposed amount for the Construction account. Within the Construction account, FY 2018 funding for Inland Waterways Trust Fund lock and dam modernization projects will be at least \$399 million under the legislation, far above the Administration proposal of \$175 million, and a level sufficient to fund in the current fiscal year all four of the User Board's priority ongoing construction projects (Olmsted, Lower Mon, Kentucky, and Chickamauga) at "full and efficient" amounts, as recommended by the Board in our 30<sup>th</sup> Annual Report. As Table 1 indicates, with \$393 million required for full and efficient funding of the four ongoing projects and at least \$399 million provided in the FY 2018 omnibus appropriation act for IWTF construction projects during FY 2018, Congress has appropriated sufficient funding to begin the major rehabilitation of LaGrange in FY 2018.

The omnibus act requires the Corps, within 60 days of the act's March 13<sup>th</sup> enactment, to finalize the Work Plan allocating the newly-appropriated amounts to specific projects. The Board continues to recommend that this Work Plan allocate to each of the priority ongoing lock and dam modernization projects the relevant full and efficient amount required for each project as reflected earlier in Table 1 (\$175 million for Olmsted, \$99 million for Lower Mon, \$41 million for Kentucky, and \$78 million for Chickamauga). Additionally, the Board recommends that \$4 million in FY 2018 new start funding be allocated in the Work Plan to the LaGrange major rehabilitation project.

As it has in the past, Congress acted in accord with the Board's recommendation in our Annual Report and again properly rejected the Administration's proposal to impose a new onerous tax on the commercial users of the inland waterways system. The proposed new tax would have been in addition to the 29-cents-per-gallon diesel fuel tax that those users already pay, which is the highest fuel tax paid by any transportation mode and was increased by 45 percent just three years ago.

The Users Board continues to deeply appreciate the strong support for and commitment to modernization of the inland waterways system demonstrated by the United States Congress.

**Administration Infrastructure Initiative:** On February 12, President Trump publicly released his Administration’s plan to increase investment in the nation’s infrastructure. Described in Administration explanatory material as having “four overarching objectives” and as being designed to accomplish six main “legislative goals,” the proposed plan is intended to shorten the federal project permitting process and spend \$200 billion in direct federal spending over ten years to stimulate another \$1.3 trillion in new infrastructure investment from state and local governments and the private sector. While initial White House explanatory materials stated that the \$200 billion in federal spending would be “derived (paid for) from savings from other areas of the federal budget,” senior Administration witnesses testifying in support of the plan at Congressional hearings have subsequently indicated that the Administration is open to other unspecified approaches to pay for the \$200 billion in federal spending.

Among the ideas offered to the Congress as part of its infrastructure initiative, the Administration has suggested that, for inland waterway infrastructure investments, the traditional responsibility of the Army Corps of Engineers to construct and maintain the inland waterways system for the benefit of the nation should begin to be shifted to private entities. As part of this proposal, Congress would delegate a portion of its Constitutionally-derived taxation powers to the Secretary of the Army or to private “third party service providers” to impose and retain uni-dimensional fees to compensate those private entities.

While agreeing with the Administration that additional investment in our nation’s infrastructure is necessary, the Inland Waterways Users Board has seen no persuasive case made that the changes being suggested by the Administration for the inland waterways will not be harmful to the well-being of the system and to the national interest overall. The Board therefore urges that these proposed changes not be adopted at this time.

## **FISCAL YEAR 2019**

### **President’s Budget Proposal for Fiscal Year 2019**

On February 12, 2018, the same day the Administration publicly released its proposed Infrastructure Initiative, the Administration announced the details of the proposed Fiscal Year 2019 President’s Budget for the entire federal government. Table 5 below provides a prior year comparison at the appropriation account level of the Trump Administration’s detailed FY 2019 proposed budget for the Corps of Engineers Civil Works Program.

Table 5  
 FY 2019 Corps Civil Works Program Budget Request Comparison  
 (Millions of Dollars)

	FY 2018 Request	FY 2018 Enacted	FY 2019 Request	FY 2019 Request vs FY 2018 Request	FY 2019 Request vs FY 2018 Enacted
<b>Investigations</b>	86.0	123.0	82.0	-4.0 (-4.7%)	-41.0 (-33.3%)
<b>Construction</b>	1,020.0	2,085.0	876.1	-143.9 (-14.1%)	-1208.9 (-58.0%)
<b>[Inland Waterways Trust Fund]</b>	[175.0]	[399.0]	[35.0]	[-140.0 (-80.0%)]	[-364.0 (-91.2%)]
<b>Mississippi River &amp; Tributaries</b>	258.0	425.0	244.7	-14.0 (-5.4%)	-180.3 (-42.4%)
<b>Operation and Maintenance</b>	3,100.0	3,630.0	3,042.0	-58.0 (-1.9%)	-588.0 (-16.2%)
<b>[Harbor Maintenance Trust Fund]</b>	[965.0]	[1,400.0]	[965.1]	-	-
<b>Other*</b>	543.0	564.0	539.0	-3.7 (-0.7%)	-24.7 (-4.4%)
<b>TOTAL</b>	<b>5,007.0</b>	<b>6,827.0</b>	<b>4,784.1</b>	<b>-217.9 (-4.4%)</b>	<b>-2,042.9 (-29.9%)</b>

\*Regulatory, Expenses, Flood Control & Coastal Emergencies, Formerly Utilized Sites Remedial Action Program (FUSRAP), and Assistant Secretary of the Army (Civil Works) (ASA (CW))

Within the \$4.784 billion total amount being proposed for the Civil Works Program budget, the Administration would only allocate \$876.1 million to the Construction account, more than \$1.2 billion (58 percent) below what Congress appropriated for that account for FY 2018. The Inland Waterways Trust Fund-supported construction projects would be particularly adversely affected. The President's Budget proposes a FY 2019 appropriation of only \$35 million for IWTF project construction work, \$364 million -- 91.2 percent -- below what Congress appropriated for these projects in the FY 2018 omnibus act and is expected to be reflected in the FY 2018 Work Plan. Only one lock and dam modernization project would receive funding in the Trump Administration FY 2019 Budget proposal, Olmsted, while the three other ongoing high priority lock and dam projects -- Lower Mon, Kentucky, and Chickamauga -- each of which will have had between \$330 million and \$920 million already appropriated and allocated by the beginning of FY 2019, will be left without additional funds in FY 2019, thereby threatening to shut these important projects down and cause serious job loss and economic damage.

Similar to what the Obama Administration proposed and Congress has repeatedly rejected, the Trump Administration is proposing to establish an annual fee, which is not defined in the budget documents, in its FY 2019 Budget to more than double the amount collected each year from the commercial users of the inland waterways system, increasing FY 2019 revenues collected by \$178 million and 10-year revenues by \$1.8 billion. The FY 2019 President's Budget does not propose to spend any of that additional revenue in FY 2019, which increases the year end FY 2019 balance in the Inland Waterways Trust Fund to \$340 million from the Administration-projected pre-omnibus-act year end FY 2018 level of \$62 million. The net effect for FY 2019 of these proposals would be to collect \$283 million in taxes and fees from commercial operators on the inland waterways, but only spend \$5.3 million of those revenues for the purpose those taxes and fees were established. Not only do these proposals not spend any of the new revenue, they don't come close to spending most of the revenues generated from the existing 29-cent-per-gallon diesel fuel tax, which is what drives the year end FY 2019 Trust Fund balance up to the \$340 million shown in the budget documents.

Disregarding the FY 2019 President's Budget's proposal to break the Harbor Maintenance Trust Fund (HMTF) out of the Corps' Operation and Maintenance (O&M) account and to budget separately for the HMTF, the President's proposed FY 2019 funding for O&M is not markedly different from the Administration O&M proposal last year for FY 2018. It is however, far below what Congress appropriated for the O&M account in the FY 2018 omnibus appropriations act. The Administration's \$588 million proposed reduction, relative to the FY 2018 appropriated level, would significantly hamper Corps efforts to reduce the deferred O&M work that has built up over the years, in the view of the Board.

### **Inland Waterways Trust Fund**

Fiscal Year 2017 ended with an unobligated balance of \$63.4 million in the Inland Waterways Trust Fund, which is well above the \$20 million minimum balance the Corps desires to keep in the IWTF. Total receipts into the Trust Fund amounted to \$114.4 million during the fiscal year, and transfers by the Treasury Department to the Corps of Engineers for lock and dam construction work totaled \$108.6 million, resulting in a \$6 million increase in the Trust Fund's balance during FY 2017.

In the FY 2018 omnibus act, Congress provided at least \$399 million for IWTF construction projects. Of this amount, \$138.3 million will be derived from the Trust Fund. Assuming that FY 2018 inland waterway diesel fuel tax revenues are at least \$112 million, as discussed earlier, and that all of the \$399 million in Congressional appropriations is obligated in the current fiscal year, the end-of-FY 2018 unobligated balance in the Trust Fund should be \$37.1 million. This \$37.1 million amount would be almost double the \$20 million minimum balance that the Corps likes to keep in the IWTF to help assure Corps compliance with Anti-Deficiency Act requirements.

For Fiscal Year 2019, under current law, the Board believes that \$129 million in Trust Fund revenues -- \$17 million of the end-of-FY 2018 balance plus \$112 million in FY 2019 diesel tax receipts -- can and should be matched with General Fund revenues to support \$283 million in new lock and dam construction obligations in FY 2019. Proceeding in this fashion would leave the IWTF with an unobligated balance of at least \$20 million at the end of FY 2019. With the 75 percent general revenues to 25 percent IWTF cost share change being recommended by the Users Board in place by the beginning of FY 2019, all of the Board ongoing priority lock and dam modernization projects as well as the LaGrange major rehabilitation project could be fully funded, and the Trust Fund would still have more than \$75 million available to support additional project construction during FY 2019.

### **INLAND WATERWAY USERS BOARD RECOMMENDATIONS**

The Users Board continues to support the thrust of the recommendations submitted a few months ago in our 30<sup>th</sup> Annual Report. Updated to reflect new developments and recast to provide advice to the Congress, the Board's 60-day-report recommendations follow.

- **For Fiscal Year 2019, and exclusive of any additional funding that might be forthcoming in one-time “Infrastructure Investment” legislation, Congress should base IWTF project funding recommendations and funding decisions on assumed annual inland waterways fuel tax revenues deposited into the IWTF at a level of \$112 million during FY 2019.**
- **Congress should modify the cost sharing for IWTF-financed construction projects to require 25 percent of the project cost to be derived from the Inland Waterways Trust Fund and the remaining 75 percent to come from General Treasury revenues.** This change recognizes that, in April 2015, the inland waterways diesel fuel tax was increased by 45 percent to 29 cents per gallon. It would mirror the same cost share change that Congress made two years ago in the Water Resources Development Act of 2016 for the construction of ports to depths between 45 and 50 feet. It would also eliminate the existing unintended barrier to needed infrastructure investment that the current inland waterways construction cost sharing requirement creates for future years. With this cost sharing change, there will be sufficient funds in the IWTF to continue full and efficient funding for the ongoing inland waterways projects already under construction and to allow funding for the LaGrange major rehabilitation project and for additional important and time sensitive projects.
- **For Fiscal Year 2019, each of the four ongoing priority projects should receive full and efficient funding to the maximum extent practicable, including \$35 million for Olmsted, \$87 million for Lower Mon, \$59 million for Kentucky Lock, and \$100 million for Chickamauga Lock. Twenty-nine million dollars should also be provided for major rehabilitation of the current LaGrange Lock and Dam.** Full and efficient funding can be achieved by the Board-recommended cost sharing change discussed above and, therefore, this level of FY 2019 funding is contingent upon Congressional approval of the cost sharing envisioned by the Board. The Board realizes that, in the event that Congress does not make the cost sharing change being recommended by the Board or otherwise provide sufficient appropriations to efficiently fund all five of these high priority projects in FY 2019, a funding adjustment will need to be made for one or more of these five projects. While the Board supports funding the major rehabilitation of LaGrange Lock simultaneously while the Corps is performing major maintenance at LaGrange in 2020, which the Board has been told will require FY 2019 funding for LaGrange to accomplish, the Board’s support is contingent on the development of a funding approach that does not add any additional cost or delays to the four ongoing priority projects (Olmsted, Lower Mon, Kentucky and Chickamauga).
- **For Fiscal Year 2019, Congress should continue to increase the robust levels of funding provided during each of the past five fiscal years for the Operation and Maintenance (O&M) activities of the Corps affecting inland and coastal navigation throughout the nation.** Additional funding will help address the Corps deferred O&M and will be completely consistent with the broadly supported objective to improve our national standard of living, grow the nation’s economy, and increase our international competitiveness.

- **In order to ensure that construction can be initiated as soon as can be supported by available resources, funds should be appropriated and allocated to (1) resume Preconstruction Engineering and Design (PED) of lock modernization projects authorized as part of the Navigation and Ecosystem Sustainability Program (NESP) and (2) initiate PED for both the Upper Ohio Navigation project and the LaGrange Lock and Dam major rehabilitation project.**
- **The Corps should continue to efficiently fund the General Re-evaluation Report (GRR) for the Inner Harbor Navigation Canal (IHNC) Lock Replacement so that construction can be resumed on this priority project at the earliest opportunity.**
- **In making funding investment and allocation decisions for lock and dam modernization projects already under construction, policy makers generally should focus project specific economic analysis primarily on a project's Remaining-Benefit/Remaining-Cost Ratio (RBRCR) rather than on its Benefit Cost Ratio (BCR).** We also included this recommendation in our 29<sup>th</sup> Annual Report, where we went into some detail to explain how continuing the previous Administration's favored approach of using BCRs, instead of RBRCRs, for budgeting additional investment in ongoing construction projects is likely to prolong project construction schedules, misallocate new investment dollars, and waste scarce financial resources. The Board continues to believe that a project's RBRCR typically provides a far better measure of the likely economic return to be expected from further construction expenditures on the project than does the project's BCR.
- **The "Least of Rule" should not be permitted to prevent the allocation of funding under a Continuing Resolution (CR) to lock and dam modernization projects that received allocated funding for the previous fiscal year and continue to require additional construction funding.** Particularly when Congress adds funds for IWTF-supported projects in not-yet-final appropriations legislation, the failure of an Administration to have requested funding for that project in the President's Budget proposal should not be what controls the decision to allocate or not allocate CR-provided funds to the project. Instead, project allocation decisions involving CR-provided funding should be based whenever possible on a realistic estimate of the level of full-year funding likely to be appropriated by the Congress and any expressions by the Congressional Appropriations Committee of desired spending outcomes for the additional funding being provided.
- **Congress must find a way to return to "regular order" and pass individual annual appropriations acts in a timely manner instead of continuing to resort to last minute continuing resolutions, often of short-term duration, to fund federal agencies and their programs.** Relying on last minute partial year appropriations funding for lock and dam construction and operation and maintenance creates unnecessary, wasteful, and entirely preventable inefficiencies that delay project completion and increase project costs, all of which could be minimized or eliminated by an improved Congressional appropriation process.

Sincerely,

Inland Waterways Users Board

April 13, 2018

**Chairman**

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

**Vice Chairman**

Kirby Corporation  
Mr. William Matthew Woodruff  
Houston, Texas

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Mr. David Konz  
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