

Summary Minutes
Inland Waterways Users Board Meeting No. 69
August 13, 2013
The Brown Hotel (Gallery Ballroom)
Louisville, Kentucky

Inland Waterways Users Board Meeting No. 69 was called to order by Mr. Mark Pointon, the Designated Federal Official (DFO) and Executive Secretary of the Inland Waterways Users Board (the Board) at 9:00 A.M. The meeting included approximately 59 attendees, including Board Chairman Martin T. Hettel, Vice Chairman Matt Woodruff, Messrs. David Choate, Robert R. McCoy, Charles A. Haun, Mark K. Knoy, G. Scott Leininger, Daniel P. Mecklenborg and Michael T. Somales. (Board Member Mr. Bruce Reed did not attend the meeting.) Also attending the meeting was former Board member Mr. Larry R. Daily (Chairman Emeritus, the immediate past Chairman) who was a non-official participant to the proceedings and did not participate in the discussions during the meeting.

Mr. Pointon made introductory welcoming remarks, and then Major General (MG) Michael J. Walsh, the Deputy Commanding General for Civil and Emergency Operations for the U.S. Army Corps of Engineers (the Corps) and the Executive Director of the Board conducted the official oath of office ceremony of the Board members.

After the conclusion of the swearing in of the Board members, Lieutenant Colonel (LTC) Jon A. Drake, Deputy Commander of the Corps Louisville District, made welcoming remarks on behalf of the Corps Great Lakes and Ohio River Division and the district.

After LTC Drake's remarks, MG Walsh offered his opening remarks. MG Walsh noted that the Board last met in Louisville in July 2007 (Board Meeting No. 55) and it was fitting that the Board return to Louisville since 70 percent of the Corps' inland navigation construction budget is for the Olmsted Locks & Dam project.

MG Walsh welcomed the observers from the three Federal agencies in attendance at the Board meeting, including Mr. Eric Hansen, Deputy for Management and Budget from the Office of the Assistant Secretary of the Army for Civil Works; Mr. Paul Jaenichen, Acting Maritime Administrator, U.S. Maritime Administration (MARAD), of the U.S. Department of Transportation; and Mr. Nicholas Marathon, from the U.S. Department of Agriculture (USDA), Agriculture Marketing Service. Note: No Federal observer from the National Oceanic and Atmospheric Administration (NOAA) attended the meeting.

MG Walsh remarked that due to the sequestration that began in March 2013, the Corps has had to reduce its Fiscal Year (FY) 2013 Civil Works funding by \$255 million, its Military Programs funding by \$163 million, and its Hurricane Sandy Supplemental appropriations funding by \$268 million.

The FY 2014 President's Budget request was submitted to the Congress in April. The President requested \$4.826 billion to fund the Civil Works program. Of that amount,

\$904 million would be directed towards the inland navigation program, including \$93.9 million from the Inland Waterways Trust Fund (IWTF). The House of Representatives passed an Energy and Water Development Appropriations bill (House Bill 2609) in July and forwarded it to the Senate. The Senate Appropriations Committee passed its version of an Energy and Water Development bill in June and it awaits legislative action by the full Senate.

With respect to a Water Resources Development Act (referred to as WRDA), the Senate passed its version of a WRDA (Senate bill 601) on May 15, 2013. The Senate bill includes many of the recommendations concerning project delivery and process improvements that were part of the April 2010 Inland Marine Transportation System Capital Projects Business Model report. The Senate bill also includes additional responsibilities of the Board and the Assistant Secretary of the Army for Civil Works. The bill did not recommend an increase in the inland waterways fuel tax or other new revenue sources for the IWTF. The House of Representatives is expected to work on a WRDA bill after they return from their August recess.

MG Walsh continued by discussing the Corps ongoing Civil Works Transformation efforts to enable the Corps to better meet current and future water resources needs of the nation. The transformation of the Civil Works program is based upon four pillars: a more logical and integrated budget development process which prioritizes projects in the Corps portfolio and which is based upon a watershed perspective; a new and modernized planning paradigm designed to streamline the project planning process to produce reports faster and at lower cost; a long term strategy for infrastructure and life cycle management of projects; and, enhanced methods of delivery.

Lastly, MG Walsh discussed last year's drought and the impact it had on operations of the inland navigation system and the response by the U.S. Army Corps of Engineers. MG Walsh remarked that one positive outcome of the drought was an increased awareness on the part of the media and the general public as to the importance of the inland waterways system to the economic vitality of the nation. The importance of the condition of the inland waterways system has reached the highest levels of government, including the President, who was briefed on the condition of the Mississippi River during last year's drought. The President understands the importance of the inland waterways as part of the Nation's transportation network.

MG Walsh then offered an opportunity for the Federal observers to provide remarks.

Mr. Nick Marathon thanked MG Walsh and the Board for the opportunity to attend the Board meeting and indicated that the inland waterways system is extremely important to the movement of agriculture to domestic and export markets. The inland waterways system transports approximately half of the corn and soybean exports that are exported through New Orleans and other ports along the lower Mississippi River. In the Pacific Northwest, wheat is a major commodity that moves on the Columbia and Snake River system for export to Asian markets. In closing, Mr. Marathon indicated that the USDA, in conjunction with the National Grain and Feed Association and the Soy Transportation

Coalition, sponsored a conference on July 30-31, 2013, on the importance of transportation to the economic success of the agriculture industry.

Mr. Paul Jaenichen, the Acting Maritime Administrator of MARAD, thanked MG Walsh and the Board for the opportunity to attend the Board meeting and indicated that the Maritime Administration has an interest in the success of the industry that utilizes the Inland Marine Transportation System.

Mr. Hansen, the Deputy for Management and Budget in the Office of the Assistant Secretary of the Army for Civil Works (ASA(CW)), thanked MG Walsh and the Board for the opportunity to attend the meeting and appreciated the opportunity to hear the discussion of the issues affecting the inland waterways system and incorporate those discussions into the process used by the ASA(CW) to balance the concerns of the inland waterways industry against the other competing demands, such as dam safety, flood risk management and hydropower production, for limited federal dollars.

Next, Mr. Martin Hettel, the Chairman of the Board, offered his opening remarks. He stated that since the establishment of the Inland Waterways Fuel Tax by the Inland Revenue Act of 1978, tax receipts deposited into the Inland Waterways Trust Fund (IWTF), including interest earned, have totaled approximately \$2.75 billion, which according to Chairman Hettel have been applied to 27 inland waterways projects. Of the \$2.75 billion collected since the passage of the Water Resources Development Act of 1986, which authorized the use of IWTF funds on inland waterways construction and major rehabilitation projects, approximately \$800 million has been expended on the Olmsted Locks & Dam project alone, yet as Chairman Hettel pointed out, the Olmsted project is only half way completed. The amount of funds drawn to finance the Olmsted project is approximately four times the amount expended on any other inland waterways project. Chairman Hettel pointed out that as the Olmsted project continues to receive currently approximately 90 percent of the receipts in the IWTF, other projects on the inland waterways system continue to languish in desperate need of repair and modernization. Chairman Hettel noted that at Board Meeting No. 68, held in December 2012 in Paducah, Kentucky, the Board unanimously approved a resolution not to support an increase in the Section 902 cost limit associated with the Olmsted project if such an increase would involve additional funds for the Olmsted project to be derived from the IWTF. Chairman Hettel pointed out that in the version of the Water Resources Development Act passed by the Senate (Senate Bill 601), the cost of completing the Olmsted project would be borne by the General Treasury. Chairman Hettel also indicated that the Senate version of the FY 2014 Energy and Water Development Appropriations bill recommended funding Olmsted entirely with funds from the General Treasury. He concluded his remarks by indicating the Board's willingness to work with the Corps and the ASA(CW) to address the challenges facing the inland waterways system.

Following Chairman Hettel's remarks, Mr. Pointon called for a motion to approve the minutes of Board Meeting No. 68, held December 19, 2012, in Paducah, Kentucky. Michael Somales made a motion to approve the minutes of the last meeting and Daniel

Mecklenborg seconded the motion, after which the Board members unanimously approved the minutes of Board Meeting No. 68.

Mr. Pointon then called upon Mr. Jon Soderberg, from the Programs Integration Division at Corps Headquarters to provide an update on the status of the Inland Waterways Trust Fund (IWTF) and an update on the status of projects on the inland waterways system. Mr. Soderberg reported that the IWTF began FY 2013 (October 1, 2012) with a balance of \$53.3 million. Through June 30, 2013, fuel tax receipts were \$55.9 million and the balance in the IWTF was \$102.1 million. Mr. Soderberg indicated that due to sequestration, \$3.8 million in the IWTF will not be available to the Corps for use in FY 2013, but will be available for use in FY 2014. Mr. Soderberg indicated that due to a .002 percent across the board reduction in Federal funds, the IWTF will be reduced by \$160,000. Mr. Soderberg indicated that the Corps is working with the Treasury Department and the Administration on how to implement the across the board reduction of \$160,000. Mr. Soderberg said that the Corps expects to draw approximately \$76 million from the IWTF in FY 2013 for use on three projects – Olmsted Locks & Dam which will receive \$71.9 million; Lower Monongahela River Locks 2, 3, and 4 (to receive \$3.2 million); and Mississippi River Lock & Dam #27 (to receive \$948,000).

Mr. Soderberg then provided an update on the status of inland waterways projects including Olmsted Locks & Dam, Emsworth Locks & Dam, Locks & Dams 2, 3, and 4 on the Monongahela River, Chickamauga Lock & Dam, Kentucky Lock, Markland Locks & Dam, Mississippi River Lock #27, Lockport Lock & Dam on the Illinois Waterway, and the Inner Harbor Navigation Canal Lock.

With respect to Olmsted Locks & Dam, Mr. Soderberg said that the FY 2013 allocation for the project would be \$143.7 million, evenly divided between the General Treasury and the IWTF (\$71.86 million from each). The President requested \$163 million for the Olmsted project in the FY 2014 budget. With respect to the status of project construction, Mr. Soderberg indicated that Olmsted is projected to be operational in the year 2020 and completed in the year 2024. With respect to the Section 902 cost limit at the project (the need to raise the authorized project cost), the project team will begin shutting down construction on the project in November unless the Section 902 cost limit is raised.

With respect to Emsworth Locks & Dam, Mr. Soderberg said that due to prior year funds, the Corps has \$6.284 million available to spend at Emsworth, half of which would be drawn from the General Treasury and half from the IWTF. The FY 2014 President's Budget did not request funds for the Emsworth project.

With respect to the Locks & Dams 2, 3, and 4 on the Monongahela River project, he said the FY 2013 allocation will be \$6.3 million, evenly divided between the General Treasury and the IWTF (\$3.167 million from each). The FY 2014 President's Budget requested \$1.96 million for this project.

With respect to Chickamauga Lock & Dam, the President did not request funds for the project in the FY 2014 budget.

With respect to the Kentucky Lock project, Mr. Soderberg indicated that the FY 2013 allocation would be \$43.8 million from the General Treasury and an additional \$455,000 from the American Recovery and Reinvestment Act funding.

The Markland Locks & Dam project is complete.

For the Mississippi River Lock & Dam #27 major rehabilitation project, the main lock gate has been installed and is functioning.

For the Lockport major rehabilitation project, the canal wall and the controlling works have been returned to service.

And with respect to the Inner Harbor Navigation Canal Lock project, the project was enjoined on September 9, 2011.

Mr. Soderberg indicated that there are currently four inland waterways construction projects that are authorized to be cost shared with the IWTF – Olmsted Locks & Dam; Locks & Dams 2, 3, and 4 on the Monongahela River; Emsworth Locks & Dam; and Lock & Dam #27 on the Mississippi River. Mr. Soderberg indicated that these projects were identified in the conference report associated with the FY 2012 Energy and Water Development Appropriations Act (House Report 112-331, dated December 15, 2011).

In response to a question from Board member Matt Woodruff concerning what is the Corps' position with respect to having to draw money in the future from the IWTF to return projects that are currently only drawing from the General Treasury to a 50/50 cost share basis, Mr. Soderberg indicated that the Corps Civil Works in Headquarters is in consultation with the Corps Office of Counsel and the Department of the Army's Office of General Counsel to formulate what the Corps position would be to return projects to a 50/50 cost share or whether to maintain a 50/50 cost share going forward from the time when the next Energy and Water Development Appropriations bill is enacted.

Mr. Richard Hancock, Regional Business Director of the Great Lakes and Ohio River Division, then provided the Board an update on the status of Olmsted Locks & Dam.

Mr. Hancock stated Louisville District is currently in its fourth year of constructing the tainter gate portion of the dam. During the first two construction seasons (2010 and 2011) the district was able to place eight shells in the river. During both of those years, river conditions often presented challenges to construction. During both years there was flooding on the Cumberland River (in 2010) and the Ohio River (in 2011). During the 2012 construction season, the Louisville District placed five shells in the river, for a total of 13 shells placed in the river out of a total of 18. This September (2013) will begin the fourth year of placing shells in the river. The district plans to place the remaining five shells in the river between September 2013 and January 2014, with the district hoping to

place one more in January 2014 before the conclusion of the construction season. The district will still need to award a contract to manufacture and install the actual gates that would be part of the dam.

The navigable pass portion of the dam will be constructed during the 2014 to 2018 construction seasons. Mr. Hancock indicated that the district has been doing preparatory work for the construction of the navigable pass portion of the dam, including foundation work and pile-driving.

Mr. Hancock then discussed the status of funding of the Olmsted project. Mr. Hancock said that at the current rate of expenditures, it appears the project will hit the current Section 902 cost limit of \$1.7 billion in the second quarter of FY 2014 (starting in January 2014). In order to avoid exceeding the limit, the district will begin slowing down construction on the project in the mid-November timeframe and suspend construction in January 2014.

Mr. Hancock said there have been advances made in the construction of the tainter gate shells over time, so that the time and cost required to fabricate the tainter gate shells is approximately 30 percent lower for the most recent shells when compared to when construction began four years ago. Also, Mr. Hancock stated that gains have been made in the filling of the shells with the use of self-consolidating concrete.

Mr. Hancock then discussed some of the alternative legislative proposals that contain provisions affecting the Olmsted project. These legislative proposals include the Senate's version of a Water Resources Development Act (Senate Bill 601) which contains a provision that future funding of the Olmsted project be 100% Federally funded (section 7008); the Senate version of the FY 2014 Energy and Water Development Appropriations bill (Senate Bill 1245) which contains a provision that funding for the Olmsted project be 100% Federally funded for FY 2014, and that the project cost limitation for the Olmsted project be raised to \$2.918 billion (Section 105); and the House version of the FY 2014 Energy and Water Development Appropriations bill (House Bill 2609) which contains a provision that increases the project cost limitation for the Olmsted project to \$2.918 billion (Section 108).

Mr. Hancock concluded his remarks by indicating that a suspension of construction at the Olmsted project would have an immediate impact on the contractor's work force, with an estimated 610 contract employees (out of a contract work force of 620) would be terminated, and an estimated 35 government employees (out of a government work force of 47) would have to be reassigned to other Corps projects.

Also, a suspension of construction activity would lead to a loss of a construction year, due to the need to remobilize the construction work force. And the suspension of construction activity would add to the total cost of the project, estimated to be in the range of \$80 million per year of suspension.

Mr. Hancock then turned the discussion to Mr. James Hancock, Chief of the Operations and Regulatory Division at Corps Headquarters.

Mr. Hannon discussed the options that might be available to the Corps if the Section 902 cost limit is not raised for the Olmsted project. He discussed the possibility of using the funds that would have been used on the Olmsted project at other current construction projects such as Locks & Dam 2, 3, and 4 on the Monongahela River, Kentucky Lock, and Chickamauga Lock & Dam. Mr. Hannon also discussed the possibility of funding other construction or major rehabilitation projects such as the Gulf Intracoastal Waterway (GIWW) High Island to Brazos River project, and the LaGrange Lock & Dam and the O'Brien Lock & Dam major rehabilitation projects.

Mr. Hannon also discussed the possibility of not using the funds that would have been spent on the Olmsted project, and instead holding the funds in reserve, and letting the IWTF balance increase to the point where at a future date the entire amount of funds in reserve can be applied to one project (i.e. Kentucky Lock or the main chamber at Lock 4 of the Locks & Dams 2, 3, and 4 project on the Monongahela River) and complete the project in a timely fashion.

In his discussion of possible alternatives in the event that the Section 902 cost limit were not increased for Olmsted, Mr. Hannon indicated that it would be necessary to reexamine the benefits and costs associated with the potential alternative projects, so as to develop a most recent and current list of potential alternative projects. Mr. Hannon indicated his intention to ensure that these benefits and costs will be reexamined in time for presentation at the next Board meeting.

Following Mr. Hannon's presentation, Mr. Jeffrey McKee, Chief of the Navigation Branch in the Operations and Regulatory Division at Corps Headquarters, provided an update on the status of the Inland Marine Transportation System (IMTS) Levels of Service initiative.

Mr. McKee indicated that the IMTS Levels of Service initiative would not result in the closure of any locks, but would focus on adjusting the number of hours of operation at locks to better reflect their current pattern of usage. The resulting savings in reduced operating cost would then be redirected to maintenance issues at the lock, thereby extending the operational life and reliability of the facilities.

Mr. McKee said that implementation of the IMTS Levels of Service initiative began in October 2012 (the beginning of FY 2013) on low use river systems (those river systems defined as having 1 billion ton miles or less of traffic per year), continued with implementation of the Levels of Service initiative on moderate use river systems (those river systems defined as having between 1 and 3 billion ton miles of traffic per year), and continued with implementation of the Levels of Service initiative on high use river systems (those river systems with more than 3 billion ton miles of traffic per year) on April 1, 2013. One exception to the implementation schedule was granted in the case of

the Red River, where the locks are operated under contract. In the case of the Red River, the implementation of the Levels of Service guidance will begin on January 1, 2014.

Mr. McKee said that “full service” locks are defined as having greater than 1000 commercial lockages per year, and that there are five categories of usage below “full service” depending upon the number of commercial lockages. Mr. McKee said that there are 54 locks which have less than 1000 commercial lockages per year.

“Full service” locks would continue to provide 24 hour service, seven day per week, 365 days per year. Below “full service” locks are five categories of service:

- Reduced service – two shifts per day (16 – 20 hours per day, 7 days per week, 365 days a year (two shifts of either 8 or 10 hours);
- Limited service – 8-12 hours per day, 7 days per week, 365 days per year;
- Scheduled service – Set times per day, lockages (including recreational craft) would occur at certain times during the day, for example, 8:00 AM to 4:00 PM;
- Weekend and holiday service – Lockages would occur on weekends and holidays only;
- Service by appointment – Commercial lockages would occur by appointment only.

Mr. McKee then made a presentation on the current status of the inland waterways system. He said that the worst of the drought that affected the Mississippi River last fall and winter has dissipated as beneficial rains have resulted in rising water levels on most rivers. However there are still some pockets of drought in various regions of the country. For example, water levels on the Great Lakes are at historic low levels, and this is causing vessels to load less cargo per trip (which leads to higher transportation costs per ton of cargo).

The Corps continues to operate their reservoir system to maximize the benefits across the multiple project authorities, including navigation, flood risk management, hydropower production, water supply and environmental restoration.

Mr. McKee also provided a brief update on the status of repairs to the Marseilles Dam on the Illinois Waterway, Algiers Lock on the Gulf Intracoastal Waterway and a levee failure on the Gulf Intracoastal Waterway near Panama City, Florida.

At the conclusion of Mr. McKee’s presentation, Mr. Pointon asked if there were any meeting participants who wished to make a public comment. Mr. Matt Woodruff of Kirby Corporation – a Board member – commented on the troubling issue of commercial development encroaching on the Gulf Intracoastal Waterway (GIWW), which threatens the capacity of the GIWW, such as recreational, fishing piers, condominiums, and other structures that potentially impede navigation both in the main project channel and the navigable reaches along either side. He mentioned this issue was brought to the attention of the Corps Galveston District commander who has developed a proposed setback policy for the Galveston District which he feels establishes fairly common sense procedures

regarding where development can occur with a low level of scrutiny and those areas where development that poses a greater risk and should get a higher degree of scrutiny. He wanted to state on behalf of the navigation interests that use the GIWW that the proposed policy is a very good policy.

There were no other public comments made at the meeting.

In his concluding remarks, MG Walsh said it is unclear what action Congress might take towards increasing the Section 902 cost limit for the Olmsted project, and thus it is difficult to recommend which projects might receive funds in the event that Congress does not increase the Section 902 cost limit for Olmsted before it is reached, there are actions that the Corps and the members of the Board can take now to better prepare for the future. These actions include preparing updated estimates of the benefits and costs associated with the various alternative projects that are being considered to receive funds in the event that an increase in the Section 902 cost limit is not authorized. A second action that the Corps and the Board can take is the appointment of a Board member to each of the inland waterways construction and major rehabilitation project teams, to allow a more seamless exchange of information and increased awareness of the status of ongoing project activities.

In his concluding remarks Chairman Hettel thanked MG Walsh and the Board members for participating in the meeting and indicated the Board's willingness to work with the Corps to continue to find solutions to the challenges facing the inland waterways system.

After Chairman Hettel completed his remarks, Mr. Pointon adjourned the meeting at 12:25 PM.