

Summary Minutes
Inland Waterways Users Board Meeting No. 71
May 1, 2014
Wyndham Riverfront Little Rock Hotel (Silver City Rooms 1 & 2)
North Little Rock, Arkansas

Inland Waterways Users Board Meeting No. 71 was called to order by Ms. Mindy M. Simmons, the Designated Federal Officer (DFO) of the Inland Waterways Users Board (the Board) at 9:00 a.m. The meeting was attended by approximately 53 participants, including Board Chairman Martin T. Hettel, Vice Chairman Matthew Woodruff, and Board members Messrs. David Choate, Charles Haun, Jr., Mark Knoy, G. Scott Leininger, Robert McCoy, Daniel Mecklenborg, Bruce Reed and Michael Somales.

Ms. Simmons made opening remarks, and then Colonel Courtney W. Paul, Commander of the U.S. Army Corps of Engineers (the Corps) Little Rock District, provided welcoming remarks on behalf of the district and the Corps Southwestern Division (SWD).

After Colonel Paul's remarks, Major General (MG) John W. Peabody, Deputy Commanding General for Civil and Emergency Operations for the Corps and the Executive Director of the Board provided his opening remarks.

MG Peabody began his remarks by thanking the Southwestern Division and the Little Rock District for hosting the Board meeting. MG Peabody remarked that the contributions of the Board are very important. MG Peabody indicated that this is the second time the Board has met in the McClellan-Kerr Arkansas River Navigation System (MKARNS) area (the previous time was Board Meeting No. 29, held in Tulsa, Oklahoma on April 18, 1997).

MG Peabody remarked that since the last Board meeting in New Orleans in January, the Corps has been implementing the Fiscal Year (FY) 2014 Omnibus Appropriations Act (Public Law 113-76, signed January 17, 2014) which funds the Federal government through the end of the fiscal year (September 30, 2014). Of significance to the Board and the Corps regarding the inland waterways system was a provision in the Omnibus Act that directed the cost sharing formula for the Olmsted Locks and Dam project (Olmsted) for FY 2014 be 75% of the appropriations be drawn from the General Treasury and 25% be drawn from the Inland Waterways Trust Fund (128 STAT. 153). This is a change from the normal 50%-50% funding allocation distribution between the General Treasury and the Inland Waterways Trust Fund (IWTF). The FY 2014 funding allocation change for the Olmsted project will free up funds that can be applied to other projects on the inland waterways system, including the Lower Monongahela River, Locks & Dams 2, 3, and 4 replacement project (Lower Mon).

MG Peabody stated that the FY 2015 President's Budget request was released on March 4, 2014.

In conclusion, MG Peabody welcomed the observers from the other Federal agencies in attendance at the Board meeting, including Ms. Marie Therese Dominguez, Principal Deputy Assistant Secretary of the Army for Civil Works (ASA(CW)); Mr. Frank R. Parker, Chief Counsel of the Maritime Administration (MARAD) of the U.S. Department of Transportation;

and Mr. Nicholas Marathon, Senior Economist with the U.S. Department of Agriculture (USDA), Agricultural Marketing Service. Note that no observer attended from the National Oceanic and Atmospheric Administration (NOAA), within the Department of Commerce.

Mr. Nick Marathon thanked MG Peabody and the Board for the opportunity to be at the Board meeting and indicated that the inland waterways system is extremely important to moving agricultural products to domestic and export markets. He indicated that the USDA is conducting a study to look at the sufficiency of the waterways infrastructure as it impacts the movement of agricultural products. The study will examine the benefits derived from the physical upgrade and repair of the locks and dams on the inland waterways system. The study was mandated by the Agricultural Act of 2014 (Section 6206 entitled “Study of Rural Transportation Issues” of Public Law 113-79, signed February 7, 2014) and will be an update of a previous report on the condition of the rural transportation system, including waterways. Mr. Marathon indicated that when the study is completed he will share the results of the study with the Board.

Mr. Frank Parker thanked MG Peabody and the Board for the opportunity to attend the Board meeting and indicated that he is passing along the greetings of Mr. Paul Jaenichen, Acting Administrator of the Maritime Administration. Mr. Parker indicated that MARAD will be convening the second National Maritime Symposium on May 6, 2014, in Washington, D.C. It will focus on domestic maritime issues including ports, domestic shipping, U.S. shipyards, environmental compliance, maritime energy use, and labor and workforce issues.

Ms. Marie Therese Dominguez, Principal Deputy Assistant Secretary of the Army for Civil Works, thanked MG Peabody 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. Ms. Dominguez indicated her appreciation for the work that the Corps and the waterways industry do on a daily basis and her appreciation for the contributions that the inland navigation industry provides to the Nation. She stated that she appreciates the collaborative efforts of the Corps and the Board to address the challenge of continued investment in the nation’s inland waterways infrastructure within the context of a constrained fiscal environment.

Following Ms. Dominguez’s remarks, Board Chairman Martin Hettel offered his opening remarks. Chairman Hettel thanked the Little Rock District for hosting this Board meeting. Chairman Hettel indicated that the inland navigation industry continues to urge the Congress to fund inland waterways system construction projects to their optimal level and to continue to provide funding for operations and maintenance at a level that was appropriated in the FY 2014 Omnibus Act, if not to a higher level for FY 2015.

MG Peabody then conducted the official oath of office for Board member Bruce Reed.

Ms. Simmons next called for a motion to approve the minutes of Board Meeting No. 70, held January 14, 2014, in New Orleans, Louisiana. Chairman Hettel made a motion to approve the minutes of the last meeting and Board member Michael Somales seconded the motion, after which the Board members unanimously approved the minutes of Board Meeting No. 70.

Ms. Simmons then called upon Mr. Jeff McKee, Chief of the Navigation Branch for the Operations Division within the Corps Headquarters to discuss FY 2014 appropriations and the FY 2015 budget request for the Corps.

With respect to the Corps FY 2014 appropriations, the Congress appropriated \$2.269 billion for the navigation mission of the Corps Civil Works program, including \$40 million to conduct Investigations activities (an increase of \$17 million over what was requested in the FY 2014 President's Budget), \$468 million for Construction activities (an increase of \$123 million over what was requested in the President's Budget), \$1.701 billion for Operation and Maintenance (O&M) activities (an increase of \$240 million over what was requested in the President's Budget), and \$60 million for the Mississippi River and Tributaries (MR&T) activities (an increase of \$5 million over what was requested in the President's Budget), for a total navigation appropriation of \$2.269 billion versus \$1.884 billion requested, an overall increase of \$385 million for the navigation mission.

Of interest to the inland waterways community, Mr. McKee pointed out that FY 2014 appropriations included \$163 million for the Olmsted project with 75% funded from the General Treasury (about \$122 million) and 25% from the IWTF (approximately \$41 million).

Mr. McKee said that the cost sharing change for Olmsted in FY 2014, which freed up funds from the IWTF, plus additional appropriations that the Congress provided to the Corps to be used on inland waterways construction projects, allowed the Corps to allocate \$75 million to the Lower Mon project, \$28.8 million to the Lockport Lock and Dam Major Rehabilitation project (enough funds to complete the project in FY 2014), and \$3.4 million to Mel Price Lock & Dam project.

With respect to the FY 2015 President's Budget request, \$160 million is included for continued construction at the Olmsted project, being funded 50% from the General treasury and 50% from the IWTF, \$9 million for the Lower Mon project, also with a funding allocation of 50%-50%, for a total of \$84.5 million from the General Treasury and \$84.5 million from the IWTF.

Following Mr. McKee's presentation, Mr. Jon Soderberg of the Program Integration Division at Corps Headquarters provided 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. He reported that the IWTF began FY 2013 (October 1, 2012) with a balance of \$45.9 million and a Previous Transfer Authority to the Corps (funds previously authorized to be spent by the Corps) in the amount of \$7.3 million. For FY 2013 ending September 30, 2013, fuel tax revenue totaled \$75.1 million and interest earned during the fiscal year of \$43,000, for combined total revenue of \$75.15 million. During FY 2013, \$87.6 million was transferred from the IWTF to the Corps. The balance of the IWTF at the end of FY 2013 was \$33.8 million with Previous Transfer Authority equal to \$6.96 million. Through the second quarter of FY 2014, fuel tax receipts were \$37.8 million and interest earned on IWTF funds equaled \$12,722. Accounting for funds previously sequestered and funds across the board rescinded, the IWTF balance at the end of March 2014 was \$74.18 million.

Mr. Soderberg reported that in FY 2013, the Olmsted project drew the most funds from the IWTF, \$71.856 million, followed by the Lower Mon project at \$11.1 million, the Mississippi

River Lock & Dam No. 27 project at \$474,000 and the Emsworth Locks & Dam project at \$250,000.

Mr. Soderberg said that during FY 2014, the Corps plans to draw \$40.75 million from the IWTF to cover Olmsted project costs (25% of the \$163 million for the fiscal year); \$37.34 million from the IWTF to cover Lower Mon project costs (50% of the \$74.68 million for the fiscal year); and \$14.4 million from the IWTF to cover Lockport Lock & Dam rehabilitation project related costs (50% of the \$28.8 million for the fiscal year), for a total draw of \$92.488 million from the IWTF.

Mr. Soderberg then provided an update on the status of inland waterways projects including Kentucky Lock & Dam; Chickamauga Lock & Dam; Lockport Lock & Dam (Major Rehab) and Emsworth Locks & Dam.

With respect to the Kentucky Lock project, the FY 2013 allocation was \$44.285 million, with \$44.4 million coming from the Construction account and \$137,200 being returned to the IWTF. No funds are allocated to the Kentucky project in FY 2014 and no funds are included for the Kentucky project in the FY 2015 President's Budget. Work underway at the project is being performed with funds allocated in FY 2013.

With respect to Chickamauga Lock project, the FY 2013 allocation was \$223,900 from the Construction account and \$227,500 being returned to the IWTF. The Chickamauga project received a FY 2104 allocation of \$1,815,000, with half (\$907,500) from the Construction account and half (\$907,500) derived from the IWTF. The funds to be used in FY 2014 were appropriated to the project in previous years. No funds are included for the Chickamauga project in the FY 2015 President's Budget.

With respect to the Lockport project, the FY 2013 allocation was \$4.99 million, all derived from the Construction account. The Lockport project received a FY 2014 allocation of \$28.8 million, with half (\$14.4 million) from the Construction account and half (\$14.4 million) derived from the IWTF. The FY 2014 allocation will fund the remaining items of the project including the forebay wall construction contract, expected to be completed by the end of FY 2016.

For the Emsworth project, the FY 2013 allocation was \$5.881 million. The FY 2014 allocation was \$3.983 million, all from the Construction account. Mr. Soderberg said that the \$3.983 million was all from the Construction account due to rebalancing of the funding for this project between the Construction account and the IWTF. No funds are included for the Emsworth project in the FY 2015 President's Budget.

The Board requested some modifications to the presentation of IWTF data in the future to more clearly illustrate the funding associated with specific elements and rationale for any changes.

After Mr. Soderberg's presentation, Mr. David Dale, Programs Director of the Great Lakes and Ohio River Division, provided the Board an update on the status of two ongoing construction projects in the Division, Olmsted and the Lower Mon projects.

Concerning the Olmsted project, Mr. Dale stated that construction is proceeding on the tainter gate portion of the dam, with 16 of 18 shells set in place and two pier shells remaining to be set in place this summer (the June – July timeframe). During the remainder of calendar year 2014, various construction activities are scheduled including placing tainter gate 1 in the tainter gate portion of the dam, placing the remaining two lower pier shells in the tainter gate portion of the dam, placing the first four paving blocks in the navigable pass portion of the dam (out of a total of 12 which will be eventually placed over the next four construction seasons), and placing the first navigable pass monolith (out of a total of 12 which will be eventually placed over the next five construction seasons). Along with these placement activities there will be associated foundation construction work (including grout mat installation), master and sheet pile driving, and foundation pile driving work.

Mr. Dale indicated that as construction activity on the navigable pass portion of the project extends further into the river away from the Illinois side of the river (where the locks are located) towards the Kentucky side of the river, it will be necessary to prevent navigation from proceeding in the area of construction for a certain amount of time. Mr. Dale indicated that the Corps will work closely with the navigation industry to ensure that there is sufficient lead time to allow the navigation industry to prepare for these closures. Mr. Dale indicated that he did not anticipate any closures of the river during the current construction season (2014) but expected closures could begin in the 2015 construction season.

After Mr. Dale completed his presentation on the Olmsted project, he provided a presentation on the Lower Mon project. He began by reiterating the point made by Mr. McKee earlier in the meeting, that as a result of the cost sharing change for the Olmsted project in FY 2014, additional construction funds will be allocated to the Lower Mon project in the order of \$75 million rather than the original \$2 million. This funding increase will allow construction to advance on the first of two lock chambers at Lower Mon Locks & Dam 4 at river mile 41.5 in Charleroi, Pennsylvania.

Mr. Dale indicated that 90% of the benefits associated with the project are achievable with the completion of the first lock chamber at the Lower Mon Locks and Dam 4.

Chairman Hettel indicated that Board members Messrs. Robert McCoy and Michael Somales have volunteered to participate in meetings with the Great Lakes and Ohio River Division and Pittsburgh District with respect to project oversight of the Lower Mon project. Their participation is in keeping with the process recommendation of the Inland Marine Transportation System (IMTS) Capital Projects Business Model report that members of the Board participate in partnering efforts to oversee the progress of Corps construction projects. It should be noted that Chairman Hettel is a member of the team overseeing the construction of the Olmsted project.

After Mr. Dale completed his presentation on the Lower Mon project, Mr. McKee gave a presentation on the status of lock closures on the inland waterways system. Mr. McKee reviewed the status of lock closures that have already occurred and those that are planned to occur during FY 2014, such as Mel Price upstream lift gate cable failure and the Inner Harbor Navigation Canal Lock miter gate gear fracture. He also mentioned those that are planned to take place in FY 2015, such as the East and West Brazos Floodgates machinery repairs.

After Mr. McKee finished, Mr. Steve Jones, Navigation Business Line Manager for the Mississippi Valley Division of the Corps, provided an update of the major rehabilitation project at Lock & Dam No. 27 on the Mississippi River. All work on the project has been completed including the installation of new lift gates and miter gates, new culvert valves and machinery, and new lighting. The remaining actions include preparation of the Operation and Maintenance manuals which will be prepared with the use of carry over funds from FY 2013.

Following Mr. Jones, Mr. Mark Wingate, Chief of the Projects and Restoration Branch in the New Orleans District gave a presentation on the status of the Inner Harbor Navigation Canal (IHNC) Lock project. He indicated that the Port of New Orleans, the non-federal sponsor for the proposed deep draft lock, has withdrawn its support of a deep draft lock at IHNC Lock. The Corps is conducting a fiscal close out of the deep draft lock replacement project and will instead focus its efforts on conducting a feasibility study of replacing the existing lock with a shallow draft lock. The New Orleans District will initiate a General Reevaluation Report (GRR) of alternatives for a shallow draft lock. The dimensions of the shallow draft lock will be evaluated in the GRR.

Mr. Wingate assured Chairman Hettel that the New Orleans District will engage all interested parties, including the inland navigation industry, towing and barge companies, shippers, the Gulf Intracoastal Canal Association, and other groups in the development of the alternatives to the existing lock during the GRR process.

Mr. Wingate then continued with a presentation on the status of the Bayou Sorrel Lock project. Mr. Wingate indicated that the Bayou Sorrel Lock project is not economically justified at this time. Since the proposed replacement lock was first recommended in January 2005, project costs have escalated as well as new engineering design requirements associated with flood risk management projects have been instituted. Project authority remains in place, so at some future time, if conditions change, the Corps could reevaluate the project and might conclude that the project is justified sometime in the future.

The Bayou Sorrel project serves as both a navigation lock (allowing vessels to transit from the Gulf Intracoastal Waterway at Morgan City, Louisiana to the Mississippi River at Port Allen, Louisiana via the Morgan City to Port Allen alternate route) and as part of the East Atchafalaya Basin Levee Protection System, thus costs associated with the proposed replacement lock would be borne by multiple appropriations.

The Board requested additional information as to how the Corps estimated the benefits associated with Bayou Sorrel Lock as well as additional information regarding how the Corps would assign construction costs for the project across the different appropriations (i.e. the MR&T account, the Construction account, and the IWTF) due to the multiple purposes of the project. It was decided that further discussions regarding the Bayou Sorrel Lock project would continue at the next meeting of the Board.

Following Mr. Wingate's presentation, Mr. William Chapman, Chief of Operations for the Great Lakes and Ohio River Division, provided an update of vessel lockages on the Lower Allegheny

River. As coordinated with the Pittsburgh District and the waterway users for the two locks of concern, it was agreed that they would be staffed for doubles six days a week to address the issue. This began on March 22nd and will continue through May 10th.

Mr. Jeff McKee then gave an update on the status of the implementation of recommendations of the 2010 IMTS Capital Projects Business Model (CPBM) report. Among the recommendations contained in the IMTS CPBM report that have been or are in various stages of implementation include the following:

- Project management certification for members of project delivery teams - the Olmsted project and Lower Mon project delivery teams have been certified and the Kentucky project delivery team is in the process of becoming certified;
- The use of risk-based project cost estimates – Risk-based project cost estimates have been developed for the Olmsted and the Lower Mon projects;
- Conducting Independent External Peer Review – An independent external peer review of the Olmsted project was completed during the preparation of the Post Authorization Change Report (PACR) for the Olmsted project;
- Appointment of Board members to inland waterways project delivery teams – Board members have been selected for the Olmsted and Lower Mon project delivery teams.
- Established an Inland Waterways Design Center of Expertise.

Mr. McKee pointed out that other recommendations that came out of the CPBM report require Congressional action, such as the use of continuing contracts, changing the project features that would be financed out of the General Treasury rather than from the IWTF (such as the dam portion of a lock and dam project), and increasing the amount of diesel fuel tax that would go into the IWTF, currently \$0.20 per gallon (the CPBM report recommends increasing the tax to between \$0.26 and \$0.29 per gallon).

Next, Mr. James Hannon, Chief of the Operations and Regulatory Division at Corps Headquarters, discussed the efforts to develop an infrastructure strategy and the incorporation of project life cycle concepts into the decision making framework in investment decisions, both with respect to new investment and in operation and maintenance activities of existing projects.

Mr. Hannon discussed the themes of the Corps infrastructure strategy initiative, including:

- Life Cycle Portfolio Management which includes conducting Operational Condition Assessments (OCAs) of the tens of thousands of components at the hundreds of Corps projects; conducting Operational Risk Assessments (ORAs) to determine what is the magnitude of economic consequences associated with project features failures and what is the probability of project component failure; and the development of Maintenance Management Improvement Plans;
- Adopting a Watershed-Informed Approach to examine the interaction between Corps projects as well as how Corps projects integrate with water resources projects operated and managed by other agencies;

- Examine Alternative Financing Opportunities and Authorities to expand the opportunities for the Corps to engage other avenues of project financing, such as the Corps entering into public-partnerships to construct and/or operate new and existing projects;

After Mr. Hannon finished, Ms. Simmons opened the public comment period for three speakers.

The first speaker was Mr. Marty Shell, a terminal operator on the McClellan Kerr Arkansas River Navigation System. He remarked that by holding the meeting in the Little Rock area it highlights the importance and contributions of the Arkansas River System to the region. He also recognized Mr. David Choate for his participation on the Board and representing the interests of the Arkansas River Navigation System on the Board. Mr. Shell stated that there is a critical backlog of maintenance activities on the Arkansas River System, and that he supports the efforts of the Little Rock District of the Corps to undertake the Three Rivers Study. Lastly, he said that he supported the development of a 12 foot channel on the Arkansas River, and noted that the Arkansas River is already 12 feet deep along 95% of its length in the state of Arkansas.

Mr. Gene Higginbotham was the next speaker, from the Arkansas Waterways Commission. He supports the undertaking of the Three Rivers Study and recommends that the Corps initiate that study to determine a Federal interest. He said if the White River breaches the lower Arkansas River, the reliability of the navigation system would be comprised. Shippers of commodities from the region, including the states of Arkansas, Oklahoma, Colorado, Kansas, Missouri, Nebraska and Texas would be severely impacted. He commented, "Each day that passes without a permanent solution is a day closer to a closure that would stop navigation on this system."

The final speaker was Mr. Steve Taylor, from Johnson Enterprises Port 33, a shipping company in the Little Rock area. He also thanked the Board for conducting today's meeting in North Little Rock and expressed his appreciation to the Little Rock and Tulsa Districts of the Corps for their operation of the Arkansas River System and the superb degree of communications, cooperation and collaboration between those Corps offices and the various stakeholders along the Arkansas River System. He also extended a note of thanks from his counterpart at the Port of Catoosa, Oklahoma who was unable to attend the Board meeting, but extends an invitation to the Board to return to the Tulsa, Oklahoma area to conduct a future Board meeting.

In his concluding remarks, Chairman Hettel indicated that he was very encouraged by the level of discussion at the meeting and indicated that in the interest of not short-changing future discussions or exchanges of information during project presentations, it may be worthwhile to consider extending the duration of Board meetings.

In closing, MG Peabody thanked the Board for their participation in the meeting, indicated that the meeting was very constructive, and committed to the Board the Corps will continue to provide them with information and data in a timely fashion so that Board members have adequate time to digest the information provided, improve their understanding and formulate questions, and offer informed judgments and recommendations to the Corps and the Administration.

Ms. Simmons adjourned the meeting at 12:40 p.m.