



DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY  
CIVIL WORKS  
108 ARMY PENTAGON  
WASHINGTON DC 20310-0108

DEC 21 2010

Honorable James L. Oberstar  
Chairman  
Committee on Transportation and Infrastructure  
House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman,

This is in further response to your letter of July 20, 2010, regarding the report of the Inland Waterways Users Board (Board) entitled *Inland Marine Transportation Systems (IMTS) Capital Projects Business Model* (report) and dated April 13, 2010. As requested, this letter provides the Administration's views on the recommendations for certain changes in current law in the report, which were endorsed by the Board on December 15, 2009, and finally approved by the Board on April 13, 2010.

The Army shares many of the goals of the Board for the inland waterways. The Civil Works program of the Army Corps of Engineers facilitates commercial navigation by providing support for safe, reliable, highly cost-effective, and environmentally sustainable inland waterborne transportation systems. We look forward to working with the Committee and all affected stakeholders to achieve this objective.

Among the recommendations of the report endorsed by the Board is a 20-year capital development plan that prioritizes project construction. The report also recommends that each project be funded efficiently through its completion. A long-term investment plan such as the Board has proposed, which reflects its priorities, can help highlight the needs and inform development of a broader strategy for the inland waterways. While the Army appreciates the Board's recognition of the value of long-term planning, the importance of funding prioritization, and the benefits of more efficient project delivery, we would note that the specific projects and levels of funding are subject to future budget and appropriation decisions. We also believe that a long-term plan should place more emphasis on work such as rehabilitations that are needed to continue providing a current level of service on the principal inland waterways. Furthermore, all projects that receive Federal funding should demonstrate a strong economic justification and complete the Executive Branch project planning and review process, which most of the projects in the Board's 20-year plan have not yet met, and some of them may not be able to meet.

In addition, the Army commends the Board for recommending administrative improvements, some of which will also benefit the broader Civil Works program. As the report notes, the Corps of Engineers has implemented three of these administrative improvements (training for project managers; use of risk-based cost estimates; and independent external peer reviews of projects meeting certain criteria). Other

recommendations of the Board for administrative improvements are under consideration. However, we have concerns with several of the Board's other administrative recommendations that will require further discussion.

The Army also has serious concerns with several of the major recommendations in the report, particularly with the recommendations for major changes in cost-sharing, which over the next 10 to 20 years could shift to the general taxpayer billions of dollars in costs that are currently, and appropriately, the responsibility of those who use these waterways to transport their goods. We incur these costs on their behalf, and they benefit directly from these expenditures.

Under current law, the construction and rehabilitation of most projects on the 27 inland and intracoastal fuel-taxed waterways is financed 50 percent from the General Fund of the Treasury and 50 percent from the revenues paid by waterways users into the Inland Waterways Trust Fund (IWTF). The report recommends exempting from cost sharing: (1) nearly all lock rehabilitation work; (2) all work on construction of a new dam, including the associated features and components; (3) all work on the replacement, rehabilitation, expansion, or extension of an existing dam, including the associated features and components, and all dam safety assurance, seepage control, and static instability work; and (4) for all other capital investments, all or most costs in excess of the original cost estimate provided by the Corps. The Army opposes these recommendations, which would erode the current framework for non-Federal cost sharing for this program. These recommendations would transfer a significant responsibility from the users, represented by the Board, to the general taxpayer. Such a major shifting of costs is inconsistent with the user-pay principle that helps to guide Civil Works investment decisions. Specifically, the Army opposes:

- Financing of Lock Rehabilitations: The Board recommendations would limit the responsibility of the users to contribute a cost share of rehabilitations to the work on a lock and only to those lock rehabilitations that cost more than \$100 million. No project thus far in the history of the program has met this criterion.
- Financing of Dam Construction and Rehabilitations. The report recommends exempting all work on construction of a new dam from cost-sharing, including work on the associated features and components. Furthermore, all rehabilitations of a dam and the associated features and components, including all dam safety assurance, seepage control, and static instability work, would be exempt. The report tries to explain this shift in cost sharing by portraying dams as multi-purpose features that benefit or indirectly benefit non-navigation parties, such as by supporting flood risk management, hydropower, municipal and industrial water supply, recreation, or wastewater treatment. On the busiest inland waterways (the Mississippi River, the Ohio River, the Illinois Waterway, and the Gulf Intracoastal Waterway, which together handle about 90 percent of all inland waterways commercial traffic), the Federal government constructed the dams to support

commercial navigation. That is why the IWTF finances one-half of the capital costs for all work on these dams. On other inland waterways, such as the navigable reaches of the Columbia and Missouri Rivers, the dams truly serve multiple purposes. For these waterways, the IWTF only finances one-half of a portion of the capital costs, based on the share of the work that is allocable to navigation.

Changing this arrangement for inland waterway projects is not justified, and would also have far-reaching implications for allocation of costs for many other civil works projects as well. Furthermore, many non-navigation civil works projects now provide ancillary benefits to those who did not participate in project financing, where these indirect benefits were not part of the justification for the project. Also, the proposal could make construction and rehabilitation of navigation dams subject to authorization of other project purposes and execution of cost sharing agreements with non-federal sponsors of the additional purposes, introducing significant new uncertainties into inland waterways project planning.

- Cost Caps on Non-Federal Share of Project Costs: The Board recommended that a cost limit be applied up front to the IWTF amount that could be used for a given inland waterways project. This recommendation would shift project costs from the users of inland waterways projects to general taxpayers. The report of the Board points out that inland waterways users, unlike cost sharing sponsors of other types of civil works projects, do not sign formal cost sharing agreements. However, non-Federal sponsors and users of other civil works projects bear similar cost risks. We believe the appropriate way to address this risk is through good plans, designs, and cost estimates regardless of the project purpose. As noted above, the Board's report included recommendations to improve practices and procedures in this regard, some of which the Army is considering or has already implemented.

The Army also has serious concerns with other major recommendations endorsed by the Board for changes in current law, including:

- Increase in Revenue to the IWTF: The Board's recommendation to increase revenue to the IWTF is an increase in the level of the existing diesel fuel tax of 30 percent (and potentially an increase of up to 45 percent) over the current fuel tax rate of \$0.20 per gallon. This would be the first such rate increase since 1996. The Army notes that this level of revenue increase would not be sufficient to support efficient investment in the inland waterways, unless all of the other legislative recommendations of the report to reduce costs allocated to the IWTF also were enacted, which the Administration would oppose. Also, appropriations from general taxpayer revenue would have to be increased substantially to make up the difference that no longer would be derived from the IWTF. The Administration continues to urge consideration of a funding mechanism that is

sufficient to finance capital improvements on the inland waterways efficiently and that is also more efficient and more equitable than the fuel tax.

Over the past three years, for example, receipts from the inland waterways fuel tax covered approximately 8 percent of the total cost that the Corps incurred on behalf of the companies that move goods on these waterways in these years, including costs for both capital investment and operation and maintenance. By contrast, our non-Federal partners in the coastal navigation program have paid about 80 percent of the costs of construction, operation and maintenance activities supporting coastal harbors and channels.

While the Board's report addressed capital investments in the inland waterways, we would welcome broadening this discussion to also include how to improve the performance of the roughly \$600 million that the Army now spends annually on the O&M of these waterways. Given Federal fiscal constraints, the Administration believes that discussion should include whether to continue to finance inland waterways O&M costs entirely from general taxpayer revenues in the General Fund without any cost sharing from those who use these waterways to transport their goods.

The Army is committed to improving project planning, design and construction processes in order to more efficiently use available funds to achieve inland waterways navigation benefits. In this regard, the Army looks forward to continuing to work with the Congress, the Board, and other stakeholders.

The Office of Management and Budget advises that the views expressed in this letter are in accord with the program of the President.

Very truly yours,

A handwritten signature in cursive script that reads "Jo-Ellen Darcy". The signature is written in dark ink and is positioned above the printed name and title.

Jo-Ellen Darcy  
Assistant Secretary of the Army  
(Civil Works)