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www.waterways.org

Opportunities and Challenges 2011-2012

By Sykes Sturdivant

First of all, I would like to thank Fred Caver and Amy Larson, one more time, for making the National Waterways Conference (NWC) the premier water resources organization in America. I would also like to thank NWC's Executive Committee, Board of Directors, and membership for allowing me to serve as their chairman. I look

forward to the opportunity to serve as the Chairman with a deep sense of responsibility to face the challenges I gladly accept.

As the President of the Yazoo-Mississippi Delta Levee Board, I would like to thank our Commissioners and our staff for supporting me as I embark upon these new responsibilities. I also serve on the Executive Committee of the Mississippi Valley Flood Control Association, as a Commissioner and former Chairman of the Yazoo Mississippi Delta Joint Water Management District, and as a Board Member of the Mississippi Water Resources Association.



It goes without saying that all water resource organizations will not agree on all issues all of the time. But on those issues where there is common agreement, we must work together to promote sound and balanced water resources policies and to secure adequate funding for a robust water resources infrastructure. Relationships are the real key to success, and NWC will continue to cultivate those bonds across the water resources community. By including all water resource interests in its membership, NWC is uniquely positioned as the preferred "go to" group for the Congress and Executive Branch as they seek stakeholder input. The NWC Legislative Policy Committee, chaired by Steven Burns, is actively engaged in reviewing policy initiatives and pending legislation, and developing and formulating position papers and fact sheets. These are available on our website at www.waterways.org.

The need to form strategic coalitions and work together is especially true now more than ever as we are facing significant

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financial and programmatic challenges in Washington. Just a few of the issues facing us include: the growing regulatory and oversight roles being asserted by the federal government and the resulting implications for all of us; the historic flooding along the Mississippi and Missouri Rivers and the vital importance of restoring the critical flood control system; the coming of the Panama Canal expansion and its impact on the economy; and the inland waterways trust fund's fiscal challenges and future direction; it's a difficult time in Washington, to say the least.

I am looking forward to working with our new Vice Chairman, Jim Oliver, Amy, Carole, and NWC's membership as we work towards promoting our shared vision: our nation's water resources infrastructure is essential to our economic vitality, environmental health and competitive position within the global economy.

We know our challenges. We shall do the very best we can to meet them.

Thank you for the opportunity to serve.

Sykes Sturdivant, President of the Yazoo Mississippi Delta Levee Board, is the Chairman of the National Waterways Conference.

Annual Meeting a Resounding Success

By Keith Garrison

The Hilton in downtown Fort Worth was the venue for the 2011 Annual Meeting of the National Waterways Conference. The hotel has the distinction of being the last place President John F. Kennedy spent the night before his assassination the next day in Dallas. Historic photos of Kennedy's visit to Fort Worth grace the walls of the hotel. Fort Worth seems not to acknowledge that there has been a severe economic recession. The prosperous city's downtown sparkles and city planners showed off their plans to embrace the Trinity River which flows nearby, with visionary goals for expanded parks and facilities for boating and other uses.

Fort Worth Mayor Betsy Price welcomed NWC and praised the organization for adopting a holistic view of water resources. The conference was hosted in Fort Worth by the Tarrant (County) Regional Water District.

Major General Bo Temple elaborated on the conference theme — Get Ready to Ride the Wave of Change — by stressing that changing conditions challenge water resource stakeholders to adapt and find ways to work together. He praised the "tremendous partnership"

which accomplished the response to, and recovery from, Hurricane Katrina and the 2011 spring flood of the Mississippi Valley. He cited tens of billions of dollars in flood damage averted because the Mississippi River and Tributaries flood response plan and infrastructure worked as planned.

MG Temple presented outgoing NWC Chairman Fred Caver, President Amy Larson and Director of Internal Operations Carole Wright with the Commander's Coin in recognition of their accomplishments in reviving the NWC. The organization is now financially sound, with a growing, diverse membership. MG Temple said, "Together, we can sustain, and improve" our national water resources and infrastructure. Sykes Sturdivant, incoming chairman, presented a commemorative dinner plate, custom-fired from Mississippi "mud" to Caver, calling him a "hero" for his leadership in rescuing the NWC.

Terrence C. "Rock" Salt, Principal Deputy Assistant Secretary of the Army (Civil Works) posed the question, "How do we develop policy incorporating current needs and how do we pay for it?" He cited uncertainties such as the possibility of more '100-year'

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events, shifting demographics and population concentrations among the factors that complicate planning. Four pilot efforts are underway to explore accelerated planning, he said, calling for projects to begin with "community thinking" instead of "Corps thinking."

Steve Stockton, Director of Civil Works, USACE, said the Mississippi Valley flood control system has performed "magnificently," and cited eight project purposes of the system that have to be balanced. Stockton also raised the issue of public/private partnerships in funding projects. "What we're doing now is unsustainable," he stressed.

One speaker captured the essence of the conference's theme by asking, "Will we ride the wave of change, or will it crash over us?"

A stellar lineup of speakers drew conference attendees out of the hallways and into their seats for five sessions, each session exploring a specific topic. Speakers included top executives of the US Army Corps of Engineers from the national headquarters, the Mississippi Valley Division and the Fort Worth District, as well as numerous key civilians like the Executive Director of the Trinity River Vision Authority, J.D. Granger. His presentation underscored that water is a precious commodity in Texas,

NWC Elects New Officers

At the 51st Annual Meeting in Fort Worth, Texas, on September 19-21, the following members were elected to serve as Officers for the 2011-2012 year:

Chairman: Sykes Sturdivant, President, Yazoo Mississippi Delta Levee Board, Clarksdale, MS; Vice Chairman: Jim Oliver, General Manager, Tarrant Regional Water District, Fort Worth, TX; President: Amy Larson, National Waterways Conference, Arlington, VA; First Vice President: Scott McGeorge, President, Pine Bluff Sand and Gravel Co., Pine Bluff, AR; Vice President: Darwin Nelson, Senior Vice President, CDM, Denver, CO; Counsel: Steven Burns, Partner, Balch & Bingham, Birmingham, AL; Secretary: Evelyn Suarez, Partner, Williams Mullen, Washington, DC; and Treasurer: John Janoush, Vice President, Jantran, Inc., Rosedale, MS

a fact reflected in the state's emphasis on sustainable use for generations to come. Susan Bodine, a partner in Barnes and Thornburg LLC, a Washington, DC, law firm, illustrated the ever-changing swamp of the regulatory landscape using as an example the emerging rewrite of the Corps of Engineers *Principles and Guidelines*. (Whether '*Guidelines*' is replaced with '*Requirements*' is an unsettling aspect of the proposed changes.) The task of rewriting the P&G has been transferred from the Corps to the administration's Council on Environmental Quality raising the specter of an anti-development bias in the P&G. "Requiring every civil works project to contain an environmental purpose is a waste of scarce resources," said Ms. Bodine. She called for a template that quantifies *all* concerns — a more pragmatic approach to

project planning and funding.

Ms. Bodine noted that the new definition of "Waters of the United States" in the EPA-Corps draft "Guidance" interpreting the jurisdiction scope of the Clean Water Act actually exceeds the reach of the U.S. Supreme Court decision that interprets the Act. The liberalized approach would allow separate water bodies to be 'connected' for regulatory purposes, bringing huge, new geographical areas under EPA jurisdiction.

This new effort to extend federal control to previously unaffected waters is especially relevant to the broadened, and more diverse membership base of the NWC as reflected by participants in the Fort Worth conference. Fort

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Worth, in drought-parched Texas, was the ideal venue in which to explore local and state water development challenges, many, or all, of which are affected by federal regulation. The state of Texas has its own water resources plan, developed over decades and established by the state legislature, a far-reaching vision which has produced a detailed plan of action. However, Texans feel their plan is unnecessarily constrained by "one size fits all" intervention by the EPA — top-down governance which Texans say fails to acknowledge and accommodate unique local conditions and needs. Texas Water Development Board Chairman Edward Vaughn said the Texas

population is predicted to double its present size by 2060, even as water resources decline. He cited as an example of federal overreach, a tiny, one-acre federal 'wildlife refuge' in Lake Fastrill that makes the entire reservoir off-limits for use as a water supply.

The conversation and presentations at the conference shifted among local, state, national and international concerns such as the expansion of the Panama Canal and the influx of giant cargo ships so large that many US ports cannot accommodate their fully-loaded draft. Their impact on coastal ports and inland river ports is difficult to quantify at this stage, but deep-water ports are expecting increased demand on their container handling capabilities. (The unspoken question looms: "What does it say about U.S. transportation policy that Panama is rebuilding its canal to accommodate modern ships, when American ports and rivers are scarcely being maintained to meet 1970 design standards?")

In such gloom, of growing federal regulation and declining funding, a theme emerged as articulated by

NWC President Larson: Congress and the administration must understand that water resources projects are not "earmarks." They are the product of prior Congressional approval, extensive study of economic benefit and environmental impact, vetted and peer-reviewed, and their benefit to the nation can be demonstrated. They create jobs, both during their construction, but also far into the future, as the foundation and impetus for economic development. In short, water resource projects are *investments*, and as such should be considered apart from earmarks.

Attendance at the NWC annual meeting by representatives of diverse water resource entities, underscores a new reality: the narrowly focused agendas of the past must be joined in broader coalitions which can pool resources to achieve the commonly shared goals of members. In this, as evidenced by the Fort Worth conference, the NWC excels.

Keith Garrison is the Executive Director of the Arkansas Waterways Commission and Chairman of NWC's Communications Committee.

Welcome New Members!

Atkins

Dallas, TX
Emmett H. DuBose

Fort Bend County LID#2

Houston, TX
André McDonald

Hickman-Fulton County Riverport Authority

Hickman, KY
Greg Curlin

Superior Shipping

Fairhope, AL
Craig Stepan

P&G Update

The timing of the release of the final version of what is expected to be called the "Principles, Requirements and Guidelines" appears to be the subject of internal Administration debate. We will continue to keep you apprised of any developments.



2012 Energy and Water Appropriations Summary

Army Corps of Engineers Civil Works Program	FY11 Enacted <i>(numbers in \$000)</i>	FY12 Request	House	Senate
Investigations	126,746	104,000	104,000	125,000
Construction	1,613,822	1,480,000	1,565,941	1,610,000
Miss River & Tributaries	241,906	152,000	210,000	250,000
Operations & Maintenance	2,365,759	2,314,000	2,366,465	2,360,000
Flood Control/Coastal emergencies	----	27,000	27,000	27,000
Total Civil Works	4,857,213	4,573,000	4,768,406	4,864,000

As of this writing, the Senate is gearing up to consider multiple appropriations bills – in the form of “minibuses” rather than a large omnibus bill. First up - a package of Agriculture, Commerce, Justice and Science, and Transportation/ HUD appropriations bills. How deliberations and debate go this week will impact consideration of future bills, including energy and water. Both House and Senate numbers are largely similar. Intense debate will center around the various policy riders attached to the House bill.

Highlights of the House policy riders would:

- Direct \$1 billion in disaster relief funding to the Corps for use in areas affected by storms, tornadoes and flooding along the Mississippi and Missouri rivers in 2011. (intended as emergency funding in 2011, would be offset by unobligated stimulus funds

for high-speed rail projects;

- Permit the Corps to receive and use funds from state and local governments to continue or complete authorized federal studies;
- Prohibit the use of funds for any proceeding to interpret or modify the definition of “waters of the United States” under the Clean Water Act, targeting the proceeding currently underway to issue guidance on the jurisdictional scope of the Act;
- Prohibit the use of funds to develop or submit a proposal to expand the authorized uses of the Harbor Maintenance Trust Fund;
- Prohibit the use of funds to be used to continue the study conducted by the Army Corps of Engineers pursuant to section 5018(a)(1) of the Water Resources Development Act of 2007 (MRERP);

- Prohibit the use of funds for the Missouri River Authorized Purposes Study;
- Direct funding towards provisions: restoring levees on the Missouri River, providing for increased dredging funds for the lower Mississippi, and for coastal restoration projects (which bear watching as they could be considered “suggestions” so as not to run afoul of the earmark moratorium).

The Senate Appropriations Committee, in report language, takes the Administration to task numerous times regarding budgetary priorities, notably:

- Utilizing budget criteria which are not designed to meet the nation’s water resource needs, but rather to help the Administration decide which needs they choose to include in their budget request;

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- Failing to include numerous projects and studies that were previously funded, pointing out the detriment to the local sponsors who have relied on this commitment;
- Questioning why only 18% of the proposed construction budget is dedicated to navigation projects, especially given the Administration's stated goal of doubling exports;
- Failing to support "low use" waterways and "low use" harbors, noting the critical importance of these ports and waterways to the overall transportation system;
- Questioning funding allocated to revise the Principles and Guidelines in FY12 as a continuing item when this item was first proposed as new in FY11 and did not receive the desired funding.

Bureau of Reclamation

The Senate, chastising the Administration's budget request as woefully inadequate to meet the water infrastructure needs of the Western states, would provide \$885 million in funding for water and related resources, compared to the request of \$805 million. The House bill provides \$822 million.

Administration Proposes Inland Waterways Funding Plan

Nearly 10 months after rejecting the Capital Development Plan, a comprehensive funding and project delivery proposal developed by the Inland Waterways Users Board, the Administration has submitted a legislative proposal to Congress. The "Inland Waterways Capital Investment Act of 2011" seeks to generate roughly \$1 billion over 10 years. While maintaining the 20-cent per gallon diesel fuel tax currently paid into the Inland Waterways Trust Fund, the proposal would impose an annual user fee on all vessels that transport cargo on the inland waterways. The two-tiered fee, the amount of which would be determined annually by the Secretary of the Army, would impose a higher amount on those vessels transiting locks.

The proposal would expand the list of inland waterways subject to the fuel tax and user fee by 40 additional river segments, many of which are considered "low use" by the Administration for purposes of O&M funding. In addition, it would modify the definition of "construction" to which the fees can be allocated to include "dam safety assurance, seepage control, and static stability correction work" that would

otherwise be "routine operation and maintenance that supports commercial navigation on the inland waterways."

NWC President Amy Larson and Executive Committee member Terah Huckabee from Parker Towing Company met with Administration officials from the Office of Management and Budget and Mr. Rock Salt, Principal Deputy Assistant Secretary of the Army (Civil Works), to discuss the proposal. Noting the critical importance of recapitalizing our nation's aging infrastructure to our economic vitality, environmental health and competitive position in the global economy, NWC pledged to continue to work with the Administration to develop a viable, long-term funding and project delivery solution.



Update: Guidance Interpreting Scope of “Waters of the United States” Under the Clean Water Act

EPA and the Corps of Engineers continue to plow through the nearly 4,000 public comments received in response to the proposal to expand the jurisdiction of the Clean Water Act by non-binding guidance. As the agencies consider how to proceed, some indications suggest that a notice of proposed rulemaking may be issued in the not too distant future. Such an approach would be a welcome alternative as it would preserve the rights to judicial review under the

Administrative Procedure Act.

A similar battle to expand regulatory control was waged under Pres. George H.W. Bush’s doctrine of “No Net Loss of Wetlands.” But regulatory overreach and conflicting rules from several federal agencies resulted in Draconian, nightmare scenarios for developers and landowners, including prairie farmers and western ranchers who suddenly found their lives and livelihoods confounded by, incredibly, the Rivers and Harbors

Act of 1899 which regulates of dredge and fill materials! Suddenly, farm ditches became “waters of the United States” and mud on tractor tires was considered dredge material subject to federal regulation. One contractor served prison time for failure to secure a 404 permit. His crime: construction of an artificial wetland for duck habitat.

Industry Events

October 25, 2011

The Horinko Group

2011 Water Resources Summit
College Park, MD
www.thehorinkogroup.org

October 31-November 3, 2011
National Association of Flood and Stormwater Management Agencies

St. Petersburg, FL
www.nafsma.org

November 9-10, 2011

Atlantic Intracoastal Waterway Association

Myrtle Beach, SC
www.atlintracoastal.org

December 8-10, 2011

Mississippi Valley Flood Control Association

New Orleans, LA
901-861-9918

February 14-16, 2012

Waterways Council, Inc.

Washington, DC
www.waterwayscouncil.org

March 4-8, 2012

Pacific Northwest Waterways Association

Washington, DC
www.pnwa.org

Upcoming NWC Events

March 12-14, 2012

Legislative Summit

The Madison
Washington, DC

September 19-21, 2012

Annual Meeting

Tunica, MS

March 11-13, 2013

Legislative Summit

The Madison
Washington, DC



NFIP Reform Legislation: Racing to Harmful, Unintended Consequences for Communities Protected by Levees

By Dan Delich

The National Flood Insurance Program (NFIP), a perennial target for congressional reform, is up against a new sunset date of November 18. Earlier this month, the Congress approved a continuing resolution to keep the government funded through November 18, and included a flood program extension until that date. Over the next 30 days, lawmakers have the opportunity to overcome longstanding flood policy disagreements or continue the recent trend of short-term, status quo program extensions.

In broad terms, there is consensus for a federal flood insurance program that is solvent, equitable and that promotes rational use of flood plains. The routes selected to achieve these aims are, of course, where the difficulty lies. The House passed HR 1309 over the summer and the Senate Banking Committee approved original legislation in early September. The Senate bill, by Banking Committee leaders Tim Johnson (D-SD) and Richard Shelby (R-AL) has not yet been reported to the full Senate or given a bill number.

In summary, the House-passed HR 1309:

- raises the annual cap on premium rate increases to 20% from the current 10%
- phases in actuarial rates over 5 years for areas newly mapped as floodplains
- actuarial rates are transitioned in for second homes, commercial properties, severe repetitive loss properties, newly sold homes, and substantially damaged or substantially improved properties
- reestablishes a Technical Mapping Advisory Council with a directive to develop new mapping standards.

The Senate bill by Johnson-Shelby:

- raises the annual cap on premium rate increases to 15% from 10%
- installs actuarial rates for all new flood insurance policies
- similar to the House bill, second homes, commercial properties, severe repetitive loss properties, newly sold homes, and substantially damaged or

substantially improved properties are moved toward actuarial rates

- requires FEMA to include catastrophic loss years in actuarial rate calculation
- directs FEMA to redefine and expand Special Flood Hazard Areas (SFHA) to include areas that are located behind levees, dams, and other flood control structures.

Key Differences

While both bills reauthorize the NFIP for 5 years while moving various property categories toward actuarial rates, the Senate bill allows for shorter transition time. Critically, Johnson-Shelby also would require SFHA designation — triggering mandatory flood insurance purchase and floodplain management regulations — in “residual risk” areas located behind flood control infrastructure even if levees, floodwalls or dams are fully certified and accredited. This residual risk provision, found in Section 107 of the Senate bill, dramatically expands FEMA regulatory authority to include areas behind more than 100,000

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miles of federal and non-federal levees across the United States, in addition to any area with a flood control dam.

Senate Dear Colleague Letter

Earlier this week, a draft letter to Senate Banking Committee leaders Johnson and Shelby was circulated to Senate colleagues by Senators Cochran (R-MS) and Pryor (D-AR) voicing their concerns with the Section 107 residual risk provision, "that would mandate flood insurance purchase and land use restrictions for those who are protected by levees, dams, and other flood control infrastructure." In the letter, Senators Cochran and Pryor write that "a mandatory [flood insurance] purchase requirement for those protected by healthy flood risk infrastructure inequitably targets only particular types of flood risk." Cochran and Pryor, authors of a bipartisan February 2011 letter to FEMA Administrator Craig Fugate that successfully prompted agency discontinuation of the use of the "without levees" policy in flood mapping, are interested in informing other Senators of potential unintended consequences associated with implementation of Section 107 and hope to secure multiple co-signatories to help negotiate a rewrite or removal of the item as the bill advances to the full Senate. The February letter to FEMA was signed by 27 Senators. The draft letter applauds work done by

Senators Johnson and Shelby to finalize a long-term authorization that contributes to NFIP solvency and flood insurance availability for property owners who are at flood risk, but proclaims that, "[I]t should not be the policy of the United States to discourage future and existing economic activity in areas protected by sound levees, dams and other flood control infrastructure."

Legislative Overkill

When fully implemented, Section 106 of Johnson-Shelby would require actuarially sound flood insurance rates. With a reasonable phase-in and a clear operational definition of "actuarial," it is appropriate to internalize to occupants the costs associated with residence and commerce in a floodplain. Actuarial rates in "the areas of residual risk, including areas that are located behind levees, dams, and other flood control structures" in Section 107, likewise, not only adequately internalizes occupancy costs but also provides a powerful incentive for self-initiation of economically viable changes in property and land use. If, for example, a property owner can enjoy net benefits by elevating his structure, then the prospective reduction in his flood insurance rates provide a positive incentive to make those changes. Further, given the mere implementation of actuarial rates in the areas specified in Section 107, future land use decisions would, without further restriction,

be subject to recognition of the full economic costs of those uses. While proposed internalization of cost in the areas of residual risk can be an appropriate market-oriented policy, the designation of such areas as "special flood hazard areas" within the meaning of the Act goes beyond efficiency incentives to impose uneconomic and inequitable restrictions on the uses of the land in such areas. Imposing both actuarial flood insurance rates and the land and property use restrictions of Johnson-Shelby 107 penalizes land use decisions beyond a level that's economically sound and decreases real incomes below optimum levels. In short, the actuarial rates alone are sufficient to achieve economic efficiency.

Additional, overkill restrictions on occupants of the residual risk areas behind levees, dams and other flood control structures would also mean significantly disparate treatment of those occupants when compared with occupants of floodplains above the 100 year level where no flood control structures exist. For illustration, under Section 107, an area protected by a healthy levee that has a 1 in 500 chance of flooding in a given year based on actuarial analysis would be required by the federal government to both carry flood insurance and adopt land-use restrictions, while an area not protected by a levee that has a 1 in 101 chance of

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flooding in a given year would not be required to purchase the insurance or implement any land use restrictions. It is challenging to embrace the idea that this circumstance would be in harmony with a commonly held understanding of "fair treatment."

Our national policy on this matter should be to let the free market, as adequately informed by the actuarial flood insurance rates, guide the best economic use of these areas rather than impose restrictions that reduce economic values.

As the House and Senate race to complete action on a comprehensive NFIP measure

before the November 18, 2011, program sunset, the *Levee Issues Alliance*, a group of local levee sponsors and affected communities from around the U.S., will work to support federal efforts to improve and increase flood risk characterization, communication, avoidance, and, indeed, flood insurance coverage availability and affordability. With specific regard to the long-term economic well-being of large and small communities across the U.S. that are served by structural flood control systems, our organization advocates the enactment of federal policy to *incentivize rapid levee rehabilitation by providing limited, additional compliance time for verifiable and unstopped levee*

rehabilitation work, particularly in the absence of federal funding for Corps-designed and built infrastructure. This is not a proposal to kick the can down the road or arbitrarily delay decision making for do nothings, but is instead a plea for fairness for non-federal sponsors and a "trust, but verify" period necessary for proper planning, fund-raising, design, permitting and construction of well-conceived flood hazard protection and mitigation efforts.

For more information on how to join or support the National Levee Issues Alliance, please contact Dan Delich at 214-707- 8772 or dan.delich@sbcglobal.net.

Register Now!

Atlantic Intracoastal Waterway Association ANNUAL CONFERENCE November 9-10

In beautiful Myrtle Beach
THE MARINA INN AT GRANDE DUNES
along the Intracoastal Waterway

<http://2011conferenceaiwa.themyrtlebeachwebdesign.com>





Biological Opinion (BiOp)

Judge Redden Rules on Federal Columbia River Power System *By Heather Stebbings*

On August 2, 2011 Judge James Redden remanded the 2008/2010 the FCRPS BiOp. This BiOp governs operations of the Federal Columbia River Power System, and has potential impacts on Columbia Snake River System hydropower and inland navigation from Portland, OR/Vancouver WA to Lewiston, ID.

After months of deliberation and years of litigation, Redden ruled that BiOp mitigation measures beyond 2013 are not reasonably certain to occur and ordered NOAA Fisheries to produce a new or supplemental BiOp. This new BiOp must be completed by 1/1/2014 for the period from 2014 to 2018. The new BiOp must include 1) a reevaluation of the efficacy of the RPAs (reasonable & prudent alternatives) in avoiding jeopardy, 2) identification of reasonably specific mitigation plans for the remainder of the BiOp, and 3) consideration of whether more aggressive actions such as dam removal, flow augmentation, and/or reservoir modifications are necessary.

Dam removal has been proposed for four dams on the Snake River in Eastern Washington. It would end navigation on the Snake River, affecting over four million

tons of cargo annually. It would also eliminate 1,200 megawatts of clean, renewable hydropower production.

NWC member Pacific Northwest Waterways Association (PNWA) has been actively engaged in the lawsuit for over 20 years. PNWA manages the legal efforts on

the states, agencies and many Northwest tribes has not gone unrecognized."

In his ruling, the Judge ordered the federal agencies to continue current river operations through the end of 2013, while formulating an improved approach to mitigation for 2014 to 2018. PNWA and other regional stakeholders continue to monitor progress of the lawsuit, and will work to ensure the continued reliability of inland navigation in the Northwest.

Heather Stebbings is the Communications & Government Relations Manager for the Pacific Northwest Waterways Association.



behalf of navigation and remains positive following the judge's decision. "It is important to note that Judge Redden does not ask for an entirely new BiOp," stated Executive Director Kristin Meira. "The Judge noted that the BiOp contains positive mitigation measures that protect listed species to 2013. The exceptional collaborative work done between



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Agency at a Crossroads, Part 1 The U.S. Army Corps of Engineers

By Fred Caver

With this article we introduce a short series which will appear in these pages on the current state and possible future direction of the Corps of Engineers. As the nation's largest and most significant federal water resources agency, the state and direction of the Corps is of paramount interest and relevance to members of the National Waterways Conference. Issues affecting the Corps likewise affect the entire nation. So, NWC as the foremost Corps' supporter among water resources organizations, seeks to offer perspectives and promote discussion on the considerable challenges facing the Corps and possible opportunities available to it.

It is a little-contested fact that we all either change with changing times or fade away — slowly or otherwise. That's also true of organizations, both public and private. Think of air travel where such once-unassailable names as Pan Am, TWA and Eastern are no longer in business. And whatever became of the Civil Aeronautics Board? The U.S. Army Corps of Engineers is an institution older than the nation itself. And it has been in the business of public works since the Congress assigned it to begin surveying and improving western rivers as gateways to expansion of

the young nation in 1824. It has planned and built a substantial portion of the basic infrastructure foundation upon which the economy of the U.S. rests. Consider for a minute just some of what it has provided on behalf of the nation:

- 692 dams and over 11,000 miles of levees which together prevent an average of \$22 million each year in damages for a return on the nation's investment of over \$7 for each dollar spent (this year alone on the Mississippi River, approximately \$108 billion in damages were prevented by the Mississippi River & Tributaries project, one of the most successful public works projects in the history of the U.S.)
- 238 lock chambers, 12,000 miles of maintained waterways and 926 harbors combining to handle 2,211 million tons of cargo and foreign commerce valued at \$1.156 trillion to the economy
- 68 billion kilowatt-hours of power generated annually worth \$4 billion in gross revenue and which is 24% of U.S. hydropower and 3% of total U.S. electric capacity
- More outdoor recreation visits each year than any other single provider — more even than the U.S. Park Service

- 9.76 million acre feet of municipal and industrial water supply storage
- Fortifications at Bunker Hill, completion of the Washington Monument, the Pentagon (16 months after groundbreaking), launch facilities at the John F. Kennedy Space Center in Florida and, under supervision of its so-called "Manhattan District," the atomic bomb.

The Corps is unique in the world, an agency that is widely admired world-wide for its accomplishments and expertise. Curiously, it is often much more appreciated internationally so than within the U.S. It can quite literally go anywhere and do nearly anything, from building clinics in Africa to schools in Afghanistan to airfields in Israel to levees in Mississippi.

But the agency is beset by problems today, some of its own making but many not, which call into question its future relevance and viability. Let's consider a few of these challenges.

At least partially as a result of the nation's overall financial plight, the Corps faces significant budget reductions in the near-term. The nation's economic condition has caused a much-needed

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reevaluation of its priorities for public spending. It is appropriate that Corps' spending be a part of that reevaluation. But the cuts faced by the Corps are very real and will dramatically affect the agency's ability to both carry out its Congressionally mandated missions and sustain the reservoir of engineering and scientific expertise it maintains on behalf of the nation. Since most Corps projects also require significant local contributions to accompany the federal share, this will entail disappointing numerous local and state cost sharing partners as well.

The Corps also maintains a large inventory of aging infrastructure for the nation – locks, dams, levees and so forth. Much of this has reached or exceeded its useful engineering or economic life. But what is to be done with it? Should it be recapitalized or decommissioned? Sufficient funding simply isn't available any longer to maintain all of it in a satisfactory state.

Even the once-reliable trust funds available to the Corps, the Inland Waterway Trust Fund and the Harbor Maintenance Trust Fund, are becoming less useful. The IWTF is broke and plans proposed to fix it have been summarily dismissed by both the Administration and the Congress. The HMTF has a substantial balance available, but that money must be budgeted and appropriated, something which hasn't been happening at levels approaching annual income to the fund.

The current Administration, not unlike others before it, approaches the Corps with antipathy. In short, it knows little about the Corps and its missions and cares less. To the extent that this Administration sees a future for the Corps, it is in the areas of ecosystem restoration and regulatory enforcement – which are clearly not the priorities of traditional Corps stakeholders.

The Corps even finds itself struggling to find the resources

and Administration policy support for what should be a high priority of the Administration: increasing international trade and, in particular, exports. By executive order, the President created the National Export Initiative for the following purposes: The NEI "...shall be an Administration initiative to improve conditions that directly affect the private sector's ability to export. The NEI will help meet my Administration's goal of doubling exports over the next 5 years by working to remove trade barriers abroad, by helping firms — especially small businesses — overcome the hurdles to entering new export markets, by assisting with financing, and in general by pursuing a Government-wide approach to export advocacy abroad, among other steps." Although it is obvious to most that port improvements, most especially including the deeper channels that fall in the Corps' mission sweet spot, are necessary

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Fort Bend Announcement

André McDonald, President of the Fort Bend Flood Management Association, has been appointed as a representative on the National Research Council's Committee on Levees and the National Flood Insurance Program. Made up of national experts on floodplain management and levees and chaired by Dr. Gerald

E. Galloway, Jr, a University of Maryland professor, the committee's tasks will include conducting research on flood management issues and providing guidance to Congress, FEMA and other agencies on critical issues related to floodplains, levee management, and the National Flood Insurance Program (NFIP).





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to achieve these goals, the Corps has not enjoyed noticeable Administration financial support for its work in this area.

Even the Congress, the historical repository of Corps' support, is losing interest. The ongoing earmark ban has effectively surrendered oversight and priority setting, once closely held Congressional prerogatives, to the disinterested Administration. Still others within the Congress have begun to suggest that the Corps be radically reorganized or even get the Civil Aeronautics Board treatment. As an indicator of Congressional interest, consider that the nominee for Chief of Engineers, Lt. Gen. Tom Bostick, cannot even get a confirmation hearing in front of the Senate's Armed Services Committee. In effect, the Corps has been under temporary leadership since the former Chief retired in June. Regardless of how able that temporary leadership is (and we believe it to be quite able), the fact remains that organizational transformation must await the permanent leadership.

And then there is the so-called Corps Reform Network or, as it now pretentiously styles itself, the Water Protection Network. This is an alliance of national environmental organizations who never met a Corps project they like. This group specifically rejects balanced approaches to water resources projects, discounts human and

economic uses of water and has little use for benefit-cost analysis. Getting rid of the Corps would facilitate their aims to capture water resources attention and resources exclusively for ecosystem purposes in lieu of using water for economic development.

The Corps increasingly finds itself embroiled in conflicts over water. There is practically no area in the U.S. that has been spared conflict, and the Corps has been at the center of it all. Just think of a few of them: water wars among three states in the Southeast, upstream versus downstream fights on the Missouri, floodway operations on the Mississippi, post-Katrina discord in Louisiana, levee disagreements in California potentially affecting water supplies for millions of people, hydropower and navigation versus fish in the Pacific northwest, windpower versus views off of Nantucket, and many others. An increasing population and demographic shifts assure that will continue. Certainly one can take issue with Corps' handling of any of these matters. But what other agency could have even approached a balanced handling of these problems? If we didn't have a Corps, we would have to create one for such purposes.

So, where do all of these problems leave us?

Just like families must do when facing economic hardships, as a nation we are beginning to understand that we must get

back to basics. The same goes for the Corps, we think. The Corps, at its most basic level, is really good at two things. First, it has a world-renowned reputation for engineering manipulation of the hydrograph. That is, it can adjust the flow/time relationship of water in the interest of public safety, economic development and even environmental restoration. Second, it has a structured, analytical approach to formulating solutions to problems and, in so doing, balancing competing interests (and stoically taking the beating that inevitably results). These are hard, tangible capabilities which, when used effectively, can help real people with real problems. The Corps, perhaps, should simply retrench and refocus on what it's good at. And in doing so, it must reach out to its partners for help (more on this in the next article).

Over the past two hundred years, the Corps has been blessed with exceptional leaders – leaders who have made the right adjustments at the right time to keep the Corps in a position to contribute significantly to the nation's well-being. Fortunately, as we see it, the current leaders are cut from the same cloth.

Fred Caver is the immediate past Chairman of the National Waterways Conference, Inc.



Corps Personnel Changes

Maj. Gen. William T. Grisoli has been promoted to Lieutenant General and has moved from serving as the Deputy for Civil and Emergency Operations at the Corps to an assignment at the Pentagon as the Director, Office of Business Transformation for the Under Secretary of the Army.

At a Change of Command ceremony to be held on November 10th, Maj. Gen. John W. Peabody will succeed Maj. Gen. Michael J. Walsh as commander of the Mississippi River Division. Walsh moves to headquarters to serve as Deputy for Civil and Emergency Operations. Peabody previously served as commander of the Great Lakes and Ohio River Division, over which Colonel Margaret W. Burcham

took command in September. Previously she served as the Chief of the Joint Capabilities Division of the Resources, Assessments and Force Management Directorate, J8, on The Joint Staff in the Pentagon and the commander of the Europe District U.S. Army Corps of Engineers as well as the Gulf Region North District of the U.S. Army Corps of Engineers in Iraq.

The President's nominee to serve as Chief of Engineers, LTG Thomas Bostick, has not yet had a hearing before the Senate Armed Services Committee. Until his confirmation, MG Bo Temple continues to serve as Acting Chief of Engineers and Acting Commanding General of the U.S. Army Corps of Engineers.

Retiring from the Corps will be Mike Ensich, who has served

as the Chief of Operations and Regulatory at headquarters since 2007 and as the Regional Integration Team leader for the Great Lakes and Ohio River Division, and William T. Harder, navigation business manager for the Great Lakes and Ohio River Division.



Maj. Gen. Michael J. Walsh



Maj. Gen. William T. Grisoli



Maj. Gen. John W. Peabody



Col. Margaret W. Burcham



The Chesapeake and Delaware Canal

The Chesapeake and Delaware Canal connects the Delaware River to the Chesapeake Bay and Port of Baltimore. The now 14-mile long, 450-foot wide, 35-foot deep canal was a vision of Dutch settler Augustine Herman who saw the need to connect the two bodies of water during the 17th century. He knew that a canal would greatly reduce the 300 mile trip around the coast of Delaware and Maryland and would increase the economic viability of the region.

After several false start due to lack of funds, construction seriously began on the canal in 1824. The Chesapeake and Delaware Canal Company built the original canal along a route identified by engineers from the U.S. Army Corps of Engineers. The route that was

chosen would require a system of four locks. Five years and \$2.5 million later, the canal was open for business and became one of the most expensive projects of its time.

The first canal was only 10 feet deep and 66 feet wide at the waterline and 36 feet wide at the channel bottom. The lock system was in use from 1829 to 1919 and the water was lifted to a higher level by steam operated waterwheels. It was clear by the early-1900s that a wider and deeper waterway was need. In 1906 President Theodore Roosevelt commissioned a feasibility study to examine the prospect of converting the canal to a "free and open waterway."

The canal was purchased by the Federal

government in 1919 for \$2.5 million and plans for expansion began. At the time of purchase, the operation included six bridges and one railroad crossing. By 1927, the canal had been converted to a sea-level operation with a 12-foot depth and 90-foot width at a cost of \$10 million.

Even as the new canal was opened, plans for yet another expansion were being made. From 1933 to 1938 the canal was widened again to 250 feet and deepened to 27 feet for \$13 million. But still, the canal was not big enough and between 1938 and 1950, eight ships collided

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with bridges. In 1954, Congress authorized expansion of the channel to 450 feet wide and 35 feet deep. This work began in the 1960s and was completed in the 1970s.

When the Federal government purchased the canal in 1919, there were six bridges and one railroad crossing. As the canal grew and changed, so did the bridges. Currently, the Corps of Engineers maintains and operates four canal crossings: Chesapeake City Bridge, Summit Bridge, St. George's Bridge and Reedy Point Bridge. Soon a fifth will be added to the inventory: The Senator Roth Bridge.

For more information on the history of the canal, see www.nap.usace.army.mil/cd/ You can visit



the C&D Canal Museum which is located in the original pump house used to lift water into the uppermost waterway. The replica Bethel Bridge Lighthouse is also located near the museum and is an example of the lighthouse that used to warn vessels of locks and bridges prior to 1927.

For more information, contact Sarah M. Rivette, Public Affairs Specialist, Philadelphia District, U.S. Army Corps of Engineers, sarah.m.rivette@usace.army.mil

Riverworks Discovery

Riverworks Discovery was an exhibitor at NWC's annual meeting in Fort Worth and featured a hands-on lock and dam model. The interest generated by the exhibit resulted in NWC member Powersouth becoming a new sponsor and annual supporter. Currently RWD education is in 16 states and growing. Florida will be added in 2012, with the potential expansion to include two new states: Mississippi and Arkansas.

RWD also exhibited at the Smart Rivers Conference in September,

during which its sponsors AEP River Operations, Associated Terminals, Ingram, the Port of New Orleans, St. James Stevedoring, and Turn Services presented a program at the Audubon Aquarium of the Americas to over 700 children during a 3 day period. RWD also has a new program underway thanks to sponsors and partners in Pittsburgh, the Waterways Association of Pittsburgh, the Gateway Clipper Fleet and RiverQuest, which is geared towards high school students and includes a mini career fair with the opportunity to meet

representatives from a full range of river industries, from non-profit to military and from recreational to industrial. Measuring the success of the program: 64% had a greater knowledge of the kinds of jobs available to people in the waterways industries; 75% demonstrated an improved knowledge of why the rivers and waterways industries are important to Pittsburgh, and 64% showed greater interest in the waterways as a place where they might someday work. As a result, RWD is working with other potential sponsors in Mobile to provide a

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Time to Protect the Upper Mississippi By Kim Robinson

Those living and working in the Upper Mississippi River Valley have long witnessed the unending cycle of catastrophic flooding, followed by repairing and rebuilding, inevitably followed by more flooding. Residents were reminded again this year that the United States is no better equipped than it was in 1993 to defend its citizens or its economy.

It is a question of “when” and not “if” another disaster will strike. In economic terms, it is much smarter to invest in flood control rather than routinely paying for the tremendous costs to clean up after a disaster. The Flood of 1993 brought more than \$20 billion in damages. In 2008, damages were estimated to be as much as \$15 billion. Estimates are still rolling in for this year’s losses.

Flooding destroys businesses, communities, jobs, homes and lives. Equally important, there is solid research that shows that the Upper Valley will achieve its full potential only when steps are taken to enhance flood protection and improve navigation on the Upper Mississippi. A study conducted by the Tennessee Valley Authority shows that every \$1 spent on flood control at the 500-year level would generate nearly a regional five-fold return on the costs of making the improvements.

There is more justification than ever for preventing catastrophic

flooding in the Upper Valley. In its recently-released “Power and Promise: Agbioscience in the North Central United States,” the Battelle Institute outlines the importance of the region to the nation’s economic growth and job creation. It identified 12 states (including those in the Upper Mississippi and Missouri Valleys) that, while representing only 21 percent of the country’s land mass, house an agriculture industry that provides 2.4 million jobs, generates 45 percent of the nation’s agriculture exports, produces 80 percent of U.S. soybean and feed grain and contributes 45 percent of the country’s livestock exports and 90 percent of its ethanol.

With the global demand for food expected to grow exponentially over the next 20 years, it is critical that this area and its agricultural resources be protected. To that end, UMIMRA has long advocated for a sound and common-sense approach to flood control. It is time to bring the same level of commitment to the Upper Valley that the Lower Mississippi Valley has enjoyed since the early 1900s – a comprehensive and sustained program to prevent flooding and its catastrophic aftermath.

That opportunity currently awaits action by the U.S. Congress. The Army Corps of Engineers has developed a plan for systemic flood reduction in the Upper Mississippi Valley which it submitted to

Congress on January 15, 2009. Congress needs to act now to protect Upper Valley residents and this important economic engine.

Kim Robinson is the Executive Director of the Upper Mississippi, Illinois & Missouri Rivers Association

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similar experience: Cooper Marine, the Alabama State Port Authority, the Mobile County Soil and Water Conservation District, Gulf Quest, the Corp and the Warrior Tombigbee Waterway Association.

Working the Corps’ Louisville District and Green Acres Canoe Rental, RWD hosted various activities that included a clean-up of an eight-mile stretch of the Whitewater River, with reports back that the river is “the cleanest it has been in years.”

RiverWorks Discovery (RWD) is a national education outreach effort of the National Rivers Hall of Fame located at the National Mississippi River Museum & Aquarium in Dubuque, Iowa. The program teaches children and their families about the commerce, culture and conservation of America’s rivers and their watersheds. For more information or to get involved visit www.riverworksdiscovery.org or contact Errin Howard at errin@riverworksdiscovery.org or 513-403-9312.