

Change...and the "New" NWC

By Fred Caver

As you are already aware, the National Waterways Conference has recently completed a significant restructuring of the 50-year old organization. And I would add "just in time."

The objectives of this reorganization - grounded upon the recognition that the real strength and sustainability of NWC is its broad-based, geographically diverse, grass roots membership - were fairly straightforward. First, we broadened the membership base to better recognize that those interested in human and economic uses of water have

more in common – in terms of challenges and opportunities – than in conflict. Secondly, we sought to reposition NWC as the "glue" to bring other water-related organizations together to

react nimbly to rapidly changing circumstances. And today, "rapidly changing" hardly does justice to describe the pace and import of the circumstances we face.

If your primary water resources interests lie in hydropower, water supply, navigation, flood control or irrigation – or even in aquatic environmental restoration acting in balance with these economic outputs – your world is being turned upside down.

What do I mean? Consider:

- Moves are afoot to significantly expand Federal jurisdiction under the Clean Water Act through a rule-making process or, worse, Executive Branch fiat. This expansion would insert federal decision-making by the Environmental Protection Agency into nearly every water-related program, project and activity (Continued on page 2)

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Fred Caver, Chairman of the
National Waterways Conference

coordinate messages and actions when that would be useful. And finally, we streamlined our own operations so that we could



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thus slowing and adding cost burdens to the nation's economic recovery.

- A new version of the 1983 Principles and Guidelines (or Principles and Standards...or Principles and Requirements...it's so hard to keep these straight) are due out this summer. Instead of raising environmental restoration to equal status with economic development projects, drafts we've seen raise environmental considerations to a position of primacy – which is counter to the Congressional direction for this revision process. Not only would such guidance direct the

formulation of federal water projects, it would effectively serve as a framework for all federal decisions related to water resources.

- The President's budget for fiscal year 2012 represents a major change in budget priorities for the Corps of Engineers and the Bureau of Reclamation. Environmental restoration projects receive a much higher priority while proposed navigation spending continues to decline and other purposes seem to all but drop out of sight. For instance, in the budget request for the Corps, a single environmental restoration

project comprises 10% of the entire construction budget and the (only) four new study starts proposed all have environmental restoration as the primary purpose. Meanwhile, several worthy deep-draft navigation projects, projects that would

allow the U.S. to benefit from the opening of new, larger Panama Canal locks in 2014 and facilitate our economic competitiveness internationally, fall below the cut line.

- Perhaps consistent with this priority shift, the EPA lists itself for the first time in the President's budget for 2012 as the coordinator of federal water policy, including activities of the Corps of Engineers and the Department of Interior. It further states that revising the Principles and Guidelines is within its purview as well as "[p]romoting and funding non-structural and environmentally restorative water projects."
- While the Administration is proposing these changes, the Congress has mostly taken itself out of the game by declaring that water resources projects are "earmarks," and has self-imposed a ban on such things. Defining water projects as earmarks flies in the face of rationality. Water

Have a news item or update for the next newsletter?

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projects are among the most scrutinized items undertaken by the federal government. They are studied carefully using intense merit-based criteria, are examined in the full sunlight of public involvement, have passed through the multiple Congressional wickets of subcommittee, full committee and House and Senate floor deliberations prior to authorization, are supported by local sponsors who have committed precious, hard-earned local dollars, and are re-examined annually as part of the appropriations process. These projects are not "bridges to nowhere" and

should not be lumped into such a category. Unless the Congress reconsiders the definition of earmarks, decision-making on water projects will be left fully to the tender mercies of the Executive Branch, especially including those kind folks at OMB.

It is in this environment that the "new" NWC has positioned itself to operate. For years now, we have been told consistently and repeatedly by members of Congress and other thoughtful observers that water resources interests are too fragmented, have too many narrow requests and are, thus, ineffective in Washington. By contrast,

success goes to those who have a few, well-defined, achievable requests, a broad base of support and who deliver consistent, direct messages in an orchestrated (and persistent) fashion. Bringing others together to act in this manner is a major goal of the new NWC.

Change, of course, is inevitable; a regular part of life for all of us. When it is done in a deliberate, thoughtful manner, it's a good thing. Advocating for change in such a manner is our other major goal.

Fred Caver is the Chairman of the National Waterways Conference.

President Nominates LTG Bostick as Next Chief of Engineers



President Obama has nominated Lieutenant General Thomas P. Bostick as the next Chief of Engineers and Commanding General for the U.S. Army Corps of Engineers. LTG Bostick will also be reappointed to the rank of Lieutenant General.

LTG Bostick currently serves Deputy Chief of Staff, G-1, United States Army, a position he has held since February 2, 2010. He has previously served in numerous capacities and is the recipient of multiple decorations and badges. LTG Bostick is a graduate of the United States Military Academy and Stanford University.



Welcome New Members!

Adams and Reese LLP
Washington, DC
Contact: Jeff Brook

AGRI Services of Brunswick
Brunswick, MO
Contact: Bill Jackson

BCG Engineering
Metairie, LA
Contact: Ken Brown

Brasfield and Gorrie, LLC
Birmingham, AL
Contact: Dennis Hill

CivilTech Engineering, Inc.
Cypress, TX
Contact: Melvin G. Spinks, P.E

Fordice Construction
Vicksburg, MS
Contact: Dan Fordice

Fort Bend Flood Management Association
Houston, TX
Contact: Andre McDonald

Hopkinsville Elevator Company
Hopkinsville, KY
Contact: Jerry Good

Illinois Corn Marketing Board
Bloomington, IL
Contact: Jim Tarmann

International Chemical Company, Inc.
Tulsa, OK
Contact: Brad Thomas

Ivy Marine
Spanish Fort, AL
Contact: Steve Wilson

Levee Issues Alliance
Plano, TX
Contact: Dan Delich

Lockwood, Andrews & Newnam, Inc.
Waco, TX
Contact: J. Tom Ray

Marquette Transportation Company, LLC
Paducah, KY
Contact: Jason W. Nyberg

McNational, Inc
Cincinnati, OH
Contact: Michael J. Monahan

Professional Marine Services, Inc.
Catoosa, OK
Contact: John R. Peters

Jimmy Sanders, Inc.
Cleveland, MS 38732
Contact: Michael Sanders

SCF Marine Inc.
St. Louis, MO
Contact: Jay Johnston

Souter Construction
Menifee, AR
Contact: Billy Duffield

Thomas Metals Group, LLC
Oklahoma City, OK
Contact: Shawn Thomas

Trinity River Authority
Arlington, TX
Contact: J. Kevin Ward

Vali Cooper International
New Orleans, LA
Contact: Mike Rossi

W. G. Yates & Sons Construction Company
Jackson, MS
Contact: Winston Pugh

Weeks Marine
Alexandria, VA
Contact: Mark D. Sickles



Mark Your Calendars / Save the Date

May 4-6, 2011
Inland Rivers Ports and Terminals
Omni William Penn Hotel
Pittsburgh, PA
www.irpt.net

May 12-13, 2011
Warrior Tombigbee Waterways Association
Marriott Grand Resort
Point Clear, AL
www.warriortombigbee.org

June 15-17, 2011
Texas Water Conservation Association
Moody Gardens Hotel
Galveston, TX
www.twca.org

June 22-24, 2011
Western Coalition of Arid States
Catamaran Resort Hotel & Spa
San Diego, CA
www.westcas.org

August 30-September 2, 2011
Tennessee-Tombigbee Waterways Development Council
Marriott Grand Hotel
Point Clear, AL
www.tenntom.org

September 11-15, 2011
American Association of Port Authorities
Seattle, WA
www.aapa-ports.org

September 13-16, 2011
Smart Rivers
Westin New Orleans Canal Place
New Orleans, LA
www.pianc.us

October 3-5, 2011
Arkansas Regional Waterways Conference
Little Rock, AR
www.waterway.dina.org

October 5-7, 2011
American Waterways Operators
The Barclay New York
New York, NY
www.americanwaterways.com

October 17-18, 2011
Tennessee River Valley Association
Gatlinburg, TN
www.trva-tcwc.org

October 31-November 3, 2011
National Association of Flood and Stormwater Management Agencies
St. Petersburg, FL
www.nafsma.org

December 8-10, 2011
Mississippi Valley Flood Control Association
Annual Meeting
Westin Canal Place
New Orleans, LA
901-861-9918

Upcoming NWC Events

September 19- 21, 2011
Annual Meeting
Hilton Fort Worth
Fort Worth, TX

March 12-14, 2012 (Tentative)
Legislative Summit
The Madison
Washington, DC

September 19-21, 2012 (Tentative)
Annual Meeting
Tunica, MS



Funding Battles Take Center Stage

FY 11 Appropriations Update

After intense and bitter debate, House and Senate negotiators finally reached a deal to fund the Federal Government through the end of the fiscal year on September 30th.

The deal was literally reached at the eleventh hour, narrowly averting a government shutdown. The agreement would cut \$39 billion from current spending for the remainder of this fiscal year. That amount is more than half what House Republicans had sought in H.R. 1, the initial long-term CR introduced earlier this year.

As of this writing, the final details of the plan are uncertain. It is expected that funding for the Corps of Engineers' civil works program will be close to the FY 11 funding levels. At that level, funding would be \$104 million for investigations, \$2.361 for O&M, and \$239 for MR&T. Construction at the FY11 level would be \$1.69 billion, but it is possible that the \$100 million rescission in H.R. 1 will be included in the final bill. The controversial EPA policy riders reportedly are not included in the final agreement. However, the debate over those provisions will rekindle in the FY2012 battle.

Bipartisan Criticism of Administration's FY12 Budget

In a series of hearings to consider the Administration's FY12 budget, lawmakers from both chambers and both sides of the aisle universally condemned the President's proposal. In the House of Representatives, both the Energy and Water Appropriations Subcommittee and the House Transportation

and Infrastructure Water Resources and Environment Subcommittee grilled leaders of the Army Corps of Engineers over the Administration's plans to prioritize investments in environmental restoration projects at the expense of the Corps' traditional functions, including maintenance of the

nation's ports and waterways. The challenging and provocative questions set the stage for the brewing battle over the spending and regulatory priorities in FY12.

In addition to questioning whether the Administration is prioritizing environmental restoration at the expense of creating jobs, the Corps was also in the hot seat over anticipated "guidance" by EPA on the jurisdiction of the Clean Water Act. The forthcoming policy document – whether it will be a statement of guidance or a notice of proposed rulemaking is not certain at this point – was widely criticized as a plan to slow down projects and drive up costs. Similar scrutiny focused on the lack of expenditures from the Harbor Maintenance Trust Fund, with bipartisan calls to spend the revenues from the fund for the intended purpose - dredging the nation's gateways to international trade.

The FY12 budget for the Bureau of Reclamation Bureau faced similar criticism. The President has recommended cutting Reclamation's budget about 8 percent from 2010 levels to about \$1.05 billion in 2012. That includes \$58.9 million for

WaterSMART water conservation programs and Title XVI projects, \$51.5 million for expenses related to four tribal water rights settlements and \$154.6 million for the Central Valley Project, intended to supply water to and restore ecosystems in California's parched Central Valley. Chief Michael Connor was questioned on the budget's shift in priorities to a more environmentally conscious approach to managing water. Specific calls were made to divert water from environmental restoration to farmers and urban users in order to solve water shortage problems in the Western states.

On the other side of the Hill, the Senate's Environment and Public Works Transportation and Infrastructure Subcommittee similarly criticized the Administration for its lack of investment in the nation's water resources infrastructure.

The Administration's proposal of \$4.6 billion, roughly 15% lower than the \$5.4 billion enacted in 2010, was roundly criticized as far short of what is needed to ensure the critical investments needed for flood control projects, levees, and ports and waterways. The Subcommittee's Chairman,

Senator Max Baucus (D-MT), chastised the Administration for its "vague" plans devoid of any idea on how to pay for needed infrastructure improvements. Further, with respect to funding for the Inland Waterways Trust Fund, he implored the witnesses that "the President must lead," warning that if the Administration fails to lead, "not much is going to happen." Senator John Boozman (R-AR) echoed those sentiments, urging leadership from the Administration.

Senator David Vitter (R-LA), the panel's Ranking Member, blasted the Administration for what he considers a failure to provide any specific recommendations on coastal Louisiana restoration projects, and all but promised that future hearings to consider the nomination of the next Chief of Engineers would be delayed pending resolution of those issues.





Levee Safety Update

By Dan Delich

Background

The Federal Emergency Management Agency (FEMA) is several years into its \$1.6 billion effort to update and redraw the nation's flood maps. The US Army Corps of Engineers (Corps), in tandem with FEMA's flood mapping activities, is utilizing toughened inspection protocols to reassess risk associated with riverine and coastal levees, floodwalls, pump stations, and other related project features that make up the federal flood control systems across the United States. According to an undated *National Levee Safety Program Fact Sheet* published by the Corps (<http://www.leveesafetyfactsheet.pdf>), the agency is "coordinating these findings with FEMA for their use in making decisions in the National Flood Insurance Program (NFIP)."

In cases where the levee sponsor (including the Corps itself in a handful of instances) has not yet demonstrated that the project will withstand a 1% chance event, FEMA will remap the nearby area as if the levee simply does not exist. Until last month, that is,

FEMA Revises "Without

Levee" Modeling Approach and Issues Temporary Remapping Delay

On March 10 of this year, in response to bipartisan Senate and House requests, FEMA Administrator Craig Fugate informed the Congress that his agency has discontinued the practice of using "without levee" modeling in the flood map modernization process. Early last month, U.S. Senators Cochran (R-MS), Wicker (R-MS), Durbin (D-Ill.) and Mark Pryor (D-AR) spearheaded a letter to Fugate that was signed by 27 Senators—14 Republicans and 13 Democrats in all—asking that "without levee" modeling be terminated because it completely wiped some flood control structures off the map instead of more precisely determining their effectiveness. A bipartisan group of forty-nine House members, led by Reps. Rodney Alexander (R-LA) and Jerry Costello (D-IL), similarly wrote Fugate expressing concerns about this agency policy.

"In order to increase the credibility of our Flood Insurance Rate Maps in areas where levees are not accredited, I have directed

my staff to replace the 'without levee' modeling approach with a suite of methodologies that are technically-sound, credible and cost-effective," Fugate wrote. "The approach will better meet the needs of our citizens while providing more precise results that better reflect the flood risk in areas impacted by levees."

Fugate also indicated that FEMA "will temporarily withhold issuing final determinations for those communities whose levees do not meet accreditation requirements and would clearly benefit from this new approach."

FEMA indicated that mapping will be delayed by a matter of months in these situations as it determines the methodologies and policies it will have to put in place to replace the "without levee" approach. As it moves forward in making these determinations, FEMA has said it would engage the public to ensure the new approach is suitable for those affected.

The FEMA Administrator's decision addresses the concerns raised by members of the Senate and House, who argued that discounting the existence of uncertified levees and flood



control structures ignored actual flood protection and could require property owners in those areas to purchase National Flood Insurance Program policies unnecessarily.

Levees: Abundant and Integral to Safety and Economic Prosperity

Federal program levees include three categories of projects that are either: (a) federally built and

maintained, (b) federally built and locally maintained, or (c) locally built and maintained to a level granting them entry into the federal Rehab and Inspection Program managed by the Corps. These three categories of levees, which are estimated to cover in excess of 14,000 miles, exist across numerous densely populated urban areas, as well as critical industrial and agricultural

production zones. Levees are abundant and integral to the life safety and economic prosperity of millions of Americans. Indeed, FEMA estimates that 43 percent of the US population lives in counties with levees.

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Levee Safety Update

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Impacts To Local Communities

Maximizing levee safety and improving risk communication, including floodplain remapping, are essential government responsibilities. However, in doing so, let's be sure that the Corps inspection and FEMA accreditation processes are: (a) accommodating of unique site specific characteristics, (b) cost-effective, and (c) fair. "Fairness" in this instance, as much as anything, boils down to time and money. The American Society of Civil Engineers (ASCE) in its 2009 Report Card for America's Infrastructure puts the cost at more than \$100 billion to repair and rehabilitate the nation's levees. The strained local coffers that are presently being left to shoulder the burdensome levee certification and repair costs are very often the same entities with an estimated trillion dollar nationwide investment need to upgrade water and wastewater treatment, parks and recreation facilities, school buildings, brownfield sites, local roads and bridges, and other critical public

infrastructure.

Over the last four years, the US Army Corps of Engineers (Corps) has released a list of 236 of its own federal program levee projects that it rated as "Unacceptable for Operations and Maintenance," meaning that it may have one or more deficiencies that prevent it from functioning as designed, intended, or required. Projects have already been designated as inactive in the USACE Rehabilitation and Inspection Program (RIP), and therefore no longer eligible for federal flood disaster assistance under PL 84-99.

Critically, the Federal Emergency Management Agency (FEMA) has used these or other factors to deaccredit levee systems and their flood protection capacity from revised Flood Insurance Rate Maps (FIRMs). These federal government actions being taken by the Corps and FEMA trigger a number of potentially disruptive and costly impacts for affected communities, including:

- Designation as a Special Flood Hazard Area;

- Payment of mandatory flood insurance at rates that do not reflect any level of flood protection, which diverts limited local funds away from flood protection improvements;
- New floodplain management requirements in already developed areas (building elevation/flood-proofing and area development and construction prohibitions); and
- Property value, employer recruitment and retention, and local tax base diminution.

Federal Policy and Legislation

An accurate and updated inventory of levees nationwide, a legitimate and fair federal levee inspection process, and accurate floodplain mapping are all critical factors necessary for the urgent need to reassess, characterize and address actual flood risk. In view of federal budgetary and legal liability considerations,

however, it almost seems as though the inventory, inspection and accreditation processes are being used at the federal level to distance and disinvest in essential levee infrastructure -- rather than to craft long-term solutions to reduce physical risk. Local leaders in many parts of the U.S. are acting now to develop a plan to repair levees. Let's take steps at the federal level to incentivize more of this activity. Restoring this essential infrastructure will be costly and, necessarily, significant local dollars will be raised to meet these needs. This is a critical investment in public safety and in best interest to sustain our economic future.

Federal efforts should apply best available policies and procedures for levee investigation, design, rehabilitation, construction, operation and maintenance, and emergency preparedness; and improve and increase flood risk characterization, communication, avoidance, and flood insurance coverage availability and affordability. These and other advancements should be achieved without devaluing viable federal program levees and the

critical hazard reduction that they provide to nearly half of the U.S. population. Balanced and cost-effective flood risk reduction approaches should be employed that retain well-conceived structural solutions among the various necessary options to reduce hazard levels for people, property, and commerce in developed lowland areas.

The National Levee Issues Alliance and National Waterways Conference together support the following core policy and legislative principles and are working to achieve conclusive and favorable action on them in 2011.

1. Support the approach taken in H.R. 898 by Messrs. Costello and Alexander which incentivizes rapid levee rehabilitation and minimizes economic hardship by providing additional compliance time for verifiable levee rehabilitation work, particularly in the absence of federal funding for Corps-designed and built infrastructure.
2. Authorize the Corps to accept local funds to carry out levee certification work



and limit contractual liability of O/M, repair, replacement and rehabilitation requirements to the design life of the project.

3. Modernize FEMA zones (AR and Agg) to allow these zones to be used in communities moving forward with levee improvements to achieve accreditation.

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

Dan Delich is Director of the Levee Issues Alliance



Harbor Maintenance Trust Fund Coalition Gathering Support

By Barry Holliday

Sometimes adverse situations produce positive results. The dredging issues and reduced draft impacts in the lower Mississippi River that have occurred over the past few weeks and the subsequent House and Senate letters to the President urging maintenance funding have garnered substantial support for the Harbor Maintenance Trust Fund (HMTF) initiative from Members of Congress far removed from the coast. As a result of this heightened dialogue about dredging needs facilitated by the outstanding efforts of Sean Duffy, Maritime Advocate, Mississippi River Maritime Association, and a lot of good work from RAMP members all over the country, H.R. 104, the Boustany/Courtney RAMP Act, now has 73 cosponsors and S. 412, the Levin/Hutchinson Harbor Maintenance Act, now has 17 cosponsors.

In its FY 2012 budget, the Administration indicated that it will propose legislation to

expand the authorized uses of the HMTF to finance the Federal share of efforts carried out by several agencies in support of commercial navigation through the nation's ports. Maritime commerce contributes \$20 billion annually to Federal general revenue through Federal assessments such as tariffs and user fees, not including income taxes. This is more than ten times the amount of general revenue that Federal agencies spend on commercial navigation programs, so maritime commerce is already paying more than its fair share.



The HMTF revenues should be used to eliminate a huge backlog in harbor maintenance needs. The Administration proposal is simply an attempt to dodge its responsibilities to fully use

the Trust Fund for its intended purposes. At both the House Energy and Water Appropriations Subcommittee hearing held on March 9, and the Transportation and Infrastructure Subcommittee on Water Resources and Environment (WR&E) hearing on March 8, the Corps' testimony regarding the Administration proposal to expand the HMTF authorized uses was questioned and rejected by the majority of Members present.

Kudos to NWC member and past Chairman Gary P. LaGrange, President and CEO of the Port of New Orleans, for his outstanding testimony before the Subcommittee on Trade of the House Committee on Ways and Means at the March 30th hearing on the pending Panama trade agreement. His message on the critical need to fully use the HMTF revenues to ensure our Nation's global competitiveness was well received.

We understand that the



Big River Coalition Efforts

By Sean M. Duffy, Sr.

The Big River Coalition was started in response to a shortage of funding to dredge the Mississippi River. With close to 60 members, the Coalition has led the effort to educate Congress, President Obama and the Administration on the importance of maintaining the Mississippi River. This effort has included coordinating "Dear Colleague" letters in both the House of Representatives and the Senate to the President urging funding the keep the Mississippi River open to navigation. The President's Export Council was also advised of the critical role of the Mississippi in achieving the Administration's trade priorities.



The Coalition hosted a roundtable in New Orleans with Louisiana Congressman Charles Boustany to discuss his Harbor Maintenance Trust Fund bill, the Realize America's Maritime Promise Act or RAMP Act (H.R. 104) (discussed elsewhere in this newsletter). Local maritime representatives at the meeting included Gary LaGrange, President of the Port of New Orleans; Dr. Carrie Castille, Deputy Commissioner of the Louisiana Department of Agriculture and Forestry; Captain Mike Lorino, Bar Pilots' President; Captain A.J. Gibbs, Crescent Pilots' President; and Captain Mike Rooney, NOBRA Pilots' President. We have also been supported by efforts of the grain and coal industry – 2 of the top exports from the River.

The Corps is often inadequately funded to properly maintain our nation's waterways. The 1989 grounding of the M/V Marshall Konyev effectively stopped hundreds of vessels from moving cargo. After Hurricane Katrina interrupted maritime commerce, gas prices increased 74 cents per gallon overnight, and after Hurricanes Rita and Gustav the prices soared over a \$1.00 a gallon. We all must continue our efforts to educate our leaders in Washington that maritime transportation on the Mississippi River has a \$100 billion impact on the economy of the United States. At least 30 states are connected by water throughout the Mississippi River Basin; waterborne commerce is the safest, most economical, and environmentally friendly form of transportation and this key conduit must be maintained at authorized dimensions.

Sean Duffy is a Maritime Advocate for the Mississippi River Maritime Association

WR&E Subcommittee will hold a hearing on HMTF and water policy issues in mid-May, and Chairman Gibbs seems very engaged in our initiative, thanks in great part to the outstanding efforts of Jim Weakley, President of the Lake Carriers Association. We are also pleased to hear that Chairman Mica has recently said that he wants to include maritime policy items, including the HMTF provision, in the transportation authorization bill and leave project items for a later WRDA bill. With this understanding, it is even more important to build our cosponsor base and we encourage you to meet with your Congressional delegation during the spring recess between April 18 and April 29. We continue to receive positive support from many different interests and think our message is making a difference.

Barry Holliday is the Executive Director of the Dredging Contractors of America and Chairman of the Harbor Maintenance Trust Fund Fairness Coalition



Corps' Hydropower Modernization Initiative

By Ted Coombes

Federal hydropower customers expressed interest in financing major rehabilitation of Corps of Engineers hydro plants rather than seeking third-party financing at a recent meeting in Washington, D.C. The Corps, Department of Energy Power Marketing Administrations (PMAs) and representatives of the hydro customers met March 23 at Corps' headquarters to discuss options to finance the "recapitalization" of the Corps' power plants called for in the Corps' Hydropower Modernization Initiative (HMI).

A draft HMI report found that the plants are aging, and not gracefully. It calls for rehabbing the plants, whose hydropower is marketed by the Southwestern, Southeastern and Western Area Power Administrations (SWPA, SEPA and WAPA, respectively), over a 20-year period. It also identified potential for increases in capacity and energy by rewinding the generators and replacing the turbine runners at the projects. Because hydropower generation

does not release carbon dioxide into the atmosphere, the energy gains could occur without increasing greenhouse gas emissions. And because it involves existing hydro units, the gains could be achieved without significant downstream environmental impacts, the report notes.

While virtually all meeting participants agreed that the additional infrastructure investment is needed, they recognized that funding such a large volume of work through traditional appropriations is not likely given the federal budget situation, and thus



sought to explore alternative financing methods. The Corps had identified several options, including privatizing the federal hydropower system, seeking third-party investors, utilizing energy savings performance contracts (whereby private companies would fund the rehab

work and recoup their investment from the sale of incremental energy and capacity gained from the plant upgrades), authorizing PMA revenues to be transferred to the Corps to perform the rehab work, and expanding existing customer funding arrangements.

For their part, the hydro customers insisted that using or expanding existing customer funding vehicles would be the preferred alternative – by a long shot. Most hydropower customer groups have already developed arrangements whereby the customers advance money to the Corps to perform agreed-upon maintenance at the plants. Such arrangements were developed when adequate appropriations funding was not available for necessary preventative maintenance at the projects.

Corps' hydro customers are required to return to the U.S. Treasury, through the rates they pay for the hydro, all costs of building, operating and maintaining the plants, plus interest on the capital costs. As one customer representative put it, "It's simply a case of 'Pay



me now or pay me later'. If adequate appropriations are not forthcoming, it makes more economic sense to pay the money upfront to avoid unplanned plant outages and the resulting cost of purchasing replacement energy and capacity when units are off-line."

SWPA customers urged a 30-year timeframe to complete the required work, rather than the 20 years proposed by the HMI, as being more cost-effective. Several plants serving SWPA have been recently rehabbed, or work is currently underway or scheduled, for projects such as generator rewinds and turbine replacements. Trying to complete all the remaining work within 20 years would take too much capacity off the grid at any given time, requiring purchase of expensive replacement capacity, they said. It was also pointed out that no legislation would be required to use the customer funding arrangements, unlike the other options proposed. All the customer groups represented expressed both a preference and a willingness to try to finance the HMI work through increasing the funding provided by the customer

agreements.

By the conclusion of the meeting, the Corps agreed to complete the final HMI report, compile estimates of which projects need to be undertaken when and at what projected cost, and provide the information to the PMAs and their customers. The customers will then review the data, determine their ability to provide the needed funding and over what timeframe, and report their self-funding proposals to the Corps.

Ted Coombes is Executive Director of Southwestern Power Resources Association, which represents the rural electric cooperatives and municipally owned electric utilities that purchase hydroelectricity generated from 24 Corps dams in the South Central U.S.



More Freight Moving on the Missouri River

By Charlie Smith

The news out of Jefferson City is that commercial cargo returned to the Missouri River in March with expectations for the biggest shipping season in a decade.

On March 22nd, Jefferson City's River Terminal expected to receive 6,000 tons of cement. New NWC member AGRIServices of Brunswick scheduled to start pushing more than 9,000 tons of fertilizer up the Missouri River on the 27th, and Hermann Sand and Gravel planned to start moving freight at the end of the month, signifying the unofficial start of the 2011 commercial shipping season.

The official start is April 1 when the U.S. Coast Guard places navigational buoys on the river, but Kevin Holcer of AgriServices said, "The water levels are good enough to get our shipping season started early, and we expect to be busy through mid-December." Additionally, Holcer indicated he expects to increase shipping efforts by up to 15 percent. "Last year's success brought us good momentum, and we don't want to slow down. The Missouri River is the best way to move freight," said Holcer. "This is a viable shipping option that can save money, lower carbon dioxide emissions and relieve

stress on our crowded freeways."

AGRIServices is one of a number of shipping companies that will try to bolster its efforts on the river this year. One of the ways the shipping companies have stepped forward to take control of their future is by working with the Missouri Department of Transportation to help develop freight movement on the water. MoDOT selected a team led by Hanson Professional Services to cooperate with shippers, carriers, state and federal agencies, and other Missouri River stakeholders to promote an industry driven approach to increasing freight. The energetic group has grown to include several hundred stakeholders in Missouri, Kansas, Iowa, Nebraska, Illinois, Tennessee, and Louisiana.



Hanson Professional Services Inc.

The Hanson study, begun in July of 2010 and finishing this June, is based on the following objectives: identification and prioritization of market-driven strategies to redevelop traditional markets on the river; assessment of the potential for

new markets; and identification of infrastructure, equipment and conceptual river management approaches necessary for success on the river. The study has thus far succeeded in identifying promising markets and practical market nodes, along with the detailed existing infrastructure capabilities and operational issues. The final output of the effort will include detailed Concepts of Operations that describe each of the most promising combinations of market development, infrastructure, and river management. According to Dr. Ernie Perry, freight development administrator at MoDOT, "Our goal is to increase the freight moved on the Missouri River, increase connections to other transportation modes, and provide economic development opportunities along the river corridor."

Last year, in addition to more than 5 million tons of sand and gravel, about 334,000 tons of commercial goods - the equivalent of 13,000 tractor truck loads - was shipped on the Missouri River, a 24 percent increase from the year before.

Charlie Smith is a Project Manager for Hanson Professional Services.



Update on the MS Levee Board Lawsuit against EPA over the Yazoo Backwater Project

By Peter Nimrod



The Yazoo Backwater Project (YBW Project) was authorized in 1941 as part of the mammoth seven-state Mississippi River and Tributaries project, arguably the most successful public works project in the nation's history. Specifically, the YBW project was added to the MR&T to offset the closure of the Eudora Floodway in Arkansas by allowing water from large floods in the lower Mississippi valley to be temporarily stored in the Delta area of Mississippi and released in a measured way. In short, the decision was made to move stored floodwaters

from Arkansas and Louisiana to Mississippi. In return for this sacrifice, the southern Delta area of Mississippi was to receive protection from lesser, more frequent floods – the YBW project.

While Arkansas and Louisiana have for many years benefited from the closure of the floodway, Mississippi's south Delta has had to deal with increased flooding from the unfulfilled promise by the Federal Government to complete the YBW project. The most important remaining component, a large pumping station, would reduce the effects

of catastrophic flooding by evacuating floodwater when gravity drainage structure gates must be closed because of high water on the Mississippi River. In just one recent example of the impacts of failing to build this pumping station, in 2009, devastating flooding overtook 400,000 acres including 152,000 acres of productive agricultural land, causing extensive economic damage and disruption of many lives. The pumps would reduce or avoid this damage.

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After many years of stops and starts and redesigns to address environmental concerns, in 1996 the Congress finally renewed its promise to the south Delta by again recognizing the interstate advantages of the pumping station and allowing the Corps of Engineers to begin updating the Environmental Impact Statement (EIS). The draft EIS was released in 2000. For seven years the Corps worked to answer all the questions raised from the draft EIS, reviewed different alternatives, worked extensively with other Federal agencies on various issues, and strengthened the final EIS. As a part of this intensive effort, the Corps worked for years with the U.S. Environmental Protection Agency (EPA) over wetlands issues related to the project. As a result, the Corps developed state-of-the-art technology to determine how the pumps would affect wetlands and how an added reforestation feature would actually help wetlands.

In November, 2007 the Corps released the Final Report for the Yazoo Backwater Project. The

recommended plan in that report included a 14,000 cubic foot per second pumping plant and 55,600 acres of reforestation easements. This newly formulated project sacrificed some flood protection for large environmental gains. In fact, the end result of the balanced project increased wetland resources by 19.3%, terrestrial resources by 11.2%, aquatic resources by 34.5% and waterfowl resources by 52.8%. Water quality would improve and endangered species would be provided additional habitat. The pumps would lower the 100-year flood level by 4.5' and greatly reduce urban and structural damages. This balanced project seemed to be one of those rare win-wins for people, wildlife, trees and fish.

However, surprisingly, in February, 2008 the EPA announced it would use its authority under Section 404(c) of the Clean Water Act (CWA) to veto the project. The Board of Mississippi Levee Commissioners maintained that this project is exempt from a 404(c) veto by Section 404(r) of the CWA. To

qualify for a 404(r) exemption, the Corps must submit the EIS to Congress, Congress must authorize the project, and Congress must appropriate funds for the project. EPA claimed that all steps for a 404(r) exemption were met except there was no record showing where the EIS was officially submitted to Congress. The Levee Board made a Freedom of Information Act (FOIA) request of the Corps for all documents in the 1982-1985 timeframe to see if they could find the transmittal letters.

On Sunday, August 31, 2008, the EPA officially vetoed the YBW Project. This was the Sunday before Labor Day! Why? Well a few days later, the FOIA package arrived and in the boxes were two letters dated March 28, 1983 officially transmitting the Final EIS to Congress for its review. This was the one thing EPA said it could not find. These letters were then sent to EPA but EPA responded that it was too late because the project was already officially vetoed and could not be changed.

On August 11, 2009, the Levee

Board filed a lawsuit against the EPA arguing that it had no legal authority to veto the Yazoo Backwater Project because Section 404(r) of the CWA prohibits EPA from vetoing any project approved by Congress when the environmental impacts of the project were made known to Congress before construction began. Such is the case with the proposed pumping station for the Yazoo Backwater Project.

The Levee Board is represented by attorneys from Pacific Legal Foundation (PLF), a public interest legal organization, headquartered in Sacramento, California, that is the nation's leading watchdog for balance and common sense in environmental regulations. "Federal law is clear: EPA cannot pull the plug on this vitally important pumping station, because Congress OK'd it after a formal environmental briefing," said PLF attorney Damien Schiff.

This project is necessary to the lives and homes of thousands of people, as well as businesses and

farmland. Congress authorized the Yazoo Backwater Project as early as 1941 and Congress appropriated money for the pumping station in 1984 with the benefit of an environmental impact statement from the Army Corps of Engineers. Congress approved this project with all the required information before it. EPA has only one duty in this matter: To butt out.

Environmental groups (National Wildlife Federation, Mississippi Wildlife Federation and the Environmental Defense Fund) intervened on behalf of EPA. All briefs were filed and the Levee Board requested oral arguments. On March 28, 2011 U.S. District Judge Sharion Aycock issued a ruling finding against the Levee Board and without hearing oral arguments.

The Levee Board and its attorneys have reviewed the ruling and have found what they believe are errors within the Aycock ruling. The Board voted unanimously on April 4, 2011 to appeal this case to the U.S. Court



of Appeals for the Fifth Circuit.

The residents of the Mississippi South Delta just want what was promised to them 70 years ago. The Yazoo Backwater Project is a model project that will not only provide desperately needed flood protection, but will vastly increase benefits for every environmental resource including wetlands, terrestrial, aquatic and duck habitat. It is time for the environmental community to wake up and admit that this project will help the environment.

Aside from the injustices to the residents of the south Delta, Judge Aycock's ruling has immense implications for others as well. If EPA can summarily veto a project such as the YBW, with its large interstate benefits and implications, and which has been intensively reformulated to align with environmental goals, no water resources project is safe from its impositions. It is time for Congress to take away this veto authority from EPA before it vetoes other such projects throughout the United States.

Peter Nimrod is the Chief Engineer of the Mississippi Levee Board



NRC Report Details Daunting Challenges Ahead for the Corps

The National Research Council's Water Science and Technology Board has issued a report warning that the U.S. Army Corps of Engineers faces an untenable situation as

it is asked to address a growing list of complicated problems concerning the management of our nation's water resources with a shrinking budget.

The report finds:

"Despite declining investment levels and numbers of Corps personnel, the nation expects the Corps to provide a number of services, including flood control, water based recreation, commercial navigation, ecosystem restoration, hydropower production, and coastal and beach protection. This situation leads to expectations that the Corps of Engineers and its civil works construction program cannot meet consistently."

As water resources demands are increasing and becoming more complex, national investments in infrastructure continue to decline. Compounding this problem – Congress has shifted the Corps away from its traditional focus of building dams, levees and navigation channels to rehabilitating old ones, restoring ecosystems and allocating limited water supplies to competing users.

WRDA in 2011?

Senators Barbara Boxer (D-CA) and Jim Inhofe (R-OK), Chairwoman and Ranking Member of the Senate Environment and Public Works Committee respectively, have issued a Dear Colleague letter soliciting project and programmatic requests for water resources projects.

The letter is careful to avoid the word "earmark" but does note that Senate Rule XLIV, *Congressionally Directed Spending and Related Items*, could apply to requests. However, the Senators point to the Congressional "constitutional role . . . in determining spending priorities for the Army Corps of Engineers Civil Works program" and assert that without Congressional input, the Administration would have sole discretion in determining water resources priorities. Requests must be submitted by April 29th.

It remains unclear how a water resources bill would be handled. The self-imposed earmark ban coupled with the promises of deep budget cuts don't bode well for investments in water infrastructure. Even more foreboding are the fundamental policy changes looming ahead.

Nonetheless, supporters of the Inland Waterways Capital Development Plan are urging the Committee to include the comprehensive plan in any forthcoming legislation. Developed over the course of 18 months by the Inland Waterways User Board and the Corps of Engineers, the plan would establish funding and project delivery requirements designed to more efficiently pay for and manage inland navigation construction and major rehabilitation projects.



DOT Releases Report on Marine Highways Program

U.S. Secretary of Transportation Ray LaHood released a report highlighting the benefits of using coastal and river transportation as part of America's new clean energy

economy. Prepared by the Maritime Administration in accordance with a provision in the Energy Independence and Security Act of 2007, the report demonstrates how water transportation can help move the nation to a more environmentally-sustainable transportation system, reduce highway congestion and cut down on the maintenance and replacement costs of the nation's roads and bridges. Sec. LaHood indicated that it is intended to serve as a roadmap to the future in creating and further strengthening the nation's marine highways.

The report highlights the Department's accomplishments in supporting the development of America's marine highway system. Since formally starting the program last year, Secretary LaHood designated 18 Marine Highway Corridors that will

support economic growth and create jobs in communities across the country. In addition, the Department awarded \$215.3 million from the TIGER I and TIGER II (Transportation



Maritime Administration

Investment Generating Economic Recovery) programs to jumpstart or expand marine highway projects. Finally, the Department commissioned a study of new ship design to serve the marine highway markets and to be useful to the military if needed. http://www.marad.dot.gov/documents/Americas_Marine_Highway-Report_to_Congress-April_2011.pdf





U.S. Coast Guard Meetings

On June 7-9, 2011, the United States Coast Guard Harbor Safety Committees (HSCs) and Area Maritime Security Committees (AMSCs) will hold a joint conference at the Hilton Americas in Houston, TX. The program will focus on the safety and security of the nation's maritime gateways and the domestic and international traffic that flows through them, while fostering stewardship of the marine environment. This conference is jointly sponsored by the U.S. Coast Guard, the

Transportation Research Board/ Marine Board, and the Houston/ Southeast Texas region HSCs and AMSCs. Information on the program, registration, and hotel are available at: www.TRB.org/conferences/HSCAMSC2011.aspx HSCs are local coordinating bodies throughout the country that work with the U.S. Coast Guard to address issues relating to the safety, security, mobility, and environmental protection of a port or waterway. Membership is typically comprised of local representatives of government

agencies, maritime labor and industry organizations, and public interest groups. AMSCs bring together representatives from a variety of sources in the port to assess security risks to the port and determine appropriate risk mitigation strategies. AMSC members may include U.S. Coast Guard personnel; federal, state, and local law enforcement and emergency response personnel; facility and vessel owners and operators; and labor.

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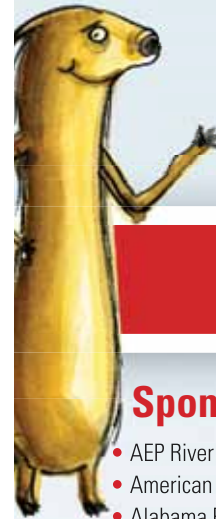
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