FY13 Budget Fails to Appreciate Importance of Investments in Infrastructure to Nation’s Economy

The President’s FY13 budget would provide $4.731 to the Army Corps of Engineers for the civil works program, a 5.4% cut from the FY12 funding level. Funding, based on what the Administration calls “high performing projects,” would be allocated as follows:

- **Construction:** $1.471 billion (down from $1.694 B in FY12 appropriations)
- **Operation and Maintenance:** $2.398 billion (down from $2.412 billion)
- **Investigations:** $102 million (down from $125 million)
- **Mississippi River & Tributaries:** $234 million (down from $252 million)
- **Flood Control & Coastal Emergencies:** $30 million (up from $27 million)
- **Regulatory:** $205 million (up from $193 million)

The navigation program would receive $1.75 billion, including funding from the Harbor Maintenance Trust Fund at $848 million, compared to $758 million in the FY12 budget. Coastal navigation construction would be increased from $117 million to $151 million. O&M would focus on the largest ports and inland waterways with highest tonnage levels, but fails to recognize that smaller ports and waterways are integral components of the overall system.

The flood risk management program would be funded at $1.41 billion, with $588 million for construction, including $363 million for dam safety (DSAC I and II projects), and $464 million for O&M. The budget also includes $41 million for the Corps’ levee safety initiative.

Aquatic ecosystem restoration would receive $512 million, plus $96 million for the stewardship program. Hydropower would receive $180 million and recreation would receive $252 million.

Increases in funding for coastal and deep draft navigation are certainly welcome — and perhaps signal a recognition that the President’s goal of doubling exports simply cannot be achieved without maintaining the nation’s ports and harbors. However, the remainder of the budget fails to support the Administration’s statement that “America is a maritime nation.” Notably, shallow draft and inland ports and waterways do not receive adequate funding, even though these are essential components of a comprehensive system.

Also of significant concern, the flood control program would face a sharp cut — particularly striking given the outstanding success of the Mississippi River and Tributaries system in managing the greatest flooding the nation
Reliable, well-maintained water resources infrastructure is fundamental to America’s economic and environmental well-being, and is essential to maintaining our nation’s competitive position within the global economy. Our water resources infrastructure provides life-saving flood control, abundant water supplies, shore protection, water-based recreation, environmental restoration, and hydropower production. Moreover, waterways transportation is the safest, most energy-efficient and environmentally sound mode of transportation.

While efforts in Congress to eliminate wasteful spending are laudable, and especially important given today’s fiscal challenges, “earmark” has become a dirty word in Washington and the rest of the country. Deferring to the Executive Branch complete decision-making as to which projects should receive funding, how much (if any) funding should be allotted to each and all related priority decisions, has resulted in the stoppage or delay...
of critical projects. Moreover, the Administration’s priorities, as articulated in the budget, have not been established through an open, deliberative process.

Congress must reconsider how this country invests in the nation’s water resources infrastructure.

• Federal water resources projects are different from other Federal programs, projects and activities in the following important ways:

  – Each project is formulated separately to address a separate and discrete problem;
  
  – Projects are separately analyzed, are recommended by the Executive Branch and are authorized and funded separately by the Congress based on the benefits accruing individually from each one;

  – Each project comprises a separate and distinct Federal investment decision generally independent of other projects and is, therefore, subject to individual appropriations; and,

  – Each project also comprises a separate and distinct non-Federal investment decision since non-Federal sponsors agree to pay significant portions of project costs.

• Water resources projects are scrutinized to a greater extent than any other capital investment program in the government. Proposed projects are subjected to comprehensive analyses using merit-based criteria, an integral component of which includes extensive public involvement. Further, the Water Resources Development Act (WRDA) of 1986 imposed significant requirements for non-Federal cost-sharing, which were further enhanced by the 1996 and 2007 WRDAs.

• Congress authorizes and appropriates funding only for projects that meet very rigorous tests, specifically, those that survive very detailed analyses and which non-Federal governments and local sponsors support through contributions of substantial shares of project costs.

• When the Congress has started construction of a project, it has made a commitment to follow through triggering local governments to also make major commitments — financial and political. Having made that commitment, the Congress should assure that it is honored. Turning all discretion over to the Executive Branch, which may not feel compelled to honor the commitments made by Congress, is unacceptable.

Investments in water infrastructure projects are investments in our nation’s long-term security. Our nation simply cannot afford the negative economic impacts, the diminished export capabilities and the detriment to our way of life that surely would result if we fail to maintain these investments. The Congress has a vital role to play in these important — and independent — investment decisions and should assure that the decisions are reached through an open and inclusive process where the needs and priorities of all are considered.

White House Navigation Task Force

The Administration plans to establish a White House-led Navigation Task Force “to develop a Federal strategy for future navigation investments.” While recognition of the importance of port infrastructure to the nation’s continued economic prosperity and position in the global marketplace is certainly welcome, the idea of a “Federal” strategy to pick winners and losers among the nation’s ports raises concerns. Market considerations ought to properly guide such decisions, rather than a top-down Federal-centric approach.
Agency at a Crossroads, Part 2
The U.S. Army Corps of Engineers

In the first article in this series, featured in the October edition of the NWC Newsletter, we focused on the value of the Corps to this nation and the current environment which is hampering its ability to offer that value now and into the future. As we emphasized, those problems are very real and if left unattended, could cost this country a valuable asset in its efforts to remain competitive and secure in the world’s economy and do so in an environmentally acceptable manner. In this second installment, we will look briefly at Corps reactions to the challenges it faces.

As previously stated, the NWC views itself as the foremost supporter of the Corps among water resources organizations, and seeks only to offer perspectives and promote discussion in furtherance of a robust future for the organization.

In full awareness of the challenging environment now confronting it, the Corps is trying very hard, and taking deliberate steps, to transform itself. These very thoughtful steps are guided by a new strategic plan just completed. From an outsider’s perspective, there are four apparent general areas of effort and a number of initiatives underway in each one. Let’s briefly look at each of these four areas.

The Corps has realized for a number of years now that it is operating with a Model T-era delivery model for its services that was designed well before today’s communications, travel and data management systems were even a vague notion in anyone’s mind. In those long-ago days, it was logistically necessary to have such services as project planning, engineering and design located in reasonably near proximity to project locations. Today, that’s no longer the case. Modern engineering organizations have figured out how to centralize those functions efficiently — thus allowing for a sufficient concentration of work to maintain an experienced technical staff and facilitating the mentoring of junior professionals — while keeping geographic-specific functions like construction strongly opposed to the proposal and instead seek a more viable, long-term funding and project management solution. At press time, Waterways Council reports that Rep. Whitfield (R-Kentucky) intends to introduce legislation to enact the capital development plan proposed by the Inland Waterways Users Board last year.

The proposal seeks to generate $1 billion over 10 years. The inland waterways community — including shippers, barge operators and inland ports — are strongly opposed to the proposal and instead seek a more viable, long-term funding and project management solution. At press time, Waterways Council reports that Rep. Whitfield (R-Kentucky) intends to introduce legislation to enact the capital development plan proposed by the Inland Waterways Users Board last year.

continued on page 5
supervision, project management and partner relations near to projects. In recognition of the need to change, the Corps is aggressively considering such initiatives as creating “production centers,” regionalizing workload, making some of its district offices essentially “store fronts,” and assigning members from multiple districts to project teams. Although such steps have been discussed for some time, and have been used for years by the private sector, we see an increased sense of determination to make them real now in the Corps.

While we’re speaking of delivery, it’s worth noting here that, in response to concerns related to meeting its commitments, the Corps leadership has also reemphasized throughout the organization the importance of executing its program on time and within budget. While all elements of its program are to receive this attention, special emphasis is being placed on the disaster relief funds it recently received to make sure that project features — those features that worked so spectacularly well last year - are quickly restored to their pre-event status and are readied for another event.

A second general area relates to planning. Corps partners and sponsors have (justifiably) complained for years that the Corps’ planning process has grown too long, too encrusted with process and too expensive to nimbly address today’s rapidly changing needs. Each one of the steps in the reconnaissance and feasibility processes has a clear reason for its existence and, taken separately, each one can be readily justified. Taken together however, the overall process has grown to be unresponsive and unsustainable. So, although it’s pretty easy to look back and see how the process got to where it is today, that doesn’t help sponsors who have real needs — urgent ones — now. It is apparent that the Corps has heard these concerns and is taking steps to address them. On February 8, the Corps directed a new, more disciplined approach to improve study management, performance, execution and delivery, all aimed at reducing the number of ongoing planning studies by getting to an answer more quickly. It has established a national pilot program of studies to test the new concepts. Further, the Corps has “reset and reclassified” current studies to determine whether they should be continued, re-scoped or terminated because they are either inactive or not likely to produce a federal interest. This should allow promising studies to receive more attention and resources. For new studies, it has established a “3x3x3 rule.” That simply sets targets of not more than 3 years for study completion at a cost of not more than $3 million and a report (plus appendices) fitting into a single 3-inch binder. Any study proposed to exceed this rule will be separately scrutinized and must receive a separate approval.

Before we leave the planning arena, there is one additional item to note. Although it has had centers of expertise in specific disciplines for many years, the
Corps hasn’t made full use of them. In this new world where consolidated efforts are essential and additional rigor (but with faster turnaround) is important for credibility, that’s no longer satisfactory. So, the Corps is re-dedicating itself to these CXs — and making use of them mandatory. The first sign of this came recently when it directed establishment of a Deep Draft Navigation Planning Center of Expertise, to be located in South Atlantic Division, not later than March 2012. This center will integrate national resources, accomplish economic analyses and support authorization recommendations for deep draft navigation and small boat harbor projects Corps-wide.

The final two areas of special emphasis involve money — or the lack thereof. First, the Corps is taking steps to update its budgeting processes in an attempt to make better use of its current levels of budget authority and to better portray what it is doing with available resources. Specifically, this involves system budgeting by watersheds to look for synergistic opportunities, creating different levels of service for operating projects depending on current needs, creating displays of resources available against needs, establishing a new rating system for ranking potential investments, developing better metrics for program oversight and, importantly, finding ways to better involve stakeholders in these matters. Overall, this should make the entire process more transparent and allow decision-makers better awareness of available choices and the potential ramifications of those choices.

Finally, it is quite obvious that the Corps has more work than it has resources and that, given the nation’s current financial plight, this dilemma isn’t likely to change soon. With this in mind, the Corps has initiated a number of steps aimed at closing the gap and mitigating the potential impacts. It is putting renewed priority on developing a fully functional asset management system so it has better visibility over its existing infrastructure, including condition, risk of failure and timing of needed investments. Much of U.S. infrastructure is “first generation” in that it has never been re-capitalized. But now, a chunk of it (including a lot the Corps provides stewardship of) is approaching the end of its useful life. Should it be re-capitalized in its present form? Should it be decommissioned? Should it be de-federalized and given to others? Part of the Corps’ new
infrastructure strategy is aimed at answering these and related questions in a disciplined manner and thus avoiding spending money — money that we can’t afford — on low priority items. One other step being examined is even more interesting: the notion of public-private partnerships and the potential of injecting private equity into new capital projects. That’s been done successfully in other arenas but hasn’t been used to any extent by the Corps.

This has been just a quick summary of only a few of the many moves ongoing in today’s Corps. There are, of course, many others in what is proving to be a time of great change. Those familiar with the Corps’ long history have suggested that the underlying secret to its continuing success for over two centuries has been its ability to adapt to changing circumstances and needs and, unusual for government agencies, its willingness to make changes. Admirably, Corps leaders are following this long-standing practice today by proactively seeking to address its current situation.

As NWC members well know, the Corps program has never been one that’s fully owned by the federal government, at least not in the usual sense of federal programs. Local sponsors and stakeholders have always had to provide input, and since passage of WRDA 86, significant portions of the financing as well. This sharing of decision-making, commitment and responsibility has served sponsors, the Corps and, most importantly, the nation very well.

One of my most vivid recollections entails a conversation a number of years ago with a former clerk of the House Appropriations Committee’s Subcommittee on Energy and Water Development. This gentleman, a person who truly appreciated the contributions made by the Corps’ program but who was also a more-than-capable practitioner of “tough love,” asked me if I knew why his subcommittee always protected the Corps’ program at the expense of other agencies, notably the Department of Energy and, to a lesser extent, the Bureau of Reclamation. I had been around him enough to know that such questions usually came with many strings and hidden messages — and possible penalties for wrong answers, so I simply drew myself into a defensive posture and said that I didn’t know. As my grandfather was fond of saying, better to keep your mouth shut and be thought a fool than to open it and remove all doubt. (I always wondered if he found it necessary to give the same advice to others).

At any rate, the clerk did indeed answer his own question by saying that the Corps program focused primarily on projects — real projects that provided real benefits to real Americans, and did so in a reasonable time frame. And further, he said, these projects were supported by these real Americans both politically and financially, an excellent test of their worth. This vital three-way partnership among project sponsors, their elected
representatives and the Corps produced tangible value to the nation and, taken together, made the Corps easy to support; in fact, it made it virtually impossible not to.

By contrast, he continued, DOE had lots of programs — as opposed to projects. And these programs were mostly centrally contrived, centrally planned, enormously expensive and their benefits were questionable at best. Although these programs were supported enthusiastically by various administrations, lobbyists and “experts,” very few, if any, real Americans came to speak for them (much less offer up money to help fund them). He also said that Reclamation used to have projects too, but its Washington leaders had largely switched their focus to centrally planned programs. As a result, he was in favor of disbanding that agency and giving the Corps responsibility for whatever was of value that remained.

He concluded his story with a warning to me: the Corps had better not follow Reclamation and DOE by focusing on centralized programs and priorities, failing to take care of its core responsibilities and not tending to its relationships or it would begin to receive the same treatment. As we indicated in the previous newsletter article, the Corps is clearly beset by problems not of its own making, but that clerk’s warning remains valid — and the challenging confluence of circumstances may make it a more salient threat today than in the past.

NWC’s members, who collectively comprise the Corps’ staunchest supporters and sponsors for many of those “real” projects, aim to be of greater assistance in support of the commendable leadership demonstrated by the Corps, as outlined above and any other efforts where they can make a positive difference. They remain, however, concerned about where local sponsors fit into the Corps’ plans as it works to address the complex challenges it faces. Compounding these concerns, the Administration has implemented or proposed a series of policy changes dealing with such things as sponsor crediting, regulatory matters, priority setting and project formulation procedures. The unaddressed fear is that these are aimed at pulling away from traditional Corps sponsors — those who have made both financial and political commitments to partner with the Corps — resulting in more anxiety among those partners and sponsors.

Worsening this anxiety, project sponsors are now faced with narrowed budget requests and refocused Corps priorities aimed at pursuing fewer projects. In light of the nation’s financial situation, it’s hard to argue with this rationale; it makes a certain amount of sense from both engineering and economic standpoints. But who gets left out? In real life, pursuing fewer projects translates to diminished stakeholder and political support which, in turn, leads to smaller budgets and still fewer projects, and so on. Addressing this challenge is an area where partners can clearly help by articulating the need for investments in water resources infrastructure as a foundation for rebuilding the nation’s economy and retaining its position in the global marketplace. We will need Corps encouragement and support to do so effectively.

While change is an essential part of life, and the Corps is in the midst of significant change, the path forward on any of this isn’t clear. However, it is clear that the Corps and its partners must walk it together. NWC is committed to assisting in this regard.

Fred Caver is the immediate past Chairman of the National Waterways Conference, Inc.
A Bill to Reform Project Delivery? Effort Could Undermine Other Projects

Senators David Vitter (R-LA) and Bill Nelson (D-FL) have introduced a bill to amend the Corps of Engineers project delivery process for navigation and flood control projects. S.2138, The Corps of Engineers Project Delivery Flexibility Act of 2012, would establish a pilot program to evaluate the cost-effectiveness and project delivery efficiency of non-Federal sponsors as the lead project delivery team for authorized civil works flood control and navigation construction projects of the Corps of Engineers. The bill would require the Corps to relinquish its role as project manager in favor of local and state partners for these projects. The Corps would continue to provide oversight, and projects would adhere to federal design and construction standards.

NWC supports efforts to enhance the relationship between the Corps and its project sponsors, an especially important relationship given that the local communities and non-Federal sponsors bear a significant share of the cost of projects, with investments in the hundreds of millions of dollars. We also appreciate efforts to address the backlog of construction projects. However, the bill raises several significant concerns that could impede those efforts. First and foremost, the bill does not provide any additional funding, but would instead shift funds from existing projects. Since the current backlog is largely a result of lack of funding, it would appear that this proposal would simply exacerbate that problem. In addition, there are several concerns relating the practical implementation of such a program, including those involving federal contracting laws and policies and the legal obligations of non-Federal partners, as well as how projects for the pilot program would be selected.

Water Resources Management

The budget seeks to modernize Federal water resources management, to make better use of water resources to generate economic growth, environmental improvements, and social benefits. Included within this objective:

- Continuing to revise the Principles and Guidelines in 2013 (although such efforts are on hold at the Corps in accordance with the FY12 appropriations law), and
- Calling for the establishment of an infrastructure bank to help finance port deepening projects, levees, and other major water resources development activities. To be eligible, projects would have a clear public benefit, meet rigorous economic, technical and environmental standards, and be backed by a dedicated revenue stream.
The Importance of a Plan—the Flood Control Needs for the Upper Mississippi and Missouri Rivers

By Mike Klingner, PE

The Missouri River and Lower Mississippi floods of 2011 are evidence, once again, of the importance of a flood control plan. When we have major flood events, those exceeding 1/500 probability of occurrence, we need to know how to convey the water to minimize damages and protect life and property. Such a plan has existed since 1928 for the Lower Mississippi River, below Cairo, Illinois to the Gulf of Mexico. Although significant soil erosion and floodway damages occurred during last year’s record flood, the water conveyed as planned and billions of dollars in damages were prevented along the Lower Mississippi River. Unfortunately, the Lower Missouri and Upper Mississippi Rivers are not so fortunate. No implemented plans are in place.

What happened to the efforts of our previous generation, often referred to as the “greatest generation”? A master plan was partially implemented in the upper reaches of the Missouri River with the creation of reservoirs, economically justified for the purpose of flood control and navigation downstream. The plan, called Pik-Sloan, was to have numerous additional reservoirs along the Missouri River tributaries and expanded floodway to allow conveyance of major flood events. If our nation demands safe bridges, designed not to fail within 1/10,000 probability, why are we in a situation with prime farmland, urban areas and major infrastructure protected to only a 1/25 or 1/50 event? What can be done today to refine the abandoned Pik-Sloan plan to meet current needs and restore the importance of adequate flood control and river navigation along the lower Missouri River?

continued on page 10
With broad based support, the Comprehensive Plan was authorized in the 1999 WRDA. The plan was scoped for systemic flood control, as a separate plan for Navigation and Environmental improvements (NESP) was already underway. NESP was authorized in WRDA 2007. The Comprehensive Plan for systemic flood control was to be implemented by federal, state or local interests. In today's climate of federal deficits and strict cost-benefit requirements of the NED (National Economic Development), it was recognized in the very beginning that implementation would be mostly state and local. The base plan called for up to the 500 year protection in areas not raising water more than the one (1) foot FEMA standard for induced head. The plan was completed in 2008 and recommended for implementation by the Mississippi River Commission. The base plan has strong Regional Economic Development (RED) benefits in the range of $5 dollars for $1 spent. Congress has continued to fund refinements to the base plan and elements with Federal interest, although unfortunately, nothing is in the recently released President’s Budget.

Where do we go from here?
1) Congress needs to assure adequate funds are allocated to repair the flood damages of 2011 under their obligations of PL84-99, 2) Congress should continue funding of the Comprehensive Plan for on-going refinement (the Corps has $5 million in capabilities), 3) Congress needs to recognize the importance of funding NESP, as navigation improvements are critical for our nation’s economic growth, 4) as most of the Comprehensive Plan implementation is to be financed with local assessments, Congress needs to direct the Corps to simplify the permitting process and streamline the effort to make improvements as cost effective as possible. For example, the new red-tape of the Section 408 permitting should be delayed and allow improvements under the previous 404 permits for those areas allowed to improve under the Comprehensive Plan, and 5) Congress needs to revisit the Pik-Sloan plan and see how best to plan conveyance of major flood events along the lower Missouri. Perhaps the Comprehensive Plan can now be expanded to include the Missouri.

Some in Congress are now calling to restart the Mississippi River Caucus to better educate themselves and the public on the importance of flood control and navigation. With over $15 billion in flood damages in 1993, another $15 billion or more in the 2008 flood, and uncalculated cost last year, it is time for action. The 2011 flood turned on the “light” of our inadequate system. We need to move forward while it is still green.

Mike Klingner is the Vice Chairman of the Upper Mississippi, Illinois, and Missouri Rivers Association

RAMP

At press time, political wrangling continues in both chambers amid efforts to move the respective surface transportation reauthorization bills forward. Proponents of the RAMP Act continue their efforts to advocate for the expenditure of funds necessary to maintain the nation’s ports and harbors.