

Capitol CURRENTS

EXTRA!

House, Senate Compromise on Corps Budget, Approve Record \$5.4 Billion in FY 2006 Funding

DEADLOCKED ONLY TWO WEEKS AGO, House and Senate negotiators agreed this week on compromise language governing Corps of Engineers management policies, clearing the way for the House and Senate to speedily approve FY 2006 appropriations totaling a record \$5.383 billion. In his FY 2006 budget submission, the President requested \$4.513 billion for the civil works program, the House approved \$4.746 billion and the Senate voted \$5.298 billion. Compared to last year's appropriations act, this week's conference report increases Corps funding by a whopping 15.3 percent.

House and Senate conferees signed off on the conference report on Monday evening, and the measure reached the House floor yesterday. In a roll call vote at 2:30 p.m., the measure was approved by an overwhelming 399 to 17. The Senate had planned to take up the conference report this afternoon but, in a rush of other business, put off a vote until Monday. House conferees said the legislation mandated "more responsible use" of continuing contracts and reprogrammings and implementation of long-term planning "to improve project execution and financial management."

REACTION. The House "didn't get the whole birthday cake, but enough," said Sen. Pete V. Domenici (New Mexico), chairman of the Senate Appropriations Subcommittee on Energy and Water Development. Congr.



Sen. Domenici



Congr. Hobson

David L. Hobson (Ohio), chairman of the counterpart House subcommittee, apparently agreed. The Corps, happy with its added funding despite the new strings attached, pledged to "make it work."

The appropriations measure will impose a number of far-reaching policy changes, which would end allowances for "savings and slippage" in making annual appropriations, curtail the Corps of Engineers' use of "reprogrammings" to shift funds from project to project (which have numbered as many as 20,000 annually), and limit awards of multi-year "continuing contracts." All were contentious issues, which almost derailed the House-Senate conference, and they will substantially impact the way the Corps does business. ♦



This is a special edition with coverage of the House-Senate agreement on the FY 2006 civil works appropriations bill.



**WATERWAYS
COUNCIL, INC.**

(703) 373-2261
www.waterwayscouncil.org

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Appropriations Bill Includes 20 New Starts

The FY 2005 appropriations bill contains funding to start about 20 construction projects but nearly all are fairly small and many are urban flood control works. Of interest to inland navigation proponents is a new start for the major rehabilitation of L&D 3 on the Upper

Mississippi, which received \$1.5 million.

The report indicated that rehabilitation funds were approved for Lock 27, opposite St. Louis, but the funding tables failed to include any such allocation. The lock did receive \$5.5 million for a “deficiency correction.” ♦

CIVIL WORKS PROGRAM FUNDING: FY 2005 – FY 2006

Civil Works Program	FY 2005 Enacted (000)	FY 2006 Request (000)	FY 2006 House (000)	FY 2006 Senate (000)	FY 2006 Conference (000)
General Investigations	\$144,500	\$95,000	\$100,000	\$180,000	\$164,000
Construction, General	1,796,089	1,637,000	1,900,000	2,086,664	2,372,000
Operations & Maintenance	1,959,101	1,979,000	2,000,000	2,100,000	1,989,000
MR&T Flood Control	324,500	270,000	290,000	433,336	400,000
Regulatory Program	145,000	160,000	160,000	150,000	160,000
General Expenses	167,000	162,000	152,021	165,000	154,000
Formerly Utilized Sites	165,000	140,000	140,000	140,000	140,000
ASA/CW	0	0	4,000	0	4,000
Flood Control & Coastal Emergencies	0	70,000	0	43,000	0
TOTAL	\$4,701,190	\$4,513,000	\$4,746,021	\$5,298,000	\$5,383,000

PROJECT FUNDING COMPARISON: FY 2005 – FY 2006

Project	FY 2005 Enacted (000)	FY 2006 Request (000)	FY 2006 House (000)	FY 2006 Senate (000)	FY 2006 Conference (000)
Robert C. Byrd	\$14,500	\$914	\$914	\$914	\$914
Chickamauga	32,500	0	10,000	10,000	10,000
Inner Harbor	35,500	0	9,038	15,000	11,250
Kentucky Lock	75,000	0	21,750	32,000	23,000
Marmet	68,500	68,830	68,830	73,500	73,500
McAlpine	69,000	70,000	70,000	65,000	70,000
Lower Mon 2, 3 & 4	900	50,800	50,800	46,000	50,800
John T. Myers	3,000	0	700	0	700
Olmsted	17,000	90,000	90,000	85,000	90,000
Winfield	1,000	0	0	2,400	2,400
Emsworth	0	15,000	15,000	15,000	15,000
L&D 3, Upper Miss	0	0	0	2,000	1,500
L&D 11, Upper Miss	1,500	7,202	7,202	7,580	7,580
L&D 19, Upper Miss	4,800	17,502	17,502	17,500	17,502
L&D 24, Upper Miss	8,800	4,300	4,300	4,300	4,300
Mel Price	0	0	0	750	563
Lock 27, Upper Miss	0	0	0	1,000	0
TOTAL	\$331,500	\$369,000	\$366,036	\$377,944	\$379,009

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Inland Projects Funded at Record \$379 Million

The FY 2006 appropriations bill includes a record \$379.1 million for inland navigation construction and major rehabilitation projects which receive one-half of their funding from the Inland Waterways Trust Fund. It's the depository for the 20-cent-per-gallon tax which towboats pay on fuel used in moving cargo on 27 specified shallow-draft waterways.

The legislation restores funding for Kentucky Lock Addition and Chickamauga L&D on the Tennessee River and Industrial Lock in New Orleans, which were not included in the budget request. The Waterways Council, Inc. said the appropriations bill "underscores the critically important work of the Corps in all of its mission areas, in addition to demonstrating the value of the inland waterways system." ♦

'CONTRACTING' LIMITS ALMOST KILLED MEASURE



In late October, House and Senate negotiations broke down over language restricting the Corps' use of "continuing contracts." House appropriators said they would rather "default" to a continuing resolution than back off a prohibition on continuing contracts while their Senate counterparts maintained that the Corps needed "flexibility" in awarding contracts for its projects.

A week went by before each side sensed the other was "more amicable" to finding some middle ground. It turned out to be the wording in the Rivers and Harbors Appropriations Act of 1922 which provided authority for the Corps to use continuing contracts for "public work on canals, rivers and harbors adopted by Congress." A provision in the Water Resources Development Act (WRDA) of 1999 "requires" the Corps to use continuing contracts for construction, O&M, and Mississippi River and Tributary (MR&T) projects.

According to the final House-Senate conference report, "the permissive authority established in [the 1922 act] remains unaltered, so the Corps may use, but is not required to use, continuing contracts." The conferees, however, narrowed the WRDA provision "so that the Corps is only required"

to use continuing contracts for projects funded under the O&M and MR&T accounts. ♦

What Exactly Did Conferees Intend?

The conference report states that the Assistant Secretary of the Army (Civil Works) "may approve the use of continuing contracts in limited circumstances." Later, the report stipulates that the Corps, in executing any new continuing contract, "may not commit an amount in excess of the amounts appropriated for such project in this act or otherwise available for the project." Also, the report "affirms... the directions of the House relating to management and execution of continuing contracts."

So what does all this mean? It's apparently going to be up to the Corps, in drafting its implementing guidance on continuing contracts, to sort things out. It appears that the House and Senate conferees left their report language necessarily vague and open to interpretation to come to closure on the appropriations bill itself. This leaves the Corps on the hot seat, charged with interpreting what the conferees either intended or could not agree on. ♦

WRDA UPDATE. Without a time agreement limiting debate, the Senate leadership still has not scheduled WRDA '05 for floor consideration. The House passed its version in mid-July, but the Senate version has been in limbo since it was voted out of the Environment and Public Works Committee last April. While there's still a slim chance of Senate action in the current session, it now appears likely that WRDA will be carried over until next year. ♦

Conferees Strengthen Management Policies

Several other policy issues were also approved: 1) five-year comprehensive budget planning, updated annually, 2) a fiscal management practice “that honors Congressional direction and accepts a higher level of carry-over funds... to achieve greatly increased transparency into project costs and multi-year funding commitments,” and 3) budget estimates by “mission area” to “determine if the Executive Branch is executing fully its appropriation... consistent with Congressional direction and intent.”

Conferees agreed to stop the Corps from reprogramming funds to augment “existing programs, projects or activities in excess of \$2 million or 50 percent, whichever is less,” without prior approval of the House and Senate Appropriations Committees. The Corps was also directed to establish the baseline for application of reprogramming and transfer authori-

ties for the current fiscal year and to show “each program, project and activity in each appropriation.” If this report is not submitted within 60 days, the amount appropriated for Corps salaries and expenses will be reduced by \$100,000 per day until its submission.

SAVINGS AND SLIPPAGE. The conferees discontinued the practice of taking an “historical” estimate of savings and slippage, which allowed somewhat higher appropriations levels but necessitated project expenditures at a level less than that appropriated. Starting in FY 2006, funding will be allocated to specific projects in the actual appropriated amounts. The conference also directed the Corps to contract with the National Academy of Public Administration to “study and recommend factors, perhaps to include remaining-costs-to-remaining-benefits, which should be used in determining the allocation of limited resources.” ♦

HURRICANE PROTECTION GETS PRIORITY



A main reason why House and Senate conferees decided to increase funding for the Corps of Engineers is the urgent need “for strengthening the water infrastructure” in the wake of Hurricanes Katrina and Rita. Levees must be restored before the next hurricane season, conferees said, but they want the Corps to come up with “a revised plan for providing an improved flood control system for the future.”

In addition, the Corps was provided \$8 million to conduct, with Louisiana officials, “a comprehensive hurricane protection study... to develop and present a full range of flood, coastal and hurricane protection measures exclusive of normal policy considerations for South Louisiana,” with feasibility reports due for short-term protection within 6 months, interim protection within 1 year, and long-term protection within 2 years. Conferees urged the consideration of “protection for a storm surge equivalent to a Category 5 hurricane” and to submit reports on “component areas of the larger protection program for authorization as soon as practicable.” ♦

Conferees Nix Funds for MR-GO Channel

The House-Senate conference report leaves in doubt the future of the Mississippi River-Gulf Outlet (“MR-GO”) as a deep-draft shortcut from New Orleans to the Gulf. When Katrina hit, the 76-mile-long channel was blamed for funneling the powerful storm surge into the Inner Harbor Canal, contributing to levee failure and the disastrous flooding of the city. “MR-GO clearly serves as a hurricane

highway,” said Sen. David Vitter (Louisiana).

The conferees cited discussions among the local officials “to confect a closure plan” for the outlet as a deep-draft channel. “This agreement may require a shallower depth than is presently authorized,” they said. The President had requested \$14.1 million to keep MR-GO open, but the conferees decided to zero out all of its maintenance funding. ♦

Hannibal Lock Shutdown Closes the Ohio River

Barge traffic on the Ohio River is slowly getting back to normal. For five days, until last Sunday afternoon, the river was completely shut down at Hannibal Locks and Dam, across from New Martinsville, W. Va.,



Hannibal Locks and Dam, looking upstream.

and 126.4 river miles downstream from Pittsburgh. With the auxiliary lock already closed for routine maintenance, some 30 feet of quoin seal broke off one of the upstream lock gates of the main 1,200-ft. chamber, forcing the lockmaster to immediately stop lock operations on Nov. 1.

Army Engineers accelerated their repair work on the smaller 600-ft. lock, bringing it back into service last weekend. At the time, about 40 tows were waiting to transit, and most tows using the auxiliary chamber had to double-lock. The Delta Queen, on a cruise

from Cincinnati to Pittsburgh, tied up in New Martinsville and sent its 164 passengers to their final destination by buses, which brought departing passengers back to the boat. If all goes well, the primary lock should be back in operation by next Tuesday, Nov. 15.

ON THE UPPER MISS, TOO. For three days next week, on Nov. 16, 17 and 18, Lock 18 at Burlington, Iowa, will be closed from 7 a.m. until 6 p.m. for temporary mitre gate repairs. The closure could not have come at a worse time, since it's right in the middle of the busy harvest season.

These were the latest in a series of unexpected lock problems halting barge traffic on the Ohio and Mississippi Rivers, delaying waterborne commerce and increasing transport costs. To minimize such disruptions, the Waterways Council, Inc., has organized several "risk and reliability" workshops and the Corps of Engineers' operations officials have responded with plans to allocate additional funds to critical maintenance, prioritize needed work, and stockpile spare parts to reduce down-time. ♦

Habitat Homes on Way to Gulf Coast by Barge

The blue banner reads "Barging Habitat Homes from the Heartland to the Gulf – Courtesy of America's Barge Industry." It's hung on the side of a hopper barge carrying containers filled with trusses, walls and other components of Habitat for Humanity homes on their way to needy families in New Orleans. The journey began in St. Paul with Minnesota Gov. Tim Pawlenty and NBC "Today" cameras on hand as four homes were loaded.

When the barge reached St. Louis this week, Habitat volunteers had 10 more homes ready for the trip south. Other pick-ups are planned in coming days at Memphis and Baton Rouge.

Lee J. Nelson of Upper River Services coordinated the waterborne move. Ingram Barge Co. provided the barge, part of a grain tow leaving the Twin Cities. A TECO Barge Line deck barge joined the Ingram tow at St.



Habitat container loaded at St. Louis.

Louis. All along the way, the "Today" show is monitoring its progress with regular reports. "Operation Home Delivery" plans to have the houses in New Orleans for Thanksgiving. ♦

Capitol Currents is published by



R. Barry Palmer, Publisher
bpalmer@vesselalliance.com

Harry N. Cook, Editor
cookh@earthlink.net

801 North Quincy Street
Suite 200
Arlington, VA 22203
(703) 373-2261
www.waterwayscouncil.org

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