

# Capitol CURRENTS



Sen. Kit Bond (Missouri) stressed the need for Upper Mississippi/ Illinois River improvements. Page 3.



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## EXTRA!

### SENATE PASSES WATER RESOURCES DEVELOPMENT BILL AUTHORIZING EXPANSION OF UPPER MISS/ILLINOIS LOCKS

**THE U.S. SENATE PASSED, BY A VOICE VOTE, THE WATER RESOURCES DEVELOPMENT Act of 2006 late yesterday.** It was the first time in nearly six years that both the Senate and House have approved authorization legislation in the same Congress. The House voted out its version almost exactly a year ago.

Passage of this legislation is an important milestone in a multi-year national effort by numerous stakeholders to authorize the construction of seven critically important locks and dams on the Upper Mississippi and Illinois Rivers.

In the floor debate, Sen. Christopher S. Bond (Missouri), chairman of the Transportation and Infrastructure Subcommittee, strongly supported “long overdue” navigation improvements and ecosystem restoration project on the Upper Mississippi and Illinois Rivers. Sen. Charles Grassley (Iowa) also urged authorization of the long-studied project.

By a 54-46 vote, Senators agreed to an amendment by Sens. John McCain (Arizona) and Russell Feingold (Wisconsin) to subject most Corps projects to peer review supervised by a “director of independent review” in the Pentagon. Another McCain/Feingold amendment directing an interagency Cabinet-level “coordinating committee” to prioritize Corps projects was soundly rejected, 80-19, and two additional McCain/Feingold amendments were withdrawn during the Senate debate.



Sen. Feingold, left, with Sen. McCain

An amendment by Sens. James M. Inhofe (Oklahoma) and Bond, who managed the WRDA bill on the Senate floor, authorizing a less stringent peer-review procedure was narrowly defeated, 49-51, and a second amendment by the same Senators directing the Corps to rank its projects by a four-part criteria also failed, 43-56.

The Senate approved an amendment, 63-36, by Sen. Arlen Specter (Pennsylvania) to bar the Corps from decommissioning the hopper dredge *McFarland* and accepted an amendment by Sen. Barbara Boxer (California) to expedite a report on American River flood protection measures.

The Senate bill must be conferenced with the House bill. Staff discussions are planned in August, followed by the meeting of a formal House-Senate conference committee “in early September.” ♦

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## Senators Turn Back Prioritization Attempt



One of the most troubling amendments proposed in the Senate debate was one by Sens. McCain and Feingold requiring an inter-agency “water resources planning coordinating committee” to classify water projects into “a tier system of descending priority.” The committee would rank water resources projects on the basis of various criteria, including benefit/cost ratios and remaining benefits/remaining costs.

Sen. McCain insisted that prioritization was needed because of a backlog in construction projects of at least \$58 billion. The pending WRDA would add \$12 billion to the

backlog, he said, arguing that since the Corps gets only \$2 billion annually for construction, it will take 35 years to eliminate the backlog. But Sen. Bond said it was “not true” to contend that “all projects authorized 5, 10, 15 years ago are higher priority than those we have now.”

In back-to-back roll call votes, Senators decisively rejected the McCain/Feingold prioritization amendment, 80 to 19, and then turned back a counter amendment by Sens. Inhofe and Bond, by a vote of 43 to 56, leaving in place the current method of prioritizing projects through the appropriations process. ♦

## EXPAND LOCK CAPACITY, SEN. BOND ARGUES

Sen. Bond made the authorization of “enhanced navigation capacity improvements and ecosystem restoration” for the Upper Mississippi River and Illinois Waterway a



centerpiece of the WRDA debate. “We have developed a plan that gets the Corps back in the business of building the future, rather than just haggling about predicting the future,” he told his colleagues. “While we have been studying, our competitors have been building.”

He said the Corps had spent \$70 million and 14 years on a study of the Upper Miss/Illinois project that “was anticipated to take six years and cost \$12 million.” Sen. Bond said the current 600-ft. locks “serve as major water roadblocks to transportation of our products to world markets and inputs to users upstream.” WRDA authorizes \$1.8 billion for new 1,200-ft. locks at five sites on the Mississippi and two on the Illinois and \$1.65 billion for ecosystem restoration. ♦

## *Many Worked to Get Legislation to Senate Floor*

Senate consideration of WRDA this week was a victory for Waterways Council, MARC 2000, the National Corn Growers Association, and National Waterways Alliance as well as host of other waterways supporters. For more than a year, their officers and members have written, called and cajoled their lawmakers to urge that the Senate debate the pending WRDA. In recent months, the campaign has intensified, particularly in support of long-

delayed Upper Mississippi/Illinois Waterway improvements.

At the same time, opponents have been busy, too, including American Rivers, Environmental Defense, the National Wildlife Federation, the Sierra Club, and EarthJustice Legal Defense Fund. They held press conferences, issued news releases and convinced several newspapers to endorse the McCain-Feingold amendments. ♦

## Levee Failures Won Votes for Peer Review

In leading the fight for strong independent peer review, Sen. Feingold denied he had “an ax to grind.” This amendment, he said, “is meant to try to improve the image of the Corps of Engineers, to give greater confidence to the taxpayers of America that their tax dollars are being wisely spent and that we will do everything we can to prevent the kind of destruction and failing that took place in New Orleans...” The failure of Corps-designed levees were repeatedly cited during the Senate debate as demonstrating the need for

“outside scrutiny” of pending water projects.

The McCain/Feingold amendment provides for appointment of a Director of Independent Review. In the amendment’s original version, the Army’s Inspector General would have been in charge, but the modified version adopted yesterday would put the director in the office of the Secretary of the Army, likely meaning the office of the Assistant Secretary of the Army for Civil Works.

A panel of between five and nine “independent experts” would review projects costing \$40 million or more, or any project if requested by the governor of a state in which the project is located, or the head of a Federal agency having review authority, or by the Assistant Secretary if the project is deemed to be controversial. Flood control projects would be subject to additional scrutiny to “ensure public health, safety and welfare” aspects.

**LITIGATION?** Independent review panels would have to submit their reports not later than six months after establishment of the panel or 90 days after close of the public comment period, whichever is later. The panels would review “detailed engineering and design specifications” during the PED phase of water resources projects. The amendment also includes an “equal deference provision” which Sen. Feingold maintained only “made it clear that the Corps must give serious consideration... to an independent panel’s findings,” without establishing “any new cause of action” for litigation. ♦



## NWA Letter, Editorials Cited in Senate Debate

During the Senate debate, Sen. Inhofe, chairman of the Environment and Public Works Committee, referred several times to a letter from the National Waterways Alliance (NWA) supporting WRDA as well as “counter amendments” which he and Sen. Bond offered. The letter was signed by 288 waterway-related industries, ports, agricultural groups, and associations, including the Waterways Council.

Separately, Sen. Feingold recited a list of newspapers which had endorsed the amend-

ments he and Sen. McCain were sponsoring. He read from several editorials, including one in the *New Orleans Times-Picayune*, and placed about a half-dozen others in the *Congressional Record*.

The entire debate appears in the July 18 and 19 issues of the *Congressional Record*, which can be accessed at [www.gpoaccess.gov](http://www.gpoaccess.gov). Click on “A-Z Resource List,” scroll down to “*Congressional Record*” and click on “Browse the *Congressional Record* by Day of Session.” ♦

**WRDA HISTORY.** Back-to-back WRDAs were enacted in September 1999 and December 2000. Since then, the House has passed WRDA legislation in October 2002 (at the end of the 107th Congress) and again in April 2003 (at the start of the 108th Congress). The Senate Environment and Public Works Committee reported a bill in July 2004 and again in April 2005, but until yesterday no WRDA had cleared both chambers in the same Congress since 2000. ♦

## OMB Signals ‘Concerns’ Over Several Provisions

As the Senate began its WRDA debate, the Office of Management and Budget (OMB) expressed the Administration’s “strong concerns with the significant overall cost” of the legislation. In a policy statement, OMB said the civil works program faced “interrelated problems” and cited the “need for basic reforms,” such as improving project formulation, limiting new construction starts, setting priorities, de-authorizing low-use navigation projects, and “addressing cost sharing.”



The statement said the Administration “strongly objects” to a provision “prohibiting anyone from giving direction to the Chief of Engineers” as “hindering the President’s ability to fulfill his Constitutional duties.” WRDA would require the Administration to provide recommendations on a project within 90 days, but the OMB statement said that was not adequate time for a “proper review and determination of the Administration’s position.” Significantly, the statement did not threaten a veto. ♦

## More Funding Needed, Sen. Voinovich Says

After the day-long debate, the Senate passed WRDA shortly before 6:30 p.m., foregoing a roll call vote. In pushing for its passage, Sen. Inhofe said the U.S. “relies on an efficient maritime transportation system to maintain its role as a global power.” WRDA, he continued, “is the cornerstone of that system.”



During the debate, Sen. George Voinovich (Ohio) said the Corps was “able to function at only about 50% capacity” at its current rate of funding. “Right now, our infrastructure is collapsing due to insufficient funding.” He added, “Congress desperately needs to provide increased funding for the Army Corps of Engineers, including funding for levees....” ♦

## CONSERVANCY, AUDUBON JOIN IN WRDA PUSH

The Nature Conservancy and the National Audubon Society joined the Waterways Council and American Association of Port Authorities in urging the Senate Majority Leader, Sen. Bill Frist (Tennessee), to schedule consideration of WRDA on the Senate floor. “The Nation has waited six years, instead of the normal two years, since the last WRDA was signed into law,” the organizations’ leaders wrote Sen. Frist. “As a result, many long-overdue projects for improvements of our waterways, ports, and flood and hurricane protection systems as well as for the restoration of important ecosystems are stalled...”

Signing the letter were Steven J. McCormick, president of the Nature Conservancy; John Flicker, president and CEO of the National Audubon Society; WCI Chmn. Mark K. Knoy, president of MEMCO Barge Line, and Kurt J. Nagle, president of the American Association of Port Authorities. WCI has been consulting with a “diverse group” of other organizations all year to move WRDA to the Senate floor, WCI Pres. R. Barry Palmer said. ♦



**UPDATE.** Our last issue included an item about the Wego “kite tube” which becomes airborne when towed behind a motorboat. Following two deaths and at least 39 injuries to riders, the Consumer Product Safety Commission said last week that everyone should stop using kite tubes, and the U.S. distributor recalled some 19,000 of the products. ♦



Mr. Connaughton

## MR. CONNAUGHTON NOMINATED AS MARAD CHIEF

Sean T. Connaughton, a Washington, D.C., attorney who chairs a suburban county board of supervisors, has been nominated as the next Maritime Administrator and his name sent to the U.S. Senate for confirmation. A graduate of the U.S. Merchant Marine Academy, he has worked in the U.S. Coast Guard's headquarters and served in 1988-92 as the American Petroleum Institute's senior transportation associate.

In 1999, Mr. Connaughton was elected as chairman of the Prince William County (Va.) Board of County Supervisors, and since 2001 he has been "of counsel" in the Washington

office of Troutman Sanders law firm. Last year, he ran for lieutenant governor of Virginia but was defeated in the Republican primary.

The job of Maritime Administrator has been vacant since Capt. William G. Schubert resigned in February 2005, and the deputy's post is still unfilled after John E. Jamian's departure at the end of April.

Earlier this year, the President nominated David C. Sanborn, an official of Dubai-based DP World, as MarAd Administrator, but he later withdrew. At present, Julie A. Nelson, Chief Counsel, is serving as the Acting Deputy Administrator. ♦

## Gov. Graves May Be Next Transportation Secretary

Norman Y. Mineta, who resigned last month as Secretary of Transportation after five and a half years in the post, will join the Washington office of Hill & Knowlton communications consultants as vice chairman later this month. A former mayor of San Jose, Calif., he served 20 years in the House of Representatives and chaired the Public Works and Transportation Committee in 1992-94. Mineta was Secretary of Commerce in the last part of the Clinton Administration and the only Democrat in the following Bush Administration's Cabinet.

As the next DOT Secretary, the names of several possible candidates have emerged. Several reports indicate that former Kansas



Mr. Mineta

Gov. William P. (Bill) Graves, now president and CEO of the American Trucking Associations, has the inside track. Other possibilities include Michael P. Jackson, currently Deputy Secretary at Homeland Security and a former Deputy Transportation

Secretary, and Marion C. Blakey, head of the Federal Aviation Administration, who formerly headed her own transportation-oriented public relations and lobbying shop. ♦

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Vol. 2, No. 10

## Waterways Users Board Seeks More Nominations

The terms of five of the 11 members of the Inland Waterways Users Board are expiring in a few months, and in hopes of encouraging additional candidates the nomination period has just been reopened. It now extends to Aug. 11. Nominations may be made by individuals, firms or associations and should be submitted to the Assistant Secretary of the Army (Civil Works), 108 Army Pentagon, Washington, DC 20310-8986.

Three members of the Users Board have served two two-year terms and are not eligible for another term: Gerald W. (Jerry) Brown of Cargill Marine (Region 1), Looman F. Stingo of Holcim (US), Inc. (Region 2), and Mark K. Knoy of MEMCO Barge Line (Region 3). Two other members have served one term and are eligible for reappointment: Royce Wilken of ARTCO and Jerry Grossnickle of Bernert Barge Line. ♦