Statement of Daniel P. Mecklenborg

Before the
Committee on Appropriations
Subcommittee on Energy and Water Development
U.S. House of Representatives
February 16, 2007

Mr. Chairman, Ranking Member Hobson, and Members of the Subcommittee, thank you for the opportunity to testify before you today on the topic of navigation in the United States. My testimony will focus on the current status and future of the country's inland waterway navigation infrastructure, including trends in the industry and the next decade's needs.

As Senior Vice President and Chief Legal Officer of Ingram Barge Company (Ingram), I am an officer of the largest barge transportation company operating on America's inland waterways. I have been asked to testify this morning in my capacity as First Vice Chairman and General Counsel of Waterways Council, Inc. (WCI or Waterways Council). Waterways Council is the national public policy organization that advocates in support of a modern and well-maintained system of inland waterways and ports. Our diverse members include waterways carriers, shippers, agricultural interests, port authorities, trade unions, shipping associations and waterways advocacy groups from all regions of the country.

In addition to this formal written statement, I have provided the Subcommittee a copy of WCI's information folder, which contains additional detailed information on the projects and issues that are relevant to this morning's hearing, for inclusion in the hearing record as an addendum to the formal statement.

## Inland Waterway System

Because of our natural geographic bounty as well as the special foresight and enlightened investment decisions made by generations who preceded us, our nation is blessed today with the world's preeminent inland waterway transportation system. That system is made up of approximately 12,000 miles of commercially active inland, including intracoastal, waterways. Of this total, nearly 11,000 miles comprise the "fuel-taxed portion" of the system, on which commercial operators pay a diesel fuel tax that is deposited into the Inland Waterway Trust Fund. This tax pays for half the cost of new construction and major rehabilitation of the system's infrastructure.

Nationwide, according to the U.S. Army Corps of Engineers, that infrastructure includes 257 navigation lock chambers at 212 sites that are owned or operated by the federal government. Of these, 240 chambers at 195 sites are funded by the Corps' Operations & Maintenance account. The locks and accompanying dams allow users of all types, commercial and recreational, to stair-step their way through the system while being assured that the depths that those users require will be available.

While America's inland waterway system is the best in the world, it is not without challenges. Our country's international competitors have major efforts underway to enhance their own systems. More than half of the portion of the system that is operated by the Corps of Engineers is now more than 50 years old. Some parts of the system, particularly the older portions located on the Upper Mississippi, Illinois and Tennessee Rivers, consist of outdated 600-foot-long locks that are unable to accommodate today's standard 15-barge tows without engaging in the inefficient and potentially dangerous procedure of "breaking" the tow into two sections in order to pass through the lock. These locks and dams require constant attention and financial support, both in terms of operations and maintenance funding to keep them reliably available to users throughout the year, as well as modernization funding, where economically justified, to improve the system's efficiency and add to the nation's economic well-being and standard of living.

If you drive a car, have electricity in your home, or enjoy a bowl of cereal, you should care a great deal about making sure that our nation's inland waterway system remains as reliable and modern as we can reasonably make it. Because barges are so well suited for the movement of large quantities of bulk materials-- like grain, coal, petroleum, chemicals, iron ore, steel and building materials—Americans are able to realize tremendous savings in transportation costs, fuel consumption, air emissions, traffic congestion, and safety from waterborne barge transportation. Hundreds of millions of tons of domestic commerce valued at $300 billion annually are transported on the system. The transportation cost savings alone have been estimated to exceed $7 billion annually compared to the cost of shipping this tonnage by alternative modes.

## Historical Context

Funding for inland waterways infrastructure maintenance and modernization is an investment in America's future. It shouldn't be controversial, but unfortunately it sometimes has been.
I had the honor to chair the Inland Waterway Users Board a few years ago, in 2002 and 2003. The Inland Waterway Users Board, of course, is the federal advisory committee established in the Water Resources Development Act of 1986 (P.L. 99-662; aka "WRDA 86") to give commercial users of the system a strong voice in advising the Administration and Congress on the investment decision-making that those users were supporting with their cost-sharing tax payments. At that time, in 2002, the surplus in the Inland Waterway Trust Fund was continuing to increase each year, having done so for ten consecutive years to the point that it had more than doubled to over $400 million from its 1992 level. During most of the 1990's very small appropriations were forthcoming and most of the cost-sharing fuel taxes being contributed by commercial users lay idle in the Inland Waterway Trust Fund, instead of being fully and

efficiently utilized to construct the important inland waterway modernization projects that Congress had specifically authorized.

Thankfully, Mr. Chairman, we've come a long way in the past few years and made tremendous progress, due in no small measure to the leadership that you and your colleagues on this Subcommittee have demonstrated with respect to funding for the inland system. In our Users Board report for 2002 we wrote "The current surplus of over $400 million in the inland waterway trust fund provides Congress a real opportunity to leverage taxpayer dollars for the long-term benefit of our country." We asked the Congress to increase expenditures from the Trust Fund to construct authorized inland modernization projects at or close to what the Corps of Engineers considers to be a "full and efficient funding" level.

I'm happy to say that you heard our message and began doing exactly that. As a result, construction activity at priority lock and dam modernization projects has increased markedly, the completion dates for these projects have, in many cases, been accelerated, and the nation will begin realizing the national economic development benefits those projects will produce earlier than otherwise would have been the case. Where fiscal year 2002 outlays from the Trust Fund amounted to $104.5 million for construction of qualified projects, in the most recently completed fiscal year, 2006, Inland Waterway Trust Fund outlays have grown to $175.1 million and the Trust Fund surplus has shrunk to $249.8 million, the lowest end-of-year surplus since 1995. Based on actions by this Subcommittee and its Senate counterpart thus far for the current fiscal year, this trend will continue throughout FY 2007 and the level of the Inland Waterway Trust Fund surplus will continue to decline.

Waterways Council and its many members thank this Subcommittee for the responsiveness you have shown and the leadership you have demonstrated in addressing the inland waterway system funding challenge in such a powerful and productive way.

## Project-Related Trends

WCI applauds and values the increased level of federal appropriations support for inland waterway system modernization and the better utilization of the user-contributed Trust Fund dollars for their intended purpose of system modernization.

As intended by this Subcommittee, projects are being completed more quickly, with a number of inland projects on the cusp of completion. Under current projections, the $395 million McAlpine lock and dam project in Kentucky will be completed in early 2009, as will the $333.5 million Marmet project in West Virginia. The $383.5 million Robert C. Byrd and the $236.3 million Winfield projects on the Ohio and Kanawha Rivers, respectively, are on track for completion during 2008, as is the major rehabilitation project at Lock and Dam 11 on the Mississippi River between Iowa and Wisconsin. The $29.5 million major rehabilitation project at Lock 19 on the Mississippi River in Keokuk, Iowa, can also be completed in 2008, although significant non-Trust Fund-financed maintenance requirements will continue to exist at the lock after that date.

We also applaud some of the policy changes that Congress made in the Energy and Water Development Appropriations Act for Fiscal Year 2006. In the FY 2006 Act, this Subcommittee and your counterparts in the Senate eliminated Savings and Slippage from the bill, created new reprogramming rules to better control the transfer of appropriated funds from one project to another, modified requirements applicable to continuing contracts, and called for development of improved five-year plans for infrastructure investment decision-making. While it is difficult to accurately attribute how much progress is due to each individual policy change, WCI has observed improved project performance results related to Trust Fund-financed expenditures for FY 2006. In that year, almost 100% of the funding that was appropriated for IWTF-financed projects was spent on those projects, as opposed to 80-86% in each of the three preceding fiscal years. We believe that this progress contributed to accelerating construction of this suite of projects. We also believe that there may be room to further improve some areas already addressed, particularly with respect to continuing or multi-year contracting procedures, and we would be happy to work with the Subcommittee to pursue these possible refinements.

An additional trend that we have noted, frankly with some concern, is the relatively flat funding profile that operation and maintenance funding has experience over the past two decades (in constant dollars). We understand from the Corps that this has been true generally with respect to the agency's entire civil works program O&M account as well as with respect to inland waterway navigation O&M spending specifically. During this period, an increasing amount of routine maintenance on inland navigation infrastructure has been deferred. This deferred maintenance has become unfunded maintenance, and the growing level of unfunded maintenance has led the Corps to pursue what is characterized as a "fix-as-fails" O&M policy instead of the preventative maintenance policy that we and the Corps would advocate. Looking forward, we see this tend continuing unless addressed by the Administration and the Congress in the exercise of their respective budget development and execution responsibilities. With the announcement last week of the Administration's budget proposal for fiscal year 2008 and the inclusion in that proposal of a significant increase for Corps O&M, there is reason to have some optimism that progress is beginning to be made in this area, and we are hopeful that this Subcommittee will act this year and beyond to accelerate that hoped-for new trend.

So, good things are happening on the inland waterway modernization front, but much remains to be done. Over the next ten years: there will be no shortage of need for further strong funding for inland waterway system modernization during that timeframe. For example, over $1.3 billion will be needed over the next 10 years to complete just three of the highest priority modernization projects already under construction, namely, the $1.45 billion Olmsted project on the Ohio River, the $750 million Monongahela River Locks and Dams 2,3 and 4 project in Pennsylvania, and the $639.8 million Kentucky Lock and Dam project in Kentucky. Additionally, projects like the $319 million Chickamauga Lock and Dam in Tennessee and the Inner Harbor Navigation Canal project in Louisiana are in the relatively early stages of completion and will also require significant appropriations funding support over the next ten years to reach completion.

And, as has already been discussed, there similarly will be no shortage of need for inland navigation O&M funding in the next ten years.

## Non-project Trends

Mr. Chairman, WCI believes several non-project trends are also very important and relevant to the questions the Subcommittee is examining today at this hearing.

The first, and perhaps most significant, is the expected continued growth of our country's population and, on a global scale, of the world's population. Current Department of Transportation and other projections suggest that the U.S. population is expected to significantly rise in the future. Two weeks ago DOT's Undersecretary of Transportation and Policy told a House of Representatives subcommittee that DOT expects the country's population to increase by more than 60 percent in the next 50 years, which will be accompanied by a quadrupling of our country's Gross Domestic Product (GDP) in that same timeframe. This strong U.S. growth will be mirrored by continued growth in the world's population. As population increases and requires food and housing and energy and the goods that are characteristic of a modern society, the demand for transportation will increase, and as the demand for transportation increases, the importance of the nation's inland waterway system will similarly rise.

Another trend relevant to today's discussion is the alarming increase in surface transportation congestion that our country faces. The United States had 34 metropolitan areas in 1960 with populations over one million; in 2020 it's estimated that there will be more than 60 such areas. While the Texas Transportation Institute has estimated that highway congestion currently costs the nation's economy approximately $63 billion a year, the U.S. DOT estimates this cost is actually closer to $170 billion per year. If the costs of congestion continue to grow in the future at the same 8 percent per year rate that they have been growing for the past 25 years, by 2050 they would be over $6 trillion, more than 14 percent of GDP. The inland waterway system is today helping to relieve the problem of growing congestion because the inland system has available capacity to handle additional traffic. Our waterways increasingly will be asked to help relieve these highway-related congestion-driven costs as the problem worsens. If we make the proper water infrastructure decisions in the coming years, the inland waterway system will contribute substantially to reducing the magnitude of the nation's future congestion problem.

A third emerging trend that may lead to two new potentially significant expansions of waterway traffic appears to be in the earliest stages of development: transportation of alternative energy supplies and container-on-barge commercial shipping.

As the nation moves in the direction of energy self-sufficiency and alternative energy use, relatively new commercial products increasingly may be transported on our inland waterway system. Public policy goals are being discussed today that would have 35 billion gallons of alternative fuels---ethanol, soy-based biodiesel, biobutanol and liquefied coal, for example---in use in our country within ten years, a major increase from 2006's volume of 4.9 million gallons. The ethanol component alone is expected to double in the next three years in the United States. As capacity and demand for ethanol grows throughout the United States, the 3 to 5 percent of total ethanol that currently moves on the inland waterways can also be expected to increase significantly. And the byproduct of the production of ethanol, i.e., dry distillers grain used

primarily for animal feed, is likely also to be transported by water to both domestic and foreign markets.

The second area of potential growth in waterway utilization is the blossoming container-on-barge business, which is increasingly being recognized as a viable, efficient and cost-effective way to move commercial goods to market and, in the process, help mitigate congestion on the country's surface transportation system. The container-on-barge concept has the very strong promise of being a significant part of the overall solution to our country's longer-term transportation challenge.

As both of these emerging areas mature, the need will further increase to be assured that the nation possesses the modern, reliable inland waterway system required to support those new system uses.

## Recommendations

As the Subcommittee begins to make the decisions that will be reflected in appropriations legislation this year and beyond, WCI respectfully offers the following recommendations for your consideration.

Timely appropriations. WCI strongly recommends that a way be found to enable the Congress to complete annual Energy and Water Development appropriations bills covering an entire fiscal year prior to the start of that fiscal year. For a number of reasons, inland waterway infrastructure funding has too often been provided through Continuing Resolutions of various durations instead of through full-year appropriations bills enacted prior to the beginning of the relevant fiscal year. This has occurred despite the best efforts and strong record of this Subcommittee and its Members to develop and pass the Energy and Water Development appropriations bill in a timely fashion. As the Subcommittee Members know and have tried to prevent, when funding is provided in short-term increments through stopgap measures like Continuing Resolutions, needless uncertainties and inefficiencies are imposed upon an already complex engineering management process. Project costs are increased, completion dates are postponed, benefits to the nation delayed, and sponsors of project cost-sharing are alienated.

Continue to appropriate the surplus in the Inland Waterways Trust Fund. This Committee has been extremely supportive of spending industry-contributed Inland Waterways Trust Fund monies on important lock and dam modernization projects throughout the nation. As a result the surplus in the Trust Fund has finally begun to decline and projects are being constructed on more efficient schedules. Based on the Subcommittee's work so far relating to FY 2007, it appears likely that this trend will continue during the current fiscal year, and what was a $250 million surplus at the beginning of the year will appreciably decline by the end of FY 2007. WCI urges the Subcommittee to continue this trend during fiscal year 2008.

Focus construction funding on priority projects. WCI favors and recommends a logical, staged approach built around a set of prioritized projects. When available construction and major

rehabilitation funding is thinly spread over a large number of projects, such that few or none of those projects are constructed pursuant or close to an efficient construction schedule, the nation loses more than it gains in our opinion. In recent years this Subcommittee has been very supportive of attempting to avoid the "too thin" approach in appropriations decisions for capital construction projects on the inland waterways. WCI generally agrees with this approach and, in our advocacy efforts, we try to follow the prioritized project recommendations that are developed annually by the Inland Waterways User Board. We recognize, of course, that particularly with large construction projects like those financed from the Inland Waterways Trust Fund which require long lead times for design and preliminary engineering work and have relatively low early-year construction costs, there can't be an "all or nothing" approach and that it can and often does make good fiscal and engineering sense to start one or more projects before other projects are completed. One area where we feel the Subcommittee may have drawn the line a little too tightly in the recent past is funding for the Inner Harbor project in Louisiana and the Kentucky Lock and Dam project in Kentucky. WCI and the Inland Waterways Users Board consider both of these to be high priority projects deserving of strong annual appropriations.

Increase O&M funding support for inland navigation projects. Waterways Council and its members have concentrated their advocacy efforts most heavily on the capital side of the infrastructure investment equation. However, we have become increasingly aware of the need to draw the attention of policy makers to the other side of that equation, i.e., to the critically important need for additional funding to operate and maintain the current inland navigation system. We understand from the Corps of Engineers that funding for inland navigation O&M has remained relatively flat for the past two decades. This flat funding coupled with the increasing age and deterioration of the system has caused the Corps to pursue what they and others refer to as a "fix-as-fails" O&M strategy, instead of a preventative maintenance approach which is the far preferable approach. WCI is preliminarily encouraged by the Administration's FY 2008 budget for the Corps of Engineers, which we understand recommends a significant increase, more than $200 million nationwide for all types of Corps projects, in the Operation and Maintenance account to begin to address problems such as this. We are currently attempting to better understand how much of that increase is intended for inland navigation needs. In the meantime, we strongly recommend that the Subcommittee work to provide additional funding for inland navigation O&M.

Address the ballooning Harbor Maintenance Trust Fund surplus. While this issue might be considered to fit more naturally in presentations related to coastal navigation, its close connection and importance to the inland portion of our nation's navigation system prompts us to mention it here in this testimony. The Harbor Maintenance Trust Fund which, as the Subcommittee knows, is funded by an ad valorem tax on imports and is intended to pay for the maintenance costs of our nation's deep draft ports and channels, is the only one the four major transportation trust funds (highway, aviation, inland waterways, and harbor maintenance) that is currently experiencing what could be characterized as a ballooning surplus. The highway, aviation and inland trust funds—happily—all now are seeing their surpluses decline because the revenues going into those trust funds are being spent properly to address the purposes for which the trust funds, respectively, were established. The Harbor Maintenance Trust Fund is the lone exception, and the problem is getting worse with each passing year, despite the fact that significant deep draft maintenance work remains undone throughout the country. What was a

$3.2 billion surplus at the beginning of this fiscal year is projected to increase to $3.9 billion by September 30 of this year and $4.7 billion by the end of FY 2008 under the Administration's proposed budget. WCI recommends that this inequitable disparity be addressed as a matter of high priority beginning with the next Energy and Water Development Appropriations Act.

Authorize and fund the Upper Mississippi-Illinois Waterway System Navigation project. Almost 15 years and more than $70 million has been spent studying navigation improvements on the Upper Mississippi and Illinois Rivers. A final Chief of Engineers report recommending construction of seven modernized 1200-foot locks, five on the Mississippi and two on the Illinois, is more than two years old, yet the project still awaits authorization. Waterways Council and its members strongly urge Congress to authorize this long-overdue project and fund its implementation without further delay.

Continue to require Corps five-year development plan. WCI completely supports the Subcommittee's efforts during the past few years to encourage the Corps of Engineers and the Administration to develop an improved five-year plan for inland waterway infrastructure investments and for other types of Corps projects. We are delighted at the progress that has been made in developing these plans, particularly over the past two years, and we urge continued emphasis on this effort. Like you, as reflected in your committee report accompanying the FY2007 Energy and Water Appropriations bill, we are particularly impressed with the work that has been done in the Corps' Great Lakes and Ohio River Division with their Five Year Development Perspective based on risk and reliability parameters. We also note that other Corps divisions are progressing in this area. We support their efforts as well and recommend that the Subcommittee stay the course in its enlightened efforts to develop and improve these plans.

Require effective reprogramming procedures and elimination of Savings and Slippage. As discussed above, in the Energy and Water Development Appropriations Act for FY 2006, Congress made a number of policy-related changes that appear to WCI to have produced positive results in most respects for IWTF-financed and other inland navigation projects. Those changes have been continued thus far for the current fiscal year, which we support. Concerning FY 2008, we have heard some discussion about the possibility of making the reprogramming rules even more effective to eliminate unintended consequences, and we would be happy to work with the Subcommittee and others to develop whatever reprogramming rules adjustments may be necessary to improve their effectiveness.

Support national inland waterway initiatives. One of the significant challenges faced by Corps and stakeholder interests alike is the need for an improved capacity to provide accurate, consistent and reliable metrics related to the performance of the nation's inland waterway system. WCI is aware that the Corps has done significant work leading to the development of a possible proposal for a three-component National Inland Waterway Initiatives research program intended to improve inland waterway traffic forecasts, transportation rate data, and risk assessment. A properly designed and executed program such as this could help identify the value of an individual navigation project by enabling better estimates of project-level benefits and benefits net of costs, two critical performance metrics that need improvement. WCI recommends that the Subcommittee look into this proposal and support its relatively nominal funding requirements if, as appears to us, you conclude that this program is warranted.

Mr. Chairman, before closing, I'd like to offer one final thought. A popular saying is that "We don't just inherit the earth from our parents; we also borrow it from our children." This saying is often used when discussing society's duties related to protecting the quality of our environment, and I completely agree with it in that context. But I also suggest it is equally applicable with respect to the responsibility we all share on behalf of future generations to protect and enhance the economy and standard of living our nation is blessed to enjoy.

The inland waterway infrastructure that is one of the subjects of today's hearing and that this Subcommittee is charged with supporting is a critically important component of the very foundation on which our country's economy and standard of living depend. We must continue to understand that. We must continue to ensure that the citizenry generally understands that. And we all must continue to make enlightened inland waterway system investment decisions, as those who came before us did, to assure the future reliability and modernization of that infrastructure. This Subcommittee is helping to lead the way to secure the realization of that vision. WCI greatly appreciates that leadership, and we pledge our continued support to assist you in your efforts.

I appreciate your attention and would be happy to respond to any questions the Subcommittee Members may have.

Energy and Water Development Subcommittee

# Witness Disclosure Form

**Clause 2(g) of rule XI of the Rules of the House of Representatives requires non-governmental witnesses to disclose to the Committee the following information. A non-governmental witness is any witness appearing on behalf of himself/herself or on behalf of an organization other than a federal agency, or a state, local or tribal government.**

Your Name, Business Address, and Telephone Number:

Daniel P. Mecklenborg, Vice Chairman
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1. Are you appearing on behalf of yourself or a non-governmental organization? Please list organization(s) you are representing.

   Waterways Council, Inc.

2. Have you or any organization you are representing received any Federal grants or contracts (including any subgrants or subcontracts) since October 1, 2004?

   Yes No

3. If your response to question #2 is "Yes", please list the amount and source (by agency and program) of each grant or contract, and indicate whether the recipient of such grant or contract was you or the organization(s) you are representing.

   Not applicable

Signature: Daniel P. Mecklenborg Date: 2/13/07

Please attach a copy of this form, along with your curriculum vitae (resume) to your written testimony.

Daniel P. Mecklenborg

Sr. VP, Human Resources and Chief Legal Officer

Ingram Barge Company

Dan Mecklenborg received his Bachelor of Arts degree in economics from the University of Dayton and his Juris Doctor degree from Salmon P. Chase College of Law. He joined the legal staff of The Ohio River Company, a Cincinnati, Ohio-based barge transportation company, in 1981, as Staff Counsel and was named Associate General Counsel in 1991.

Mr. Mecklenborg joined Nashville, Tennessee-based Ingram Barge Company in 1996, as Vice President, General Counsel and Secretary, and was promoted to Senior Vice President, Human Resources and Chief Legal Officer in 2002. In 2005, Dan assumed responsibility for the company's Planning and Analysis function, in addition to his responsibilities for the Legal and Claims, Human Resources and Safety, Training and Environmental departments.

Dan has extensive experience in all areas of law related to barge transportation, including admiralty law, mergers and acquisitions, environmental compliance, employment and labor law, and governmental relations. He has been actively involved in civic and professional organizations throughout his career. In 2003 he completed a four-year term as a Member and then Chairman of the Inland Waterways Users Board. He currently serves on the Boards of Directors of Waterways Council, Inc. and MARC 2000, through which Dan is active in working to maintain and modernize the inland navigation system of the United States.