The Inland Waterways Trust Fund

In 1824, Congress tasked the U.S. Army Corps of Engineers (USACE) with its first civil works mission – making inland waterway navigation possible.[1] Taxpayers have been paying ever since. The nation's inland waterways system holds the award for the most heavily subsidized form of transportation, while negligible amounts of cargo are shipped on them. Fully 90 percent of the system's costs are borne by taxpayers. The Trust Fund that pays for construction and major rehabilitation on these waterways is insufficient. Yet the barge industry and their USACE advocates are looking to increase the federal subsidy for inland waterways. With the nation facing a more than $15 trillion debt, it's time taxpayers stop carrying water for the barge industry.

<u>Background and Current Policies[2]</u>

For most of the nation's history, inland waterways users contributed little to the costs of constructing and maintaining these waterways to safely handle commercial navigation. After decades of resistance from the commercial beneficiaries of this taxpayer largesse, the Inland Waterways Trust Fund (IWTF) was created as part of the Inland Waterways Revenue Act of 1978.

The IWTF was established to finance construction and major rehabilitation on the nation's inland waterways. Under the IWTF, commercial users of waterways contribute to the trust fund through a modest tax on fuel they use on the waterway system. The fund is then tapped to cover 50 percent of the costs for construction of new dams and navigation locks and major rehabilitation (major maintenance work costing over $8 million) of existing facilities. The other 50 percent of project costs is covered by taxpayers. Once these projects are completed, taxpayers — not users — also pick up 100 percent of the tab for operations and maintenance of the system, currently costing roughly $600 million annually.[3] The aggregate federal expenditures result in a more than 90 percent taxpayer subsidy.

*The Inland Waterway Trust Fund supports – by law – **257 locks at 212 sites** on more than **12,000 miles (19,200 kilometers) of inland waterways.***

Funds for the IWTF come from a $0.20 per-gallon tax on diesel fuel used on 27 stretches of the country's natural and man-made inland waterways (see map). The fuel-taxed waters include most of the largest waterways, including the Ohio, Mississippi, and lower Missouri Rivers, as well as the Gulf and Atlantic Intracoastal waterways. The fuel-taxed inland waterways system carries approximately 4 percent of the nation's total freight traffic tonnage. Within that tota,l the Ohio and Mississippi River systems carry nearly 90 percent of the tonnage transported on inland waterways.

Projects in this system do not automatically receive funds from the IWTF. Instead, Congress must first authorize a project before it is eligible for funding as part of the annual appropriations process. A legislative quirk resulted in a seven year period during which the tax was collected but zero dollars were expended from the trust fund. Only after passage of the Water Resources Development Act of 1986 (WRDA 1986), which established the current cost sharing responsibilities and fuel tax level, did the trust fund contribute to the financing of projects. The lag between tax generated revenue and trust fund expenditures enabled the IWTF to build up a substantial balance and created an expectation of large annual expenditures.

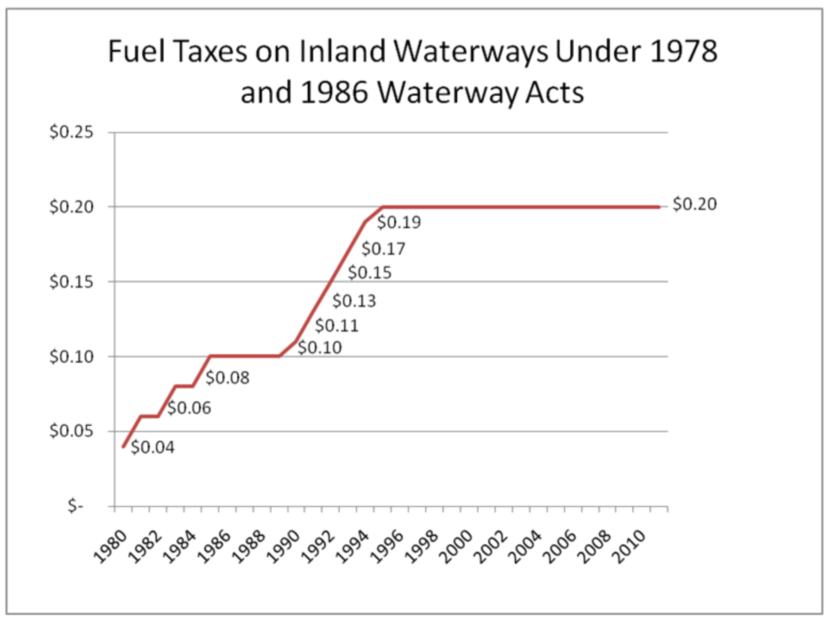
The Inland Waterways Trust Fund pays for 50 percent of construction and major rehabilitation costs on the nation's inland waterways through a $0.20 cent per gallon diesel tax on users.

Another creation of WRDA 1986 is the Inland Waterways Users Board (IWUB). The IWUB is a Congressionally-mandated advisory committee tasked with making recommendations on the priorities and spending from the trust fund. The eleven member board consists of industry representatives from all regions of the fuel-taxed system.[4] The board does not contain any non-industry representatives.[5] Taxpayers fully finance the activities of the board, including providing staffing from the USACE.[6]

Trust Fund Problems

The IWTF was intended to be self-sustaining, but a number of structural flaws and years of mismanagement has resulted in the trust fund being effectively bankrupt.

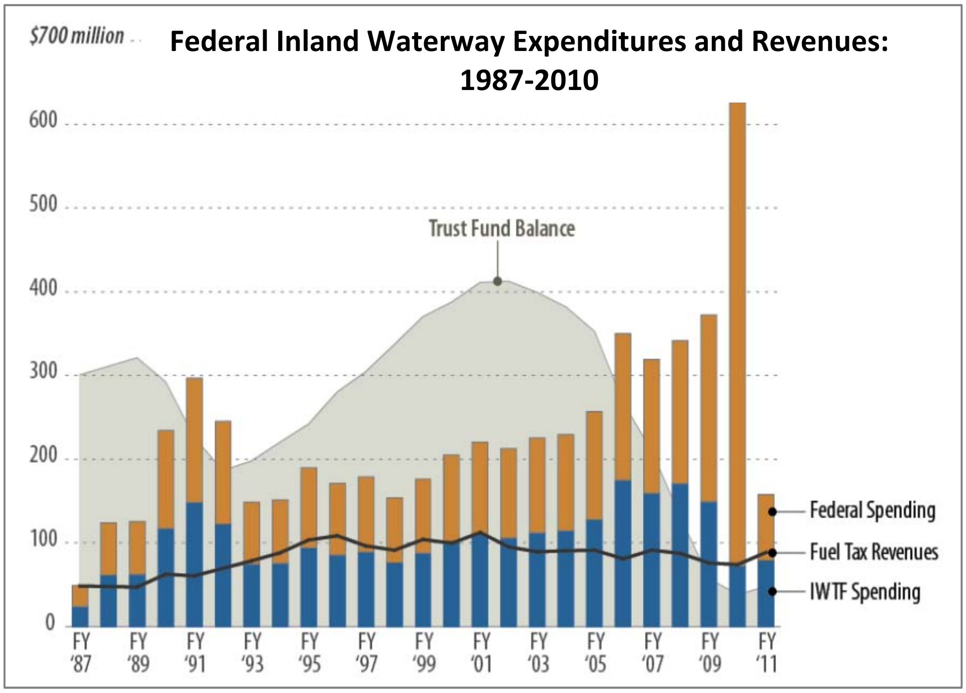
The Revenue Act of 1978 set the inland waterways fuel tax at $0.04 per-gallon in 1981 with increases every one to two years until 1986 when it was to reach $0.10 per-gallon. WRDA 1986 authorized additional increases through 1995 when it reached $0.20 per gallon. A $0.043 per gallon fuel tax was also levied on top of the existing $0.20 tax in 1993 to reduce the federal budget deficit, but later expired.[7] Neither law tied the tax to inflation, thus it has not been increased since 1995 while construction and maintenance costs have continued to rise.



Despite USACE predictions of drastically increasing amounts of commercial freight traffic, the inland waterways system has seen declining or flat traffic for years.[8] Thus a number of projects were built based on unrealistic economic justifications. When the projected traffic failed to materialize, fuel tax revenues did not live up to predictions and costs could not be recouped.

The cost sharing arrangement has also led to pursuit of projects that were not a good investment. Currently, cost share applies to the construction and major rehabilitation of the locks and dams that make navigation feasible. Once a project is built, however, 100 percent of the cost for operating and maintaining that system falls on taxpayers. O&M expenditures greatly exceed the costs of construction and major rehabilitation.

The IWTF itself has been mismanaged. It reached its highest funding level in 2002 at $413 million. Since then, the balance has precipitously declined. Beginning in FY2005, Congress repeatedly appropriated funds from the trust fund that greatly exceeded the annual revenue generated by the fuel tax. Simultaneously, Congress has repeatedly taken extraordinary measures attempting to shore-up the fund, while not addressing the underlying problem of annual revenues not meeting desired annual expenditures. In FY2009, major rehabilitation projects were exempted from cost-sharing requirements. The American Recovery and Investment Act (also known as "the Stimulus") also provided more than $400 million in construction funding with no cost share from the IWTF. By the end of FY2010, the trust fund contained $58.5 million, with only $38.2 million available for new appropriations.[9] While the trust fund has "stabilized," it is only because since FY2009 Congress has prohibited the Corps from entering into new contracts using IWTF funds, and the administration has only requested IWTF appropriations matching funds deposited on an annual basis.



<u>Funding Inland Waterways Transportation – Options for the future…</u>

The original goal for the IWTF was to create a system where user fees would pay for the cost of the transportation investment and help increase equity among transportation modes and various regions of the country. Congress needs to refocus on this goal and increase cost share for those who use the inland waterways to transport their goods. Furthermore, requiring users to pick up at least a small share of the cost of operations and maintenance would create an incentive to only maintain the most critical waterways. Finally, efforts to drastically reduce cost sharing requirements for inland waterways users must be resisted.

Lock Usage Fees Charging companies to use the inland waterways navigation locks is one way of enabling users to generate more revenue for the IWTF. Locks and dams, which make navigation possible on most waterways (the lower Mississippi River being a notable exception) are the most expensive elements of the inland waterways system. A lock usage fee, in place of or in addition to the existing fuel tax, would charge users for their actual use of the locks that enable navigation on these waterways. These fees could vary based on the demand for locks; usage of a lock at a time of high demand would cost more, and could be a tradable commodity amongst companies. This would not only raise revenue, but move traffic more efficiently through existing locks. A lock usage fee was originally included in the 1978 Revenue Act, but was subsequently stripped in final negotiations between the House and Senate. Both the Bush and Obama Administrations also proposed versions of a lock usage fee system that Congress rejected.

Annual User Fee Similar to a lock usage fee, an annual user fee can be charged for any vessel that is eligible to use a lock on the inland waterways system. In 2011 the Obama Administration proposed legislation that would enable the Secretary of the Army to design a two-tier annual user fee system for vessels that transport commercial cargo on the inland waterways. Under the proposed legislation, the fees for vessels that operate on waterways that involve passage of a lock would be higher than fees for vessels that operate on waterways that do not.[10]

Project Prioritization Another means of reining in overspending is to reduce demand for inefficient and unnecessary projects through a process of prioritization. The USACE currently has a backlog of approximately $70 billion of authorized but not yet constructed projects. With an annual construction budget of less than $2 billion, it would take decades for the USACE to simply complete the projects that are already authorized. Congress should de-authorize low performing projects and end federal maintenance on low traffic volume waterways.

Right-Sized User Share Currently, with taxpayers footing the bill for all of the system's annual operations and maintenance costs, plus half the cost of new construction and major rehabilitation, inland waterways are by far the most subsidized (more than a 90 percent subsidy) means of transporting freight in this country.

The Inland Waterways Users Board is advocating for an increase in this subsidy in their proposal the *Inland Marine Transportation Systems (IMTS), Capital Projects Business Model, Final Report, Revision 1* by proposing to further roll back their cost-sharing responsibilities.[11]

Bizarrely, the IWUB recommends treating locks and dams differently, even though dams are an integral part of a lock. Nowhere on a river is a lock constructed except at a dam and a lock's sole purpose is to enable navigation on the waterway. A lock without a dam would be as useful as a doorway without a wall. And in most cases the rivers were dammed simply to assist barge navigation in the first place. Instead of maintaining the 50-50 split for constructing new dams and rehabilitating old ones, they propose shifting it 100 percent to federal taxpayers.

The IWUB also suggests dramatically altering other aspects of cost share that will cost taxpayers dearly. They propose shifting lock rehabilitations costing less than $100 million per project to a 100 percent taxpayer responsibility while maintaining cost share for rehabilitations over $100 million. No lock rehabilitation has ever cost more than $100 million, nor are these rehabilitations likely to cost this much in the future. In addition, the board proposes all project cost increases, which are caused by poor planning, unrealistic expectations, or bad project management, be completely the responsibility of taxpayers. No other USACE project — no other public works project — gets a price guarantee from the Treasury. Taxpayers stand to lose hundreds of millions of dollars if cost-sharing is gutted.

The IWUB's proposal concedes they may need to raise the fuel tax 6 to 9 cents, which would bring the fuel-tax to $0.26 to $0.29 per gallon. But even this modest increase would result in waterways users contributing a few million additional dollars annually, while evisceration of the cost-share responsibilities would put taxpayers on the hook for hundreds of millions of dollars.

Inland Waterways Trust Fund Cost Share Obligations		
Project Type	**Current Law**	**IMTS Recommendations**
New Lock Construction	50% public – 50% IWTF	50% public – 50% IWTF
Lock Rehabilitation above $100 million	50% public – 50% IWTF	50% public – 50% IWTF
Lock Rehabilitation below $100 million	50% public – 50% IWTF	100% public
New Dam Construction	50% public – 50% IWTF	100% public
Dam Rehabilitation	50% public – 50% IWTF	100% public
Cost Overruns	50% public – 50% IWTF	100% public

Conclusions

Major changes must be made to the Inland Waterways Trust Fund

Inland waterways users must begin shouldering more of the costs for constructing and operating the inland waterways systems that make their business possible. Currently, inland waterways users pay less than 10 percent of the total costs of operating the system. Congress must oppose efforts to further weaken the inland waterways industry's cost-share requirement, take steps to increase revenue for the IWTF, and create a system of project prioritization based on national interest.

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For more information, visit www.taxpayer.net or contact Joshua Sewell, josh@taxpayer.net

[1] "Historical Time Line 1775–2005" USACE. 2006. http://publications.usace.army.mil/publications/eng-pamphlets/ep870-1-68/timeline.pdf
[2] Stern, Charles V. "Inland Waterways: Recent Proposals and Issues For Congress"Congressional Research Service. July 14, 2011. http://www.fas.org/sgp/crs/misc/R41430.pdf
[3] Letter from Asst. Secretary of the Army (Civil Works) to Chairman James L. Oberstar, December 21, 2010. Available at http://www.taxpayer.net/user_uploads/file/WaterResources/InlandWaterwayTrustFund/JED_Ltr_to_JLO_Re_IWTF_industry_proposal_December_2010.pdf
[4] General Information. Inland Waterways Users Board. 2010. http://www.waterwaysusers.us/index.htm
[5] Board Members. Inland Waterways Users Board. 2010. http://www.waterwaysusers.us/BoardMembers.htm
[6] $878,000, derived from the General Treasury, were appropriated for expenses related to operations of the Inland Waterways Users Board in FY2012. "Division B—Energy and Water Development Appropriations Act, 2012
Joint Explanatory Statement of the Committee of Conference." U.S. House of Representatives Committee on Rules. http://rules.house.gov/Media/file/PDF_112_1/legislativetext/HR2055crSOM/psConference%20Div%20B%20-%20SOMl%20OCR.pdf
[7] Gelb, Bernard A. "Transportation Fuel Taxes Early in the 105th Congress" Congressional Research Service. March 17, 1997. http://www.cnie.org/nle/crsreports/transportation/trans-5.cfm
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[9] Inland Waterways Trust Fund Status Report." Inland Waterways Users Board. April 1, 2011. http://www.waterwaysusers.us/IWTF_Status_65.pdf
[10] Inland Waterways Capital Investment Act of 2011
[11] "Inland Marine Transportation Systems (IMTS) Capital Projects Business Model" Inland Waterways Users Board. April 13, 2010. http://www.waterwaysusers.us/IMTS_Final_Report_13_April_2010_Rev_1.pdf

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