November 22, 2013

The Honorable Barbara Boxer, Chairwoman  
The Honorable David Vitter, Ranking Member  
U.S. Senate  
Committee on Environment and Public Works  
410 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Bill Shuster, Chairman  
The Honorable Nick Rahall, Ranking Member  
U.S. House of Representatives  
Committee on Transportation and Infrastructure  
2165 Rayburn House Office Building  
Washington, D.C. 20515-6256

RE: 2013 S. 601 and H.R. 3080

Dear Senator Boxer, Representative Shuster, Senator Vitter, and Representative Rahall:

On behalf of the Upper Mississippi River Basin Association (UMRBA), I am writing to offer our five member states’ comments on the 2013 Senate Water Resources and Development Act (S. 601) and House Water Resources Reform and Development Act (H.R. 3080). Formed by the Governors of Illinois, Iowa, Minnesota, Missouri, and Wisconsin in 1981, UMRBA represents its member states’ common water resource interests and works collaboratively with Upper Mississippi federal and state agencies as well as other nonfederal partners. The Upper Mississippi states have a vested interest in protecting and enhancing the River’s tremendous local, regional, and national benefits related to commercial navigation, natural resources, water supply, recreation, and more. Thus, the states are committed to collaborative, integrated management of the Upper Mississippi basin for its multiple purposes and offer our thanks for your work on this important legislation. We support the passage of a comprehensive water resources measure that facilitates the construction of critically important projects for commercial navigation, ecosystem restoration, flood risk reduction, water quality and supply, and aquatic nuisance species prevention and control.

Therefore, the Upper Mississippi states offer the following positions on the provisions of the Senate and House water resources measures for your consideration:

**Balancing USACE’s Project Queue** – The Upper Mississippi states support efforts to better manage the U.S. Army Corps of Engineers’ project queue through more timely action on new project authorizations and deliberate consideration for deauthorizing projects that are no longer relevant. However, the states strongly object to any blanket deauthorization of projects. Project authorizations typically involve very deliberate and thorough study, design, and evaluation by the federal government, states, and other nonfederal partners to ensure that these projects are in the national interest and will effectively address particular water resource issues. Thus, while implementation questions remain, the Upper Mississippi states support Senate Section 2049 for a deauthorization process that evaluates a project’s merit as well as the factors that have prevented it from moving forward. In many cases, the lack of sufficient and timely funding is a critical factor in delaying project completion. In regard to future authorization, the states respectfully suggest that Congress should not limit the number of projects that can
be authorized in a given year to a specific mission or geographic area.\textsuperscript{1} History has shown us that, in response to natural disasters or other unforeseen events, there will undoubtedly be situations where multiple projects in a given mission or geographic area will urgently need authorization. For example, damage from several major flood events on the Upper Mississippi in recent years has required extensive repairs to flood control, navigation, and other infrastructure at multiple sites. It is critical that the U.S. Army Corps of Engineers not be restricted in their response to such situations.

\textit{Reforming Project Planning and Environmental Review} – Significant cost overruns and delays in project delivery experienced in recent years have underscored the need for process reforms. Mechanisms to incentivize efficiency, increase accountability, and ensure reliable funding streams are clearly needed. Thus, the Upper Mississippi states support efforts to improve the U.S. Army Corps of Engineers’ project delivery processes to accelerate project completion and lower costs while ensuring appropriate review and resource protection. The states support formalizing the U.S. Army Corps of Engineers’ “3x3x3” planning targets to make project planning more efficient and cost-effective and planning documents more concise and actionable.\textsuperscript{2} However, the concept should only be considered as a recommended standard since the targets may not be appropriate for some large-scale or more intricate water resource projects where more intensive designs, evaluations, and interagency coordination are required. The states are encouraged by provisions to create efficiencies in environmental review through early engagement of relevant project partners, incentives to stay on schedule, a programmatic approach to environmental review efforts, increased transparency, and enhanced coordination and communication to avoid misunderstandings and complications late in the planning process.\textsuperscript{3} The states also support the option for the nonfederal sponsor to serve as a joint lead in a project’s environmental review. However, for some large projects, more time may be warranted to accurately assess potential implications from project construction and operation. Consequently, we respectfully suggest that project sponsors be given discretion in determining whether a project’s unique circumstances warrant more lengthy reviews.

\textit{Expanding the Authority for Nonfederal Entities to Advance Projects} – The Upper Mississippi states see much value in providing nonfederal partners with greater opportunities to contribute to project advancement, including direct involvement in project implementation and fiscal contributions. The ability for nonfederal entities to advance and finance projects increases the nation’s capacity to advance critical water resources projects.\textsuperscript{4} The Upper Mississippi states believe that pilot projects are sound means to explore and resolve any issues for nonfederal entities in implementing projects. While there are instances where it will be critical for a nonfederal partner to move forward with a project’s construction prior its authorization (e.g., restoring flood protection following a major disaster), the states would respectfully suggest that providing such authorization be limited to emergency situations. The states would also encourage that any nonfederal financial contributions advance priority projects and do not inappropriately influence project authorizations, sequencing, and associated appropriations.

\textsuperscript{1} Title IV of the Senate measure.
\textsuperscript{2} Section 2032 of the Senate measure; Section 101 of the House measure
\textsuperscript{3} Section 2033 of the Senate measure; Section 103 of the House measure
\textsuperscript{4} Sections 2025-2026 of the Senate measure; Sections 117 and 107-111 of the House measure
Addressing Critical Investment Challenges to Improving Inland Navigation Infrastructure – Commercial navigation on the Upper Mississippi serves as a critical link in the nation’s multi-modal transportation system by connecting the Midwest states to the world economy, moving a wide range of bulk commodities in the most efficient, cost-effective, and environmentally-friendly means. However, after many years of neglect, the navigation infrastructure is in desperate need of maintenance and recapitalization. The Upper Mississippi locks are at risk of catastrophic failure and are now placing a tremendous demand on the U.S. Army Corps of Engineers’ operation and maintenance budget. The Upper Mississippi states are pleased that the Senate and House measures related to inland navigation are very similar and seek to address the nation’s critical infrastructure needs. The states are particularly supportive of the following:

- **Resolving the Inland Waterways Trust Fund revenue shortfalls and exploring cost share modifications to remove constraints on investments** — The states adamantly affirm that any revenue generating mechanism must maintain geographic equity and inland navigation’s cost competitiveness. As part of cost share modifications, the states support increasing the federal share of constructing the Olmsted project in order to advance other critical repair and recapitalization needs, with Olmsted proceeding as scheduled. Because much of the funding from the Trust Fund has been invested in the Olmsted project in recent years, this shift will allow for critical near-term investment in the Upper Mississippi lock and dams. Such investment is necessary to enable our region to remain competitive in the dynamic global economy.

- **Completing a 20-year capital plan for inland and intercoastal waterways to best direct investment based on priority needs** — This plan should ensure an appropriate balance in geographic investment, whereas a few legacy projects have consumed the Inland Waterways Trust Fund for decades. Further, the plan will require timely, adequate, and reliable funding to be effective.

- **Reforming project delivery to increase efficiency and on-time and on-budget completion of projects** — Insufficient project funding levels, lengthy planning processes and documentation, and cost overruns have further diminished the available Inland Waterways Trust Fund revenues. Sound process reforms are necessary to maximize investment and quickly address the significant backlog in identified infrastructure needs.

- **Expanding Inland Waterways User Board roles and responsibilities** — The Board is meant to serve as an independent advisory committee to Congress and the U.S. Army Corps of Engineers that is representative of all geographic areas and industry sectors. Enhancing the Board’s involvement in project sequencing and planning may increase efficiencies in implementation, among other benefits.

- **Ensuring Harbor Maintenance Trust Fund money is allocated to moderate- and low-use harbors** — These smaller-scale harbors are consistently unfunded and in need of infrastructure improvements.

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5 Sections 7004-7005 and 7008 of the Senate measure; Sections 213-216 of the House measure
6 Section 7003 of the Senate measure; Section 212 of the House measure
7 Section 8004 of the Senate measure; Section 202 of the House measure
Enhancing Flood Risk Management – Large-scale floods on the Upper Mississippi and its tributaries, particularly in 1993, 2008, and 2011, disrupted tens of thousands of homes and lives and caused billions of dollars in damages to homes, businesses, crops, and public infrastructure. The economic, environmental, and social benefits of flood response, recovery, and mitigation are profound. The Upper Mississippi states support the consideration of nonstructural measures in flood risk reduction efforts, as well as the establishment of an emergency communication system to notify and provide technical assistance when there is a flood-related threat to life and property. The states also support measures to provide assistance to states and tribal nations in implementing levee safety programs.

Preventing and Controlling the Spread of Harmful Aquatic Nuisance Species – The Upper Mississippi has experienced substantial ecological and economic damages resulting from aquatic nuisance species. The states believe that successful management efforts of aquatic nuisance species will require a mix of prevention and control measures, implemented collaboratively. Thus, the states strongly support appointing U.S. Fish and Wildlife Service to coordinate a multi-agency effort to slow the spread of Asian carp and other aquatic nuisance species in the Upper Mississippi and Ohio River basins and tributaries. A central point of coordination is needed to efficiently and effectively communicate critical information, while also conducting cross-cutting accounting of expenditures. And, the U.S. Fish and Wildlife Service is the appropriate agency to serve in that capacity, as long as the agency is provided sufficient funding.

The states are fully supportive of current efforts to evaluate alternatives to reduce the risks associated with aquatic nuisance species and their interbasin transfer between the Upper Mississippi and Great Lakes basins – i.e., the Great Lakes and Mississippi River Interbasin Study. However, the states oppose Senate Section 5011, which would allow the U.S. Army Corps of Engineers to implement the study’s recommendations prior to its completion and without congressional approval or input from affected states and local governments.

Monitoring and Reducing Risk Associated with Extreme Weather Events – The Upper Mississippi states fully support efforts to reduce risk to life and property related to extreme weather events, particularly greater coordinated and comprehensive management of water resource projects relating to severe flooding and drought conditions. Extreme weather events on the Mississippi River have substantial implications locally, regionally, and nationally. For example, the 2011 flood and 2012 drought on the Upper Mississippi resulted in tremendous costs to local, regional, and national economies, particularly in terms of infrastructure repairs and interruptions to the commercial navigation system. The Upper Mississippi states support systemic monitoring and forecasting mechanisms, which will be crucial in planning future risk reduction measures, as well as in assessing current water levels and evaluating short- and long-term trends.

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8 Section 2040 of the Senate measure; Section 122 of the House measure
9 Section 123 of the House measure
10 Section 6004 and 6009 of the Senate measure; Section 126 of the House measure
11 Section 5018 of the Senate measure; Section 144 of the House measure
12 Section 5023 of the Senate measure
13 Sections 5056 and 5008 of the Senate measure
Thank you for your consideration of the Upper Mississippi states’ shared perspectives on this critical legislation. Again, we appreciate Congress’ substantial efforts in undertaking a comprehensive water resources act that will allow the nation to better address its critical water-related infrastructure needs. Congressional action on this bill signifies that members believe the nation’s water resources are important and are in need of investment. However, the ultimate success of any water resources bill will depend on whether there is appropriate and timely funding to implement projects cost-effectively and efficiently.

Please do not hesitate to contact me if you have any questions or would like to discuss the Upper Mississippi states’ positions in further detail.

Sincerely,

[Signature]

David J. Frederickson
Chair
Upper Mississippi River Basin Association

cc: Senate Water Resources and Development Act Conferees
House Water Resources Reform and Development Act Conferees