

108TH CONGRESS  
2D SESSION

# H. R. 4785

To enhance navigation capacity improvements and the ecosystem restoration plan for the Upper Mississippi River and Illinois Waterway System.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 8, 2004

Mr. HULSHOF (for himself, Mr. BOSWELL, Mrs. EMERSON, Mr. GUTKNECHT, Mr. LEACH, Mr. SHIMKUS, Mr. LAHOOD, Mr. COSTELLO, Mr. MANZULLO, Mr. JOHNSON of Illinois, Mr. EVANS, Mr. AKIN, Mr. SKELTON, Mr. NUSSLE, Mr. PETERSON of Minnesota, Mr. WELLER, Mr. LATHAM, and Mr. KING of Iowa) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To enhance navigation capacity improvements and the ecosystem restoration plan for the Upper Mississippi River and Illinois Waterway System.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. FINDINGS.**

4 Congress finds that—

5 (1) in section 1103(a)(2) of the Water Re-  
6 sources Development Act of 1986 (100 Stat. 4225),  
7 Congress recognized the Upper Mississippi River  
8 System as “a nationally significant ecosystem and a

1 nationally significant commercial navigation system”  
2 and declared that the system “shall be administered  
3 and regulated in recognition of its several purposes”;

4 (2) inaction on construction of new locks will  
5 lead to economic decline, and inaction on implemen-  
6 tation of an enhanced ecosystem restoration pro-  
7 gram will lead to further environmental decline;

8 (3) the Upper Mississippi River and Illinois  
9 Waterway carry approximately 60 percent of the  
10 corn exports of the United States and 45 percent of  
11 the soybean exports of the United States, providing  
12 a significant positive balance of trade benefit for the  
13 Nation;

14 (4) the movement of more than 100,000,000  
15 tons of product supports 400,000 full- and part-time  
16 jobs in the United States, generating over  
17 \$4,000,000,000 in income and \$12,000,000,000 to  
18 \$15,000,000,000 in economic activity;

19 (5) Midwestern utilities use coal, the second  
20 largest category of cargo shipped on the Upper Mis-  
21 sissippi River System, to produce cost-efficient en-  
22 ergy;

23 (6) keeping the cost of transportation lower  
24 through competition between transportation modes  
25 is the United States farmer’s competitive advantage

1 in capturing future global growth in agricultural ex-  
2 ports;

3 (7) United States farm and trade policies work  
4 to open world markets and promote United States  
5 exports, and water resource policy has provided a  
6 low-cost transportation alternative to other modes;

7 (8) the Department of Agriculture projects that  
8 corn exports will grow 44 percent over the next dec-  
9 ade, with a  $\frac{1}{3}$  increase in growth exported through  
10 the Gulf of Mexico;

11 (9) United States exports of soybeans and soy-  
12 bean products topped 1,000,000,000 bushels for the  
13 third straight year in 2003, with roughly 75 percent  
14 exported through the Port of New Orleans via the  
15 Mississippi waterways and its tributaries;

16 (10) those transportation savings—

17 (A) provide higher income to farmers and  
18 rural communities; and

19 (B) generate Federal and State taxes to  
20 support community activities, quality of life,  
21 and national benefits;

22 (11) the construction of new 1,200-foot locks  
23 and lock extensions will provide more than  
24 48,000,000 man-hours of employment over 10 to 15  
25 years;

1           (12) foreign competitors have worked over the  
2           last 10 years to improve foreign transportation in-  
3           frastructure to compete more effectively with United  
4           States production;

5           (13) the inland waterway transportation system  
6           moves 16 percent of the freight in the United States  
7           for 2 percent of the cost, including more than  
8           100,000,000 tons on the Upper Mississippi River  
9           System;

10          (14) the Department of Transportation projects  
11          that freight congestion on the roads and rails in the  
12          United States will double in the next 25 years and  
13          that water transportation will need to play an in-  
14          creasing role in moving freight;

15          (15) the movement of 100,000,000 tons on the  
16          river system in 4,400 15-barge tows out of harms  
17          way would require an equivalent of 4,000,000 trucks  
18          or 1,000,000 rail cars moving directly through our  
19          communities;

20          (16) econometric models are useful analytic  
21          tools to provide valuable information, but are unable  
22          to account for every market trend, development, and  
23          public policy impact;

24          (17) the current capacity of the Upper Mis-  
25          sissippi River System is—

1 (A) declining by 10 percent annually be-  
2 cause of unplanned closures of a 70-year old in-  
3 frastructure; and

4 (B) reducing the potential for sustained  
5 growth;

6 (18) the current 600-foot lock system was de-  
7 signed for steamboats, at a time when 4,000,000  
8 tons moved on the Mississippi River and a total of  
9 2,000,000,000 bushels of corn were produced na-  
10 tionally, compared to today, when 100,000,000 to  
11 120,000,000 tons are shipped and the national pro-  
12 duction of corn exceeds 10,000,000,000 bushels;

13 (19) the 600-foot locks at Locks and Dam Nos.  
14 20, 21, 22, 24, and 25 on the Upper Mississippi  
15 River and LaGrange and Peoria on the Illinois Wa-  
16 terway are operating at 80 percent utilization and  
17 are unable to provide for or process effectively the  
18 volatile growth of traditional export grain markets;

19 (20) based on the current construction schedule  
20 of new locks and dams on the inland system, lock  
21 modernization will need to take place over 30 years,  
22 starting immediately, as an imperative to avoid lost  
23 export grain sales and diminished national competi-  
24 tiveness;

1           (21) the Corps of Engineers has been studying  
2           the needs for national investments on the Upper  
3           Mississippi River System for the last 15 years and  
4           has based initial recommendations on the best avail-  
5           able information and science;

6           (22) the Upper Mississippi and Illinois Rivers  
7           ecosystem consists of hundreds of thousands of acres  
8           of bottomland forests, islands, backwaters, side  
9           channels, and wetlands;

10          (23) the river ecosystem is home to 270 species  
11          of birds, 57 species of mammals, 45 species of am-  
12          phibians and reptiles, 113 species of fish, and nearly  
13          50 species of mussels;

14          (24) more than 40 percent of migratory water-  
15          fowl and shorebirds in North America depend on the  
16          river for food, shelter, and habitat during migration;

17          (25) the annual operation of the Upper Mis-  
18          sissippi River Basin needs to take into consideration  
19          opportunities for ecosystem restoration;

20          (26) development since the 1930s has altered  
21          and reduced the biological diversity of the large flood  
22          plain river systems of the Upper Mississippi and Illi-  
23          nois Rivers;

1           (27) Congress recognizes the need for signifi-  
2           cant Federal investment in the restoration of the  
3           Upper Mississippi and Illinois River ecosystems;

4           (28) the Upper Mississippi River System pro-  
5           vides important economic benefits from recreational  
6           and tourist uses, resulting in the basin's receiving  
7           more visitors annually than most National Parks,  
8           with the ecosystems and wildlife being the main at-  
9           tractions;

10          (29) the Upper Mississippi River System—

11                (A) includes 284,688 acres of National  
12                Wildlife Refuge land that is managed as habitat  
13                for migratory birds, fish, threatened and endan-  
14                gered species, and a diverse assortment of other  
15                species and related habitats; and

16                (B) provides many recreational opportuni-  
17                ties; and

18          (30) the Upper Mississippi River System also  
19           includes over 975,000 acres of land protected by lev-  
20           ees and needs a balanced ecosystem restoration pro-  
21           gram that adequately considers the existing network  
22           of flood control infrastructure that protects thou-  
23           sands of homes and businesses.

1 **SEC. 2. ENHANCED NAVIGATION CAPACITY IMPROVE-**  
2 **MENTS AND ECOSYSTEM RESTORATION PLAN**  
3 **FOR THE UPPER MISSISSIPPI RIVER AND IL-**  
4 **LINOIS WATERWAY SYSTEM.**

5 (a) DEFINITIONS.—In this section, the following defi-  
6 nitions apply:

7 (1) PLAN.—The term “Plan” means the pre-  
8 ferred integrated plan contained in the document en-  
9 titled “Integrated Feasibility Report and Pro-  
10 grammatic Environmental Impact Statement for the  
11 UMR–IWW System Navigation Feasibility System”  
12 and dated April 29, 2004.

13 (2) SECRETARY.—The term “Secretary” means  
14 the Secretary of the Army.

15 (3) UPPER MISSISSIPPI RIVER AND ILLINOIS  
16 WATERWAY SYSTEM.—The term “Upper Mississippi  
17 River and Illinois Waterway System” means the  
18 projects for navigation and ecosystem restoration au-  
19 thorized by Congress for—

20 (A) the segment of the Mississippi River  
21 from the confluence with the Ohio River, River  
22 Mile 0.0, to Upper St. Anthony Falls Lock in  
23 Minneapolis-St. Paul, Minnesota, River Mile  
24 854.0; and

25 (B) the Illinois Waterway from its con-  
26 fluence with the Mississippi River at Grafton,

1 Illinois, River Mile 0.0, to T.J. O'Brien Lock in  
2 Chicago, Illinois, River Mile 327.0.

3 (b) AUTHORIZATION OF CONSTRUCTION OF NAVIGA-  
4 TION IMPROVEMENTS.—

5 (1) SMALL SCALE AND NONSTRUCTURAL MEAS-  
6 URES.—At a cost of \$24,000,000 in funds from the  
7 general fund of the Treasury, to be matched in an  
8 equal amount from the Inland Waterways Trust  
9 Fund (which is paid by private users), the Secretary  
10 shall—

11 (A) construct mooring facilities at Locks  
12 12, 14, 18, 20, 22, 24, and LaGrange Lock;

13 (B) provide switchboats at Locks 20  
14 through 25 over 5 years for project operation;  
15 and

16 (C) conduct development and testing of an  
17 appointment scheduling system.

18 (2) NEW LOCKS.—At a cost of \$730,000,000 in  
19 funds from the general fund of the Treasury, with  
20 an equal matching amount provided from the Inland  
21 Waterways Trust Fund (which is paid by the private  
22 users), the Secretary shall construct new 1,200-foot  
23 locks at Locks 20, 21, 22, 24, and 25 on the Upper  
24 Mississippi River and at LaGrange Lock and Peoria  
25 Lock on the Illinois Waterway.

1           (3) MITIGATION.—At a cost of \$100,000,000 in  
2 funds from the general fund of the Treasury, with  
3 an equal matching amount provided from the Inland  
4 Waterway Trust Fund (which is paid by private  
5 users), the Secretary shall conduct mitigation for  
6 new locks and small scale and nonstructural meas-  
7 ures authorized under paragraphs (1) and (2).

8           (c) ECOSYSTEM RESTORATION AUTHORIZATION.—

9           (1) OPERATION.—To ensure the environmental  
10 sustainability of the existing Upper Mississippi River  
11 and Illinois Waterway System, the Secretary shall  
12 modify, consistent with requirements to avoid any  
13 adverse effects on navigation, the operation of the  
14 Upper Mississippi River and Illinois Waterway Sys-  
15 tem to address the cumulative environmental im-  
16 pacts of operation of the system and improve the ec-  
17 ological integrity of the Upper Mississippi River and  
18 Illinois River.

19           (2) ECOSYSTEM RESTORATION PROJECTS.—

20           (A) IN GENERAL.—The Secretary shall  
21 carry out, consistent with requirements to avoid  
22 any adverse effects on navigation, ecosystem  
23 restoration projects to attain and maintain the  
24 sustainability of the ecosystem of the Upper  
25 Mississippi River and Illinois River in accord-

1           ance with the general framework outlined in the  
2           Plan.

3                   (B)   PROJECTS   INCLUDED.—Ecosystem  
4           restoration projects may include—

- 5                   (i) island building;
- 6                   (ii) construction of fish passages;
- 7                   (iii) floodplain restoration;
- 8                   (iv) water level management (includ-
- 9                   ing water drawdown);
- 10                  (v) backwater restoration;
- 11                  (vi) side channel restoration;
- 12                  (vii) wing dam and dike restoration
- 13                  and modification;
- 14                  (viii) island and shoreline protection;
- 15                  (ix) topographical diversity;
- 16                  (x) dam point control;
- 17                  (xi) use of dredged material for envi-
- 18                  ronmental purposes;
- 19                  (xii) tributary confluence restoration;
- 20                  (xiii) spillway modification to benefit
- 21                  the environment;
- 22                  (xiv) land easement authority; and
- 23                  (xv) land acquisition.

24                   (C) COST SHARING.—

1 (i) IN GENERAL.—Except as provided  
2 in clause (ii), the Federal share of the cost  
3 of carrying out an ecosystem restoration  
4 project under this paragraph shall be 65  
5 percent.

6 (ii) EXCEPTION FOR CERTAIN RES-  
7 TINATION PROJECTS.—In the case of a  
8 project under this paragraph for ecosystem  
9 restoration, the Federal share of the cost  
10 of carrying out the project shall be 100  
11 percent if the project—

12 (I) is located below the ordinary  
13 high water mark or in a connected  
14 backwater;

15 (II) modifies the operation or  
16 structures for navigation; or

17 (III) is located on federally  
18 owned land.

19 (iii) NONGOVERNMENTAL ORGANIZA-  
20 TIONS.—Nongovernmental organizations  
21 shall be eligible to contribute the non-Fed-  
22 eral cost-sharing requirements applicable  
23 to projects under this paragraph.

24 (D) LAND ACQUISITION.—The Secretary  
25 may acquire land or an interest in land for an

ecosystem restoration project from a willing owner through conveyance of—

(i) fee title to the land; or

(ii) a flood plain conservation easement.

(3) SPECIFIC PROJECTS AUTHORIZATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the ecosystem restoration projects described in paragraph (2) shall be carried out at a total construction cost of \$1,460,000,000.

(B) LIMITATION ON AVAILABLE FUNDS.—

Of the amounts made available under subparagraph (A), not more than \$35,000,000 for each fiscal year shall be available for land acquisition under paragraph (2)(D).

(4) IMPLEMENTATION REPORTS.—

(A) IN GENERAL.—Not later than June 30, 2005, and every 4 years thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an implementation report that—

1 (i) includes baselines, benchmarks,  
2 goals, and priorities for ecosystem restora-  
3 tion projects; and

4 (ii) measures the progress in meeting  
5 the goals.

6 (B) ADVISORY PANEL.—

7 (i) IN GENERAL.—The Secretary shall  
8 appoint and convene an advisory panel to  
9 provide independent guidance in the devel-  
10 opment of each implementation report  
11 under subparagraph (A).

12 (ii) PANELISTS.—Panelists shall in-  
13 clude—

14 (I) 1 representative of each of  
15 the State resource agencies (or a des-  
16 ignee of the Governor of the State)  
17 from each of the States of Illinois,  
18 Iowa, Minnesota, Missouri, and Wis-  
19 consin;

20 (II) 1 representative of the De-  
21 partment of Agriculture;

22 (III) 1 representative of the De-  
23 partment of Transportation;

24 (IV) 1 representative of the  
25 United States Geological Survey;

1 (V) 1 representative of the  
2 United States Fish and Wildlife Serv-  
3 ice;

4 (VI) 1 representative of the Envi-  
5 ronmental Protection Agency;

6 (VII) 1 representative of affected  
7 landowners;

8 (VIII) 2 representatives of con-  
9 servation and environmental advocacy  
10 groups; and

11 (IX) 2 representatives of agri-  
12 culture and industry advocacy groups.

13 (iii) CO-CHAIRPERSONS.—The Sec-  
14 retary and the Secretary of the Interior  
15 shall serve as co-chairpersons of the advi-  
16 sory panel.

17 (d) AUTHORIZATION OF APPROPRIATIONS.—

18 (1) IN GENERAL.—There are authorized to be  
19 appropriated such sums as may be necessary to  
20 carry out subsection (c) for fiscal years 2006  
21 through 2020.

22 (2) SPECIAL RULES.—After fiscal year 2020—

23 (A) funds that have been made available  
24 under this subsection, but have not been ex-  
25 pended, may be expended; and

1                   (B) funds that have been authorized to be  
2           appropriated by this subsection, but have not  
3           been made available, may be made available.

○