

WATERWAYS FUEL TAX

HEARING
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
NINETY-FIFTH CONGRESS
FIRST SESSION
ON
TITLE II of H.R. 8309
THE WATERWAYS FUEL TAX

OCTOBER 21, 1977

Printed for the use of the Committee on Finance



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WATERWAYS FUEL TAX

FRIDAY, OCTOBER 21, 1977

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.

The committee convened, pursuant to notice, at 2:15 p.m., in room 2221, Dirksen Senate Office Building, the Hon. Russell B. Long, chairman, presiding.

Present: Senators Long, Nelson, Gravel, Curtis, Hansen, Dole, and Danforth.

[The committee press release announcing this hearing and the bill H.R. 8309 follows:]

COMMITTEE ON FINANCE ANNOUNCES HEARINGS ON PROPOSED WATERWAYS FUEL TAX (TITLE II OF H.R. 8309)

The Honorable Russell B. Long (D., La.), Chairman of the Committee on Finance, today announced that a hearing will be held on Friday, October 21, on the proposed waterways fuel tax (Title II of H.R. 8309).

This title would impose a tax of 4 cents per gallon (6 cents per gallon after September 1981) on fuel used in inland or intracoastal commercial water transportation. This measure is scheduled to be acted on by the Senate after the Committee has taken action on the tax provisions in Title II.

The hearings will begin at 2:00 P.M. in Room 2221 of the Dirksen Senate Office Building.

The lead-off witness will be The Honorable Brock Adams, Secretary of Transportation, who will present the Administration's views.

Witnesses who desire to testify at this hearing should contact Michael Stern, Staff Director, Committee on Finance, by close of business on Thursday, October 20.

Written Statements.—Senator Long stated that the Committee would be pleased to receive written statements from those persons or organizations who wish to submit statements for the record. Statements submitted for inclusion in the record should be typewritten, not more than 25 double-spaced pages in length, and mailed with five (5) copies by the close of business October 24, 1977, to Michael Stern, Staff Director, Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510.

Calendar No. 459

95TH CONGRESS
1ST SESSION**H. R. 8309**

IN THE SENATE OF THE UNITED STATES

OCTOBER 17 (legislative day, OCTOBER 11), 1977

Received and read the first time

OCTOBER 19, 1977

Read the second time and ordered to be placed on the calendar

AN ACT

Authorizing certain public works on rivers for navigation, and
for other purposes.

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

3 TITLE I

4 SEC. 101. This title may be cited as the "Navigation
5 Development Act".

6 SEC. 102. (a) The Secretary of the Army, acting
7 through the Chief of Engineers, is authorized to replace
8 locks and dam 26, Mississippi River, Alton, Illinois and
9 Missouri, by constructing a new dam and a single, one-
10 hundred-and-ten-foot by one-thousand-two-hundred-foot lock

1 at a location approximately two miles downstream from the
2 existing dam, substantially in accordance with the recom-
3 mendations of the Chief of Engineers in his report on such
4 project dated July 31, 1976, at an estimated cost of
5 \$421,000,000.

6 (b) The channel above Cairo, Illinois, on the Missis-
7 sippi River shall not exceed nine feet, and neither the Sec-
8 retary of the Army nor any other Federal official shall study
9 the feasibility of deepening the navigation channels in the
10 Minnesota River, Minnesota; Black River, Wisconsin; Saint
11 Croix River, Minnesota and Wisconsin; the Mississippi River
12 north of Cairo, Illinois; the Kaskaskia River, Illinois; and
13 the Illinois River and Waterway, Illinois, unless specifically
14 authorized by a future Act of Congress.

15 (c) There are authorized to be appropriated to the
16 Secretary of the Army such sums as are necessary to carry
17 out the provisions of subsection (a) of this section for fiscal
18 year 1978 and succeeding fiscal years.

19 SEC. 103. (a) The Congress hereby authorizes and
20 directs the preparation of a comprehensive master plan for
21 the management of the Upper Mississippi River to be pre-
22 pared by the Upper Mississippi River Basin Commission
23 (hereinafter referred to as the "Commission"), acting
24 through the Great River Environmental Action Team, and in
25 cooperation with the appropriate Federal, State, and local

1 officials. A preliminary plan shall be prepared by January 1,
2 1981. The plan shall be subject to public hearings in each
3 affected State. The Commission shall review all comments
4 presented at such hearings and submitted in writing to the
5 Commission and shall make any appropriate revisions in the
6 preliminary plan, and shall, by January 1, 1982, submit to
7 the Congress for approval a final master plan. Public partici-
8 pation in the development, revision, and enforcement of said
9 plan shall be provided for, encouraged, and assisted by the
10 Commission. The Commission shall, within one hundred and
11 fifty days of enactment of this Act, publish final regulations
12 in the Federal Register specifying minimum guidelines for
13 public participation in such processes. Approval of the final
14 master plan shall be granted only by enactment of the
15 Congress. Changes to the master plan proposed by the
16 Commission shall require enactment by the Congress to be-
17 come effective. All related activities inconsistent with the
18 master plan or guidelines shall be deemed unlawful.

19 (b) The master plan authorized under subsection (a)
20 of this section shall identify the various economic, recrea-
21 tional, and environmental objectives of the Upper Mississippi
22 River System, recommend guidelines to achieve such objec-
23 tives, and propose methods to assure compliance with such
24 guidelines and coordination of future management decisions
25 affecting the Upper Mississippi River System, and include

1 any legislative proposals which may be necessary to carry
2 out such recommendations and objectives.

3 (c) For the purposes of developing the comprehensive
4 master plan, the Commission is authorized and directed to
5 conduct such studies as it deems necessary to carry out its
6 responsibilities under this section, with provision that it uti-
7 lize, to the fullest extent possible, the resources and results
8 of the Upper Mississippi River resources managements
9 (GREAT) study conducted pursuant to section 117 of the
10 Water Resources Development Act of 1976 (Public Law
11 94-587) and of other ongoing or past studies. The Com-
12 mission shall request appropriate Federal, State, or local
13 agencies to prepare such studies, and any Federal agency
14 so requested is authorized to conduct any such study for the
15 purpose of this section. Studies conducted pursuant to this
16 section shall include, but not be limited to the following:

17 1. The carrying capacity of the Upper Mississippi
18 River System, and (b) the long- and short-term sys-
19 temic ecological impacts of (i) present and any pro-
20 jected expansion of navigation capacity on the fish and
21 wildlife, water quality, wilderness, and public recrea-
22 tional opportunities of said rivers, (ii) present operation
23 and maintenance programs, (iii) the means and meas-
24 ures that should be adopted to prevent or minimize loss
25 of or damage to fish and wildlife, and (iv) a specific

1 analysis of the immediate and systemic environmental
2 effects of any second lock at Alton, Illinois, and provide
3 for the mitigation and enhancement of such resources.

4 2. The relationship of any expansion of navigational
5 capacity of the Upper Mississippi River System to na-
6 tional transportation policy, (b) the direct and indirect
7 effects of any expansion of navigational capacity of the
8 Nation's railroads and on shippers dependent upon rail
9 service, (c) the transportation costs and benefits to the
10 Nation to be derived from any expansion of navigational
11 capacity on said River System, and (d) a specific evalu-
12 ation of the need for a second lock at Alton, Illinois, and
13 the direct and indirect systemic effects and needs for such
14 a second lock at Alton, Illinois. For the purposes of this
15 paragraph, the Secretary of the Army acting through
16 the Chief of Engineers shall be considered the primary
17 agency with the cooperation of any other agencies the
18 Commission shall deem appropriate.

19 3. Studies and demonstration programs, including
20 a demonstration program to evaluate the benefits and
21 costs of disposing of dredge spoil material in contained
22 areas located out of the flood plain. Said program shall
23 include, but shall not be limited to, the evaluation of
24 possible uses in the marketplace for the dredge spoil
25 studies and demonstration programs to minimize the

1 environmental effects of channel operation and main-
2 tenance activities.

3 4. Development for the Upper Mississippi River
4 System of a computerized analytical inventory and sys-
5 tem analysis to facilitate evaluation of the comparative
6 environmental effects of alternative management pro-
7 posals.

8 (d) Guidelines developed pursuant to this section shall
9 include, but not be limited to, guidelines for channel mainte-
10 nance, minimization of dredging volumes, alternate uses of
11 dredged material, barge fleetng, protection of water quality,
12 fish and wildlife protection and enhancement, wilderness
13 preservation, and management of the wildlife and fish
14 refuges within and contiguous to the Upper Mississippi
15 River System.

16 (e) To carry out the provisions of this section, there
17 are authorized to be appropriated to the Commission
18 \$20,000,000. The Commission is authorized to transfer funds
19 to such Federal, State, or local government agencies as it
20 deems necessary to carry out the studies and analysis
21 authorized in this section.

22 (f) The Upper Mississippi River System consists of
23 those river reaches containing commercial navigation chan-
24 nels on the Mississippi River main stem north of Cairo,

1 Illinois; the Minnesota River, Minnesota; Black River,
2 Wisconsin; and Saint Croix River, Minnesota and Wisconsin.

3 (g) Except for the provisions of section 102 of this
4 Act, and necessary operation and maintenance activities, no
5 replacement, construction, or rehabilitation that expands
6 the navigation capacity of locks, dams, and channels shall
7 be undertaken by the Secretary of the Army to increase
8 the navigation capacity of the Upper Mississippi River
9 System, until the master plan prepared pursuant to this
10 section has been approved by the Congress.

11 (h) The lock and dam authorized pursuant to section
12 102 of this Act shall be designed and constructed to provide
13 for possible future expansion. All other navigation-related
14 construction activities initiated by the Secretary of the Army
15 on the Upper Mississippi River north of Cairo, Illinois, shall
16 be initiated only in accordance with the guidelines set forth
17 in the master plan.

18 SEC. 104. The following inland and intracoastal water-
19 ways of the United States are subject to this Act:

20 (1) Alabama-Coosa Rivers: From junction with the
21 Tombigbee River at river mile (hereinafter referred to
22 as RM) 0 to junction with Coosa River at RM 314.

23 (2) Allegheny River: From confluence with the
24 Monongahela River to form the Ohio River at RM 0 to

1 the head of the existing project at East Brady, Pennsyl-
2 vania, RM 72.

3 (3) Apalachicola-Chattahoochee and Flint Rivers:
4 Apalachicola River from mouth at Apalachicola Bay
5 (intersection with the Gulf Intracoastal Waterway)
6 RM 0 to junction with Chattahoochee and Flint Rivers at
7 RM 107.8. Chattahoochee River from junction with
8 Apalachicola and Flint Rivers at RM 0 to Columbus,
9 Georgia, at RM 155; and Flint River, from junction
10 with Apalachicola and Chattahoochee Rivers at RM 0
11 to Bainbridge, Georgia, at RM 28.

12 (4) Arkansas River (McClellan-Kerr Arkansas
13 River Navigation System) : From junction with Missis-
14 sippi River at RM 0 to port of Catoosa, Oklahoma, at
15 RM 448.2.

16 (5) Atchafalaya River: From RM 0 at its intersec-
17 tion with the Gulf Intracoastal Waterway at Morgan
18 City, Louisiana, upstream to junction with Red River
19 at RM 116.8.

20 (6) Atlantic Intracoastal Waterway: Two inland
21 water routes approximately paralleling the Atlantic
22 coast between Norfolk, Virginia, and Miami, Florida,
23 for 1,192 miles via both the Albermarle and Chesapeake
24 Canal and Great Dismal Swamp Canal routes.

25 (7) Black Warrior-Tombigbee-Mobile Rivers:

1 Black Warrior River System from RM 2.9, Mobile
2 River (at Chickasaw Creek) to confluence with Tom-
3 bigbee River at RM 45. Tombigbee River. (to Demop-
4 olis at RM 215.4) to port of Birmingham, RM's 374-
5 411 and upstream to head of navigation on Mulberry
6 Fork (RM 429.6), Locust Fork (RM 407.8), and
7 Sipsey Fork (RM 430.4).

8 (8) Columbia River (Columbia-Snake Rivers In-
9 land Waterways) : From The Dalles at RM 191.5 to
10 Pasco, Washington (McNary Pool), at RM 330, Snake
11 River from RM 0 at the mouth to RM 231.5 at Johnson
12 Bar Landing, Idaho.

13 (9) Cumberland River: Junction with Ohio River
14 at RM 0 to head of navigation, upstream to Carthage,
15 Tennessee, at RM 313.5.

16 (10) Green and Barren Rivers: Green River from
17 junction with the Ohio River at RM 0 to head of navi-
18 gation at RM 149.1.

19 (11) Gulf Intracoastal Waterway: From St.
20 Mark's River, Florida, to Brownsville, Texas, 1,134.5
21 miles.

22 (12) Illinois Waterway (Calumet-Sag Channel) :
23 From the junction of the Illinois River with the Missis-
24 sippi River RM 0 to Chicago Harbor at Lake Michigan,
25 approximately RM 350.

- 1 (13) Kanawha River: From junction with Ohio
2 River at RM 0 to RM 90.6 at Deepwater, West Vir-
3 ginia.
- 4 (14) Kaskaskia River: From junction with the
5 Mississippi River at RM 0 to RM 36.2 at Fayetteville,
6 Illinois.
- 7 (15) Kentucky River: From junction with Ohio
8 River at RM 0 to confluence of Middle and North Forks
9 at RM 258.6.
- 10 (16) Lower Mississippi River: From Baton Rouge,
11 Louisiana, RM 233.9 to Cairo, Illinois, RM 953.8.
- 12 (17) Upper Mississippi River: From Cairo, Illi-
13 nois, RM 953.8 to Minneapolis, Minnesota, RM 1,811.4.
- 14 (18) Missouri River: From junction with Missis-
15 sippi River at RM 0 to Sioux City, Iowa, at RM 734.8.
- 16 (19) Monongahela River: From junction with Al-
17 legheny River to form the Ohio River at RM 0 to junc-
18 tion of the Tygart and West Fork Rivers, Fairmont,
19 West Virginia, at RM 128.7.
- 20 (20) Ohio River: From junction with the Missis-
21 sippi River at RM 0 to junction of the Allegheny and
22 Monongahela Rivers at Pittsburgh, Pennsylvania, at
23 RM 981.
- 24 (21) Ouachita-Black Rivers: From the mouth of the

1 Black River at its junction with the Red River at RM 0
2 to RM 351 at Camden, Arkansas.

3 (22) Pearl River: From junction of West Pearl
4 River with the Rigolets at RM 0, to Bogalusa, Louisiana,
5 RM 58.

6 (23) Red River: From RM 0 to the mouth of
7 Cypress Bayou at RM 236.

8 (24) Tennessee River: From junction with Ohio
9 River at RM 0 to confluence with Holstein and French
10 Rivers at RM 652.

11 (25) White River: From RM 9.8 to RM 255 at
12 Newport, Arkansas.

13 (26) Willamette River: From RM 21 upstream of
14 Portland, Oregon, to Harrisburg, Oregon, at RM 194.

15 SEC. 105. The authorizations for appropriations con-
16 tained in this Act are for those fiscal years which begin on or
17 after October 1, 1977.

18 TITLE II—TAX ON FUEL USED IN COMMER-
19 CIAL TRANSPORTATION ON INLAND WA-
20 TERWAYS

21 SEC. 201. IMPOSITION OF TAX.

22 (a) Chapter 31 of the Internal Revenue Code of 1954
23 (relating to special fuels) is amended by adding at the end
24 thereof the following new section:

1 "SEC. 4042. TAX ON FUEL USED IN COMMERCIAL TRANS-
2 PORTATION ON INLAND WATERWAYS.

3 "(a) IN GENERAL.—There is hereby imposed a tax
4 upon any liquid used during any calendar quarter by any
5 person as a fuel in a vessel in commercial water transporta-
6 tion.

7 — "(b) AMOUNT OF TAX.—The tax imposed by subsec-
8 tion (a) shall be—

9 " (1) in the case of a use after September 30, 1979,
10 and before October 1, 1981, 4 cents a gallon, or

11 " (2) in the case of a use after September 30, 1981,
12 6 cents a gallon.

13 "(c) EXEMPTIONS.—

14 "(1) DEEP-DRAFT OCEAN-GOING VESSELS.—The
15 tax imposed by subsection (a) shall not apply with re-
16 spect to any vessel designed primarily for use on the
17 high seas which has a draft of more than 12 feet.

18 "(2) PASSENGER VESSELS.—The tax imposed by
19 subsection (a) shall not apply with respect to any vessel
20 used primarily for the transportation of persons.

21 "(3) USE BY STATE OR LOCAL GOVERNMENT IN
22 TRANSPORTING PROPERTY IN A STATE OR LOCAL
23 BUSINESS.—Subparagraph (B) of subsection (d) (1)
24 shall not apply with respect to use by a State or political
25 subdivision thereof.

1 “(d) **DEFINITIONS.**—For purposes of this section—

2 “(1) **COMMERCIAL WATER TRANSPORTATION.**—

3 The term ‘commercial water transportation’ means any
4 use of a vessel on any inland or intracoastal waterway
5 of the United States—

6 “(A) in the business of transporting property
7 for compensation or hire, or

8 “(B) in transporting property in the business
9 of the owner, lessee, or operator of the vessel (other
10 than fish or other aquatic animal life caught on the
11 voyage).

12 “(2) **INLAND OR INTRACOASTAL WATERWAY OF**

13 **THE UNITED STATES.**—The term ‘inland or intra-
14 coastal waterway of the United States’ means any inland
15 or intracoastal waterway of the United States which is
16 subject to the Navigation Development Act by reason of
17 section 103 of such Act (as in effect on the date of the
18 enactment of such Act).

19 “(3) **PERSON.**—The term ‘person’ includes the
20 United States, a State, a political subdivision of a State,
21 or any agency or instrumentality of any of the foregoing.

22 “(e) **DATE FOR FILING RETURN.**—The date for filing
23 the return of the tax imposed by this section for any calendar
24 quarter shall be the last day of the first month following such
25 quarter.”

1 (b) Section 4293 of such Code (relating to exemption
2 for United States and possessions) is amended by striking
3 out "chapters 31 and 32" and inserting in lieu thereof "sec-
4 tion 4041, chapter 32,".

5 (c) The table of sections for chapter 31 of such Code
6 is amended by adding at the end thereof the following new
7 item:

"Sec. 4042. Tax on fuel used in commercial transportation
on inland waterways."

8 (d) The amendments made by this section shall take ef-
9 fect on October 1, 1979. The first proposed regulations under
10 section 4042 of the Internal Revenue Code of 1954 shall be
11 published in the Federal Register not later than the day
12 which is 9 months after the date of the enactment of this Act.

13 TITLE III

14 SEC. 301. (a) The Secretary of Commerce and the
15 Secretary of Transportation jointly shall undertake a study,
16 in consultation with the Secretary of the Treasury, the Secre-
17 tary of Agriculture, the Administrator of the Federal Energy
18 Administration (or his successor), and the Secretary of the
19 Army, and make findings and policy recommendations,
20 regarding any fuel tax imposed on inland waterway users,
21 or alternative or supplemental charges, and on related mat-
22 ters. Such study shall include, but not be limited to, a con-
23 sideration of the following areas:

1 (1) The economic impacts on (i) carriers and
2 shippers using the inland waterways, (ii) users, includ-
3 ing the ultimate consumers, of products which are trans-
4 ported on the inland waterways, and (iii) the balance
5 of payments of the United States based on our inter-
6 national trade. The pricing and diversion effects on
7 competition for freight. The effects upon the costs of
8 energy, and the increases resulting therefrom, if any,
9 in the amounts paid by consumers for energy. An evalu-
10 ation of effects on regional development, including con-
11 sistency with Federal policies as set forth in other legis-
12 lation.

13 (2) The extent to which the Federal Government
14 should seek to recover some or all of Federal expendi-
15 tures for the benefit of waterborne transportation from
16 the users of the facilities for which such expenditures
17 are made.

18 (3) The classes and categories of waterway users
19 upon whom fuel taxes, or other charges, should be
20 imposed.

21 (4) The waterways of the United States (including
22 specifically ports) which should be included in any
23 system of fuel taxes or other forms of charges on users,
24 together with the economic impact and effect on such
25 waterways and users of such inclusion.

1 (5) The comparative levels of benefits received
2 from Federal expenditures on waterways by (i) com-
3 mercial users, and (ii) other users, including, but not
4 limited to, users for recreation, reclamation, water sup-
5 ply, hydroelectric power, flood control, and irrigation
6 purposes.

7 (6) The disposition and application of revenues
8 derived from the taxes and other charges imposed on
9 waterway users, including consideration of trust fund
10 mechanisms.

11 (b) Not later than three years after the date of enact-
12 ment of this Act, the Secretary of Commerce and the Secre-
13 tary of Transportation shall transmit to Congress a final
14 report of the study authorized by this section, together with
15 their findings and recommendations and those of the Secre-
16 tary of the Treasury, the Secretary of Agriculture, the Ad-
17 ministrator of the Federal Energy Administration (or his
18 successor), and the Secretary of the Army.

19 (c) Nothing in this Act shall be construed to prohibit or
20 otherwise restrict the National Transportation Policy Study
21 Commission established by section 154 of Public Law 94-280
22 from studying any matter authorized to be studied by this
23 section, and, notwithstanding subsection (c) of such section
24 154, not later than six months after the submission of the
25 final report by the Secretary of Commerce and the Secretary

1 of Transportation required by subsection (b) of this section,
2 the National Transportation Policy Study Commission shall
3 submit to Congress its evaluation and review of such report,
4 together with its recommendations, including any necessary
5 legislation.

Passed the House of Representatives October 13, 1977.

Attest: EDMUND L. HENSHAW, JR.,
Clerk.

The CHAIRMAN. Let me call this hearing to order. We will hear witnesses on the waterways fuel tax contained in title II of H.R. 8309. Senator Domenici, we are pleased to have you.

**STATEMENT OF HON. PETE DOMENICI, A U.S. SENATOR FROM
THE STATE OF NEW MEXICO**

Senator DOMENICI. Thank you very much, Mr. Chairman.

With your permission I would like to have Hal Brayman of the public works staff here at the table with me.

First, let me say I know how busy the committee has been and I apologize for having to take time this afternoon but I do want to spend just a couple of minutes before I give my formal testimony, Mr. Chairman, telling the committee why I think it is time that we end this fight. In order to place this dispute into perspective, I would like to first make it very clear that this controversy is not something that the Senator from New Mexico dreamt up. In fact every President since Franklin Roosevelt has endorsed charges for waterways. Moreover, the roots of this controversy go back into the middle of the 19th century.

One of the most spectacular episodes of this controversy occurred in 1854 when the State of Illinois authorized the Rock Island Railroad to build a bridge across the Mississippi to hook up rail traffic on an East and West basis. The steamboats, as they were then called, protested since they had established the Mississippi as their major trade route on a North-South basis. After the steamboat interests lost in court, a bridge was built. But mysteriously the next year a steamboat crashed into the bridge and exploded into flames, burning the bridge.

The lawyer for the railroad turned out to be Abraham Lincoln who proved that the explosion was deliberate because the river currents in that area made it impossible for a boat that was out of control to hit the bridge at the particular point.

After a series of suits, the bridge was rebuilt. Of course, the dispute goes on. Lincoln became President and a Civil War ensued.

So I conclude that from my standpoint it is time to end this fight and that is why I am here. I have prepared remarks, Mr. Chairman, that I would ask to make a part of the record and I will summarize my remarks.

I have furnished the committee with a comparison of the House bill and my substitute which has been introduced in the Senate. It is attached to my statement and if the committee wants to go over that with me in detail, I would be pleased to do so, but suffice it to say that the House bill is not adequate to correct the imbalance that presently exists between this mode of transportation called commercial barges and other modes of transportation.

I would like to state to the committee that we have spent \$2,185 million on projects on this system since 1967. Projects now under construction carry an authorized amount of \$3,343 million. Projects authorized but not under construction will amount to \$4,272 million.

It is established, I would say, all of those dollars come from the general taxpayers of America. In addition to that, based on this year's estimates, we will spend about \$200 million in maintaining this inland system principally for the commercial barges.

Now when you take all of that, the House-passed bill—I commend them for taking one step, a step which has never been taken heretofore—will yield annual revenues of somewhere between \$30 million and \$40 million. Now that is why I say it is merely a first step. Under the Senate's bill, we will give full credit to fuel taxes of the type imposed by the House's bill and then we will project beyond that for 8 years and we will attempt to collect from the commercial barges approximately \$250 million a year by the year 1990.

Now I know that this committee is concerned about the impact of these charges on this mode of transportation and I can say with all sincerity that I don't come before you nor do I go to the floor with any idea of penalizing any mode of transportation in favor of another.

In fact, I will say to the committee it was quite by accident that I got involved in this matter. I thought the \$421 million lock and dam 26 was the critical issue before the Public Works Committee when I started, and as I began to ask questions about better operational activities in the river, I found that the barge companies thought that was none of our business although presumably it was our business to build the new lock for \$421 million but it was their business how they used it.

It was only then that it became apparent to me that it was of concern to the Congress as to whether or not they were paying their fair share of that which the taxpayers were paying on their behalf and then I noticed that a number of Senators equally as concerned as I, some of whom are on this committee, are genuinely concerned about the impact of these charges on this mode of transportation. Suffice it to say that I would not be here if I thought there was going to be some permanent and irreparable damage to this successful mode of transportation because, as a matter of fact, it is the cheapest mode even if we were not subsidizing it. They are blessed with these waterways, and you run up and down then much cheaper than building anything else.

But it is only when the Federal Government pays a couple of billion dollars for these projects, and between \$150 and \$180 million in operation and maintenance, that I begin to ask why, and the answer that I get is that we cannot continue to do that.

I would not proceed if I thought it would really put them at a competitive disadvantage and I want to cite for the record for you the evidence I have as to whether or not they will be damaged. I have a typical barge fee for 1 ton of grain, Mr. Chairman, from Peoria to the Gulf. I am informed that the tonnage rate for barges is \$4.75. The railroads for the same distance, the same tonnage, varies between \$6 and \$11. For trucks its approximates \$30.

Now the bill that I recommend and will submit to the Senate will add about 60 cents, Mr. Chairman—about 60 cents—to a ton of grain over that same distance that I have just described. That will nonetheless leave the barges of this country as the most competitive mode of transportation by far and when fully implemented will still have us subsidizing them for 50 percent of all the capital improvements that we will vote out in their behalf in years to come.

Now when you look at it that way you then have to answer the question that Senator Danforth asked me on the floor: Well, will they still be hurt? Haven't they planned for the future? How do you know that they won't be hurt?

I can only say that I believe they will remain most competitive. I believe that they may not grow as fast as they have grown but I must say that that is the fastest growing mode of transportation in the United States by many fold and if, as a matter of fact, to pay just some portion of the tax dollars that go into their competitive edge caused that to grow just a little bit less rapidly, I don't believe anyone would be hurt. Quite to the contrary, it appears to me that Americans would benefit because to the extent that we have more fairness in terms of the different modes of transportation, there is more of a chance that we will not have to subsidize the other modes of transportation and that we might find a way to rebuild the railroad system in this country. But so long as the competitive advantage which is natural is subsidized by Federal tax dollars to the extent that it is now, it appears to me that we will engage ourselves in the future in a game of which subsidy follows which subsidy and we will keep this one and then we will have to put more on the railroads and that will go on ad infinitum.

Now I think the fact that we have been in a struggle over the Federal Government's role for all these years and focus in on it today, that a few things should be understood. First of all, we have already built the inland waterway system of this country once. In a couple of instances we have built facilities twice. Since we did not see fit to impose the user fees the first time through, it appears to me that it is opportune that we begin to impose it the second time through. Lock and dam 26 is a reconstruction program. There is a lock and dam there already. With increased use it is out of date and we need a new one. The figures I gave you of projects under construction of \$3,300 million, projects authorized but not under construction of \$4,200 million are basically rebuilding or adding to.

So it seems to me the time has come to put in place a reasonable user fee system and I think I can say with all honesty that transportation in America will benefit, the users of transportation will benefit and I really don't believe over the long run that the commercial barges will be hurt.

Now there have been many rumors and many circulars as to how much this user fee is going to impose on the kinds of goods that are shipped on the inland waterways that the United States of America has made so productive and because there were so many I want the committee to know that built into my substitute once again is the 1-percent limitation. Regardless of how the Secretary of Transportation implements the user fees proscribed by my bill, there will be a cap against which he will have to measure regularly these taxes and these user fees.

That cap, that ceiling is no more than 1 percent of the delivered price of those commodities and so it is not going to be \$26 a ton for steel, it is not going to be \$1 a bushel for wheat. Quite to the contrary, if you take wheat at \$2. what that is going to be is no more than 1 percent. That is 2 cents a bushel and we all know that that is not going to burden those commodities to the extent that they won't be saleable in the world marketplace. Such claims are an absolute farce and anyone who maintains otherwise has not seen the erratic price fluctuations in the wheat market. This will have little or no effect on that. The same is true of steel and any other commodity.

Now in construction there is one other point that some make and that is why penalize the most energy conservation mode of trans-

portation in the country? There are those who say this system conserves the most energy, why don't you want to let it accelerate and grow rather than penalize it even by retarding its rather exceptional growth as suggested by my bill.

I would say even on that score there is a great disparity of evidence as to whether it is the most energy efficient in Btu usage per ton. One study by the Congress and another by the Center for Advanced Computation would state that railroads probably on a Btu usage between two points is more energy efficient than even the barges.

So I don't think there is any justification to ignore this issue any longer. I will say in closing that I understand the Secretary of Transportation will give you the President's view. I am pleased that the President does not think the House version is adequate. That is for the Secretary of Transportation to explain.

Neither do I believe that the Domenici approach is the end all or the bottom line, but I believe to get a lock and dam built we need something more substantial than the House bill, something in between my approach and it, and the only way we are going to get there from what I can see is to go to conference with the House.

You all know that the House chose an approach which precludes conference with the Public Works Committee for they have adopted a tax bill. I hope that this committee will go on record favoring the House tax but also will strongly go on record indicating that it is not enough, that there is no need for further studies, and that we ought to proceed to resolve this longstanding fight in favor of balanced transportation and equity to the American taxpayer.

I thank you very much, Mr. Chairman.

The CHAIRMAN. Senator Gravel.

Senator GRAVEL. No; I have no questions.

The CHAIRMAN. Senator Hansen.

Senator HANSEN. No.

The CHAIRMAN. Senator Danforth.

Senator DANFORTH. Mr. Chairman, I have had the privilege in the short 9 months that I have been here of getting to know Senator Domenici I think fairly well. I have the highest regard for him and not just as a person but as a very effective Senator. I know and have learned very recently how difficult it is for a freshman Senator, particularly one from the minority party, to fight a battle and to win it. You have fought a battle and it has been a big battle and you have won because since 1827 when we first began development of the inland waterways we have had a national policy that those waterways will be forever free. We followed that on kind of an unstated but actual basis until the 1880's and at that time Congress specifically stated that policy in legislation and we have now gone on until 1977 and we have had this national policy that has been developed and we have had parts of the country really developed as part of this.

It is really interesting that any part of the country—of course in New Mexico you don't have rivers—the population of the State of Missouri, virtually all of it is located on the rivers. The cities grew on the rivers from the beginning and river living is very much a part of life in my part of the country.

I happened to be reading in an almanac when I was looking up—as a matter of fact, because of your amendment yesterday I tried to find out in the almanac how much copper was produced in the State

of Missouri. I was just reading a little description of Missouri and it said in the almanac that I was reading that it was well known and well loved throughout the country for its river lore and this has been kind of a way of life that was pictured by Bingham in his paintings and memorialized by Mark Twain in his novels about Tom Sawyer and Huckleberry Finn, and it is not just a sentimental kind of a thing, although I think there is a part of that, but it is because it is a big industry and it is developed and a lot of people have been employed by it.

Some 415,000 people now are employed in river transportation related industries and this has all come about in conjunction with the national policy on maintaining the riverways as forever free.

Well, you fought this battle and we fought it together on the floor of the Senate last June and it was a tough fight; I don't think I will ever forget it, and you won and I lost.

Now, whether the House bill prevails or the Senate bill prevails, this longstanding policy that the riverways are going to be forever free has been changed and they won't be free any longer. The user fee of one sort or another is going to be imposed and now the only question is the form of the user fee in the amount.

You know, a lot of battles are fought and a lot of contests take place, for example, between two very competitive football teams and one will prevail and it is hoped that the coach won't roll up the score too badly. [Laughter.]

Senator DOMENICI. You almost make me feel like I am going to get rid of the inland water system with Mark Twain and all the lore. I hope it continues on forever. I am not trying to run up a score either, Senator Danforth; I hope you understand that.

Senator DANFORTH. Well, I think the fact of the matter is though, that we are talking about something more. You can talk about the costs for a bushel of wheat, but that is really not at issue here, as you know. The issue is one of where the traffic goes. Does it go to the railroads or does it go to the barges?

There is absolutely no doubt that there is going to be a diversion and I think that is really the point. Your position is that for the sake of a healthy railroad system we should divert the trend. My position is I help the railroads, they are very important to my State. We have four that are headquartered in the State of Missouri and I think we have three or four times as much traffic in Missouri as you have in New Mexico, but it just seems to me to be fundamentally wrong to take the position that we are going to help one competitor by hurting another and I think that that is what is involved in this approach.

Senator DOMENICI. Might I respond, Mr. Chairman?

Senator Danforth, I believe it would be foolhardy for me to try to say that there won't be some diversion but I don't really think that is the issue as I see it. As I see it, it is this. Should we continue to let the users of the inland river system expect the kind of growth which is so much greater each year than any other mode of transportation when they already have the competitive advantage that nature gave them? Should we continue that by using tax dollars to make that competitive advantage even greater? That is really the heart of the argument.

DOT says that if the Domenici user fee system was imposed in toto that the maximum diversion that could be expected is 10 percent and I think you know from your studying that the growth is rather

exceptional when contrasted with either the growth of rail or truck. I think that is the issue.

Senator DANFORTH. I don't want to quarrel with you on your statement of facts, and since I have said I don't want to, I will. DOT says 10 percent for recovery of operating and recovery maintenance costs alone. You want to go further than that, you want to recover 50 percent of the capital improvements which in dollars is about the same amount. So we are really talking about a 50-percent diversion.

Senator DOMENICI. I will correct the record and say that the Senator may be correct but it must be noted that the diversion comes from future growth, and that also is if you include the cost of the Coast Guard and other operational things that are not necessarily contemplated in my bill.

Senator DANFORTH. Subsidized the railroads, too. My computations are that the subsidies on the railroads now are about equal to the subsidies on the waterways and I am looking forward to going through this with Secretary Adams. There is a rough query now when you consider the various kinds of ways ConRail and others are getting on the railroad retirement program.

Senator DOMENICI. I think it is quite appropriate that you have him explain it. My position has been that there is no parity between the subsidy to the railroads and to the inland barge system, and I don't think we ought to engage in that argument here but I think the CBO evaluation, you might want to criticize it but I think it is about the most current evaluation of the two and I think they find a huge disparity in the subsidy between the two.

I would also make the point that so long as the competitive advantage of the inland water system is exaggerated by tax dollars, then we can look forward to subsidies to the railroads at ever increasing amounts and we will just be subsidizing one and building \$4 billion worth of improvements in the inland system and then subsidizing the railroads more. It would appear to me that at least we ought to take away the exaggerated competitive advantage attributable to tax dollars and then subsidize if we have to some mode of transportation that needs it but it is quite obvious that it is not needed by the inland barge companies.

Mr. Chairman, I would ask that my detailed remarks be made a part of the record and I thank the committee for letting me express my views.

The CHAIRMAN. Yes, sir.

Senator DOLE. I arrived late and I want to apologize.

Senator DOMENICI. You voted for the Domenici amendment. [Laughter.]

Senator DOLE. Well, we all make mistakes. [Laughter.]

We just left a meeting earlier this morning and we are so used to talking about billions it is hard to get back to these small figures. This morning we just voted to give away \$40 million—we have not yet, it is just a matter of time.

The point is, can there be a reasonable compromise if your amendment is not adopted by the Senate? You have looked at this for a long time, and maybe compromise is not the correct word depending on your point of view.

Senator DOMENICI. You said if my amendment is adopted can there be a compromise?

Senator DOLE. Yes.

Senator DOMENICI. I would say, Senator, there is ample room for compromise in conference. If we adopted nothing but the House bill, obviously there is nothing to compromise and we may not get a lock and dam which is much needed, which I have supported. I see a number of avenues where we can provide some administrative oversight and some reporting and even some further evaluation. But I would not want anyone to think that I don't believe we ought to have a goal that is substantially more than the House's 6-cent tax.

Senator DOLE. You know, we have been discussing, energy and in fact will be the next 4 weeks apparently, and it is my understanding that barges are very energy efficient. Are you going to have any impact on that if you prevail?

Senator DOMENICI. Well, Senator Dole, in part of my opening remarks I addressed that issue. I believe it is very exaggerated to state that somehow it is the most conservation oriented mode of transportation and I would just refer you and the staff to the Congressional Budget Office evaluation which indicates that in the 11 reports which they surveyed estimates of energy use for domestic water transportation generally fell in the range of 300 to 700 Btu's per ton mile while the usual range for rail freight was 300 to 700 Btu's and 400 to 500 for oil pipelines.

I would also say that most railroads try to go in a straight line and if you follow the Mississippi or the Ohio, or wherever God sent the river, they have to go many miles out of the way.

So I think we have to look at the number of miles per barge ton that you have to travel on a point-to-point basis as contrasted with other modes. I think it is fair to say that it is very exaggerated to say that barge is the most conservation oriented. Nonetheless they will have a huge competitive advantage by using the rivers that are in this country.

Senator DOLE. Thank you.

The CHAIRMAN. Are there any other questions?

Thank you, Senator.

Senator DOMENICI. Thank you very much.

[The prepared statement of Senator Domenici follows:]

STATEMENT OF SENATOR PETE V. DOMENICI, A U.S. SENATOR FROM THE
STATE OF NEW MEXICO

Mr. Chairman, members of the committee, I appreciate this opportunity to appear before you to state briefly my position favoring a more comprehensive system of waterway user charges than the one contained in the House bill, H.R. 8309.

The Senate on June 22 of this year adopted my amendment to H.R. 5885, establishing a decade-long phase-in for a system of waterway user charges that would eventually recover 100 percent of the spending by the Corps of Engineers on inland waterway operations, plus half of the new capital expenditures. The House refused to go to conference, and developed its own fuel tax bill, H.R. 8309.

The Carter Administration has stated that it would veto user charges at the low House level. I believe that the only way to obtain a compromise the President will sign is to re-pass the language already adopted by the Senate so we can go to conference to attain a reasonable compromise between the House and Senate bills. For that reason, I introduced on Wednesday Amendment 1460 to H.R. 8309. The amendment is essentially the entire language of the June 22 Senate bill. I have given to each of you a comparison of the House provision on user charges and my amendment, and would like that included in the Record.

Now, Mr. Chairman, why are user charges needed and justified? Reduced to its simplest terms, it is a question of equity. The American taxpayers spend hundreds of millions of dollars each year on waterway improvements solely for the benefit of the barge industry. The barge industry is the sole exception of the "user pays" philosophy that exists in national transportation and water resources policy. That is unfair and it creates great imbalances. Now, it is argued that the House's tax of 4 cents and 6 cents is enough, and creates equity. I disagree.

The tax in H.R. 8309 may be a simple solution, but it is also ineffective. And the House bill appears to have a number of leaks in it, as I explained in a short Senate speech yesterday that I would also like to have included in your hearing record.

This Congress has the opportunity not only to set an important historical precedent, but to establish a rational system for future financing of the inland navigation system. While we are on the issue of user charges, we should do the job right, not delay the real decisions. A farmer in New Mexico or Wyoming is now repaying a significant portion of the capital costs for irrigation projects, together with operation and maintenance. The barge industry is now suggesting it should pay back less than 10 per cent of the subsidy it receives. While both may be "paying" I don't think it is fair to say that they are being treated equitably.

In short, Mr. Chairman, the level of recovery is nearly as important as the principle. And to achieve this, a reasonable system of user charges must be tied to a percentage of expenditures. A token charge does little to correct the inequities caused by a high subsidy to one mode. As the Congressional Budget Office has pointed out, the barge companies now receive a subsidy equal to 41 per cent of their revenues. The House bill would cut that to 37 per cent. By contrast, CBO found that other modes of transportation receive negligible subsidies, as a percentage of revenue.

A second benefit of percentage recovery is the creation of a discipline on the barge industry's use of what are now "free" dollars. A tax unrelated to expenditure creates no such discipline. The barge companies would continue to have no reason not to continue to demand that the Government provide them with a Cadillac, when a Pinto will do the job.

The need for encouraging self-restraint—to make the barge industry a "watch-dog" against Federal waste in navigation spending—is underlined by the fact that the Federal government has already constructed a major, workable inland navigation system. We are now on the second round of construction, upgrading the entire system. The barge industry should be working with the taxpayers, not against them, in making certain that the new system is the most cost-effective one obtainable.

Before concluding, I would like to address a couple of related issues that arise whenever user charges are discussed. The first is that my amendment is a tax. That question appears moot now that we have a tax bill before us. But I must also add that the courts have clearly established the legal distinction between a user charge and a tax. This distinction was fashioned during a series of 19th century Supreme Court cases that dealt with barge traffic on the Mississippi. This line of precedents has been reaffirmed several times during the past decade.

The second red herring is the issue of railroad "subsidies." While I am not as familiar with the rail situation as my colleagues who serve on the Committee on Commerce, these rail "subsidies," began in the past decade and involve equity investment, loans, and loan guarantees. That is a very different animal from the inland waterway investment of the Corps of Engineers. The real difference is that we are forced into subsidizing the railroads because they are going bankrupt. As economist Otto Eckstein has stated:

"The 'freebie' inland waterway system is one of the coffin nails in our railroads, which the Federal Government is now forced to rescue through subsidies and nationalization."

In short, if we want to see more and more rail subsidies, all we have to do is to maintain our present policy of granting large subsidies to the barge industry. Subsidy begets subsidy. I, for one, would prefer to see the barges begin to pay their own way, and thus reduce the need for federal subsidies to the railroads.

Mr. Chairman, this issue has been studied and studied. Fourteen in-depth studies and user charge policy recommendations have been made since 1971. Many more occurred in the preceding 30 years since President Franklin Roosevelt first suggested 50 per cent cost recovery on the waterways. These studies invariably show that the effect of waterway use charges on consumers is minimal, well under the 1 per cent limit on the charges contained in the Senate-passed bill and my new amendment.

What we need now is not another study, but a controlled, phase-in of user charges, which is exactly what the earlier Senate bill and my amendment authorizes. My amendment directs the DOT to hold public hearings and develop a schedule of user charges to be sent to the Congress on January 1, 1979. The schedule will phase-in user charges beginning in fiscal year 1980, reaching full implementation in fiscal year 1990. This allows U.S. Steel, Exxon, Ashland Oil, and the other big barge companies more than a decade to adjust and absorb the user charges, which would increase annually by small increments.

But before the user charges go into effect, they can be vetoed by concurrent resolution of the Congress. And there will be comprehensive DOT-Corps of Engineer reports to the Congress on the impacts of the user charges every two years to allow a mid-course correction, if it proves warranted. I believe that is a fair and reasonable approach. I am, of course, pleased that the Administration supports it, and that the Senate endorsed it last June.

Members of the Committee, I would hope that you will see your way to support the June 22 position of the Senate and my new amendment. It will give us the flexibility to go to conference with the House to reach a reasonable and fair solution, one that will resolve this issue and one that the President can sign into law.

Thank you.

COMPARISON OF HOUSE'S WATERWAY USER CHARGES BILL (H.R. 8309) WITH THE DOMENICI AMENDMENT

The House Bill

Imposes a fuel tax in fiscal year 1980 of 4 cents a gallon on barges using certain, specified inland waterways; excluding new waterways. The fuel tax rises to a permanent 6 cents a gallon in fiscal year 1982. The House tax would collect less than one-tenth of annual taxpayer's expenditures on commercial inland waterways.

Senator Domenici's Amendment

Is nearly identical to the provision adopted by the Senate on June 22, 1977. Creates an 11-year phase-in of a comprehensive waterway user charges as follows:

Fiscal year 1980: 4 cents per gallon tax (in lieu of 20 percent recovery on operations and maintenance costs)

Fiscal year 1981: 4 cents per gallon tax (in lieu of 20 percent of O. & M.)

Fiscal year 1982: 40 percent of O. & M. (with credit for 6 cents tax)

Fiscal year 1983: 60 percent of O. & M. (with credit for 6 cents tax)

Fiscal year 1984: 80 percent of O. & M. (with credit for 6 cents tax)

Fiscal year 1985: 100 percent of O. & M. (with credit for 6 cents tax)

Fiscal year 1986: 100 percent of O. & M. plus 10 percent of capital (with credit for 6 cents tax)

Fiscal year 1987: 100 percent of O. & M. plus 20 percent of capital (with credit for 6 cents tax)

Fiscal year 1988: 100 percent of O. & M. plus 30 percent of capital (with credit for 6 cents tax)

Fiscal year 1989: 100 percent of O. & M. plus 40 percent of capital (with credit for 6 cents tax)

Fiscal year 1990 and thereafter: 100 percent O. & M. plus 50 percent of capital (with credit for 6 cents tax)

Provides a mechanism for Congressional veto of user charges prior to implementation.

Provides that user charges can never exceed 1 per cent of the delivered price of a commodity.

Both bills contain studies of impacts allowing for mid-course corrections. *Rationale for Domenici amendment, in preference to the House bill:*

(1) Percentage recovery is used in other water resources projects where the beneficiaries are identifiable.

(2) A percentage relationship is important to make the barge companies "watchdogs against waste," rather than proponents of unnecessary work.

(3) DOT Secretary Adams says the President will veto Locks and Dam 26 without "substantial" user charges. Recovery of less than one-tenth of spending is far too low.

(4) The only way to get a reasonable compromise and a bill that will be signed is to go to conference using the Domenici approach, then strike a balance.

(5) Approval of the House approach would reward the House for its refusal to go to conference on the Senate's June decision.

THE SECRETARY OF TRANSPORTATION,
— Washington, D.C., October 18, 1977.

HON. PETE V. DOMENICI,
U.S. Senate,
405 Russell Office Building, Washington, D.C.

DEAR PETE: I reported to you earlier of the President's firm intention to disapprove any bill authorizing construction of a new locks and dam facility at site 26 in Alton, Illinois, if the bill does not contain a provision establishing substantial waterway user charges along the inland waterway system. Recent events require me to clarify the Administration's position on this issue.

As you know, we supported the waterway user charge legislation that the Senate passed. This bill would phase in a substantial user fee over a ten-year period. The House of Representatives has passed waterway user charge legislation which differs markedly from the Senate version. The House would authorize a six cent fuel tax on inland waterway commercial vessels. The House version would recover only a relatively small portion of operation and maintenance costs and new construction costs.

Because of the closed rule on the House bill and in order to insure Congressional action on this issue, on September 28, 1977, I wrote to Members of the House of Representatives indicating that the Administration would support the bill in the House, but that the Administration would work in the Senate for a higher recovery of waterway operation and construction costs. The user charge and level of recovery contained in the House bill is inadequate. In order to bring the necessary degree of equity to Federal government policy concerning the inland waterway system, legislation should be enacted which authorizes substantial waterway user charges.

Because this matter is so important to the development of a comprehensive transportation policy, I think that the Congress should be aware of the President's intention not to sign any bill authorizing a new Locks and Dam 26 which does not provide for waterway user charges that will recover a substantial portion of the operation and maintenance and new construction costs.

Sincerely,

BROCK ADAMS.

SENATOR DOMENICI'S FLOOR STATEMENT ON THE ILLUSIONS OF THE HOUSE'S
BARGE TAX

Mr. DOMENICI. Mr. President, the House has met the challenge of waterway user charges by sending us what could be termed an illusion. H.R. 8309 talks of user charges. It talks of equity. But when you really look at it carefully, it is a very small and modest first step.

It's as if U.S. Steel suddenly decided to tow its large barges with a rowboat. Simple, but ineffective. And the House bill has the looks of a leaky rowboat to boot.

Of course my colleagues are aware that the House bill recovers only a modest sum, less than 10 percent of Federal inland waterways expenditures. And my colleagues are aware of the Administration's stated determination to veto recovery levels as low as those in the House bill. But let me first explain for the benefit of my colleagues why the House's 4¢-a-gallon waterway fuel tax may also lack substance, even if it is nice "on principle."

First, the bill specifies exactly which waterways are to be covered by the tax. That sounds reasonable, but it turns out to be quite leaky. The list of waterways just happens to exclude a couple of major river ports with heavy barge traffic and barge fueling facilities. The House tax covers the Mississippi River only as far south as Baton Rouge. Thus a fleet of barges starting in New

Orleans might be able to avoid paying any tax at all on a voyage to St. Louis. Is that fair? Under our Senate-passed bill, which I have introduced as an amendment to H.R. 8309, the user charges are based on the barge companies' use of waterway and various locks, not where they buy their fuel. Other barge ports, such as Portland, Oregon, carry similar exclusions.

Other leaks in the House bill are produced by the exclusion of entire waterways. All new waterways are excluded from the House bill, for example the Tennessee-Tombigbee Waterway, the first lock of which is scheduled to be in operation next year, isn't covered. Nor is the extension of the Red River Waterway from Shreveport into Texas. Does this mean that every time a lock is opened, the House bill would have to be amended? How cumbersome!

The Yazoo River is excluded—all 165 miles from the Mississippi River to Greenwood, Miss., even though the Federal Government will be taking over its maintenance. There are numerous small waterway segments in Louisiana, such as the 79 miles from Napoleonville, La., to the Gulf, the Bayou Lafourche and the Lafourche Jump Waterway that are excluded. The upper 40 miles of the White River in Arkansas are excluded.

And I must point out what I trust is a technical error in the House bill, excluding all waterways from the House levy. On page 13, line 17, the House tax states that the tax applies to the waterways in "Section 103." "Section 104" is the section listing the waterways. Thus, unless there is a change, no taxes at all would be collected under the House language.

But more significant that this exercise is what might be termed nit-picking is the fact that the House's bill raises a wholly inadequate sum in relation to the hundreds of millions spent yearly by the taxpayers for the sole benefit of the barge industry. Right now, the barge industry is probably the most subsidized industry in the nation, on the basis of its revenues. It receives a direct taxpayer subsidy of 41 percent of its annual revenues, repaying nothing, according to the Congressional Budget Office. The House bill reduces that bonanza to a 37 percent subsidy of revenues bonanza. By contrast, the subsidy to other transportation modes is negligible as a percentage of their revenues. Is that equity? I think not.

The Carter Administration has told the Congress that it will veto any user charge as low as the one contained in the House bill. President Carter is taking a balancing approach on the inland navigation program. He is dead right, and I commend him for his position.

Mr. President, the amendment I introduced yesterday will bring greater equity to the family taxpayer of this nation and to all modes of transportation. It will give us the flexibility we need to go to Conference with the House to reach a compromise that is truly reasonable and effective. It will do justice to this body. I believe we should not resolve this issue for a year or two. We should resolve it once and for all.

To give my colleagues a perspective on the special status of the barge industry, I am including a list that shows how other types of Federal water projects are repaid, and how the waterways are not repaid.

I ask unanimous consent that this chart be included in the Record.

COST SHARING

(1) <i>Hydropower</i> : (Paid by rural co-ops and others).	Complete repayment of construction costs allocated to power, plus all operation and maintenance costs.
(2) <i>Water Supply</i> : Municipal and Industrial (Paid by cities and industries).	Complete repayment of allocated costs, with interest.
<i>Irrigation</i> : (Paid by farmers).	Approximately 50 percent recovery on construction costs, plus all maintenance costs.
(3) <i>Navigation</i> : (to be paid by the barge companies).	
Current situation.	Nothing.
House Bill.	Maximum of 10 percent of Federal costs.
Senate bill (after full phase-in).	50 percent of capital costs and 100 percent of operations and maintenance.

The CHAIRMAN. Next we will hear the Secretary of Transportation, Hon. Brock Adams.

**STATEMENT OF HON. BROCK ADAMS, SECRETARY,
DEPARTMENT OF TRANSPORTATION**

Secretary ADAMS. Thank you, Mr. Chairman.

The CHAIRMAN. We are glad to have you here today, Mr. Secretary.

Secretary ADAMS. Mr. Chairman, because this matter has moved rapidly in the last few days I have not presented a formal statement to the committee as I usually do. If the committee wishes I have available the testimony I have given earlier this year before four other committees. If the committee would like copies, I can make them available for the record or to the staff. They state the position the administration has taken with regard to this matter.

[The material referred to follows:]

STATEMENT OF BROCK ADAMS, SECRETARY OF TRANSPORTATION, BEFORE THE SUBCOMMITTEE ON WATER RESOURCES OF THE SENATE COMMITTEE ON THE ENVIRONMENT AND PUBLIC WORKS, CONCERNING ALTON LOCKS AND DAM AUTHORIZATION LEGISLATION AND NAVIGATION USER CHARGES, ON MAY 2, 1977

Mr. Chairman and members of the subcommittee, I am pleased to be here today to testify on S. 712, S. 790 and S. 923, bills which have been introduced to deal with the closely related issues of capacity expansion at Locks and Dam 26 at Alton, Illinois, and waterway user charges.

First, let me tell you where we stand now on Alton Locks and Dam. As you know, at the request of this Subcommittee, the Department recently completed a 210-day study on some of the economic aspects of a single 1200-foot lock at Alton. Our economic analysis led us to the conclusion that based on traffic projections an increase in the capacity of the facility at Alton will certainly be required before the end of the century. However, the uncertainty involved in projecting future traffic makes it difficult to pinpoint an exact date by which this additional capacity will be needed. The Department's review of the projections and analyses done by others suggests that increased capacity may not be needed until the last decade of the century. As a practical matter, however, a single 1200-foot lock should be constructed with either major rehabilitation or construction of Locks and Dam 26.

The study also found that a single 1200-foot lock at Alton would not cause significant diversion of existing rail traffic to the waterways. Expansion of lock capacity at Alton would cost the railroads future traffic which they would, in any event, carry only if a decision were made to hold the capacity at Alton at its present level indefinitely. Thus, as far as a single 1200-foot lock is concerned, the only questions are of timing and costs.

Any further capacity increase at Alton beyond that provided by a new 1200-foot lock and any other major capacity increases on the upper Mississippi and Illinois River system should await the completion of a detailed and extensive analysis of the economic and environmental aspects of such capacity increases. A study of this sort could well require a couple of years. During this period, we will work with other agencies to study commodity projections, the impact of user charges on these projections, intermodal impacts and environmental questions, as well as engineering questions. What we are really talking about, then, is whether a decision should be made on a single 1200-foot lock for Alton before or after such a study is completed. The answer to this question and the question of whether the existing facility should be replaced or rehabilitated turns on the engineering aspects of the issue.

The engineering questions are not simple. The Corps of Engineers, following a traditionally conservative approach to the engineering problem of the existing structure, concluded that the expense of rehabilitation would be approximately equal to the cost of replacement with a modern structure. If this proves to be correct, then it is crystal clear that the facility should be replaced and that the new facility should have a single 1200-foot lock in it. It would be foolish not to take advantage of new construction to gain a moderate increase in capacity at a relatively slight increase in cost over what it would cost just to replace the existing capacity.

However, the Corps' engineering approach to rehabilitation has been challenged and the view advanced that the cost of rehabilitation is, in fact, much lower than the cost of replacement. I have had a team of my own engineers working with the staff of the Corps to review these differences. The conclusion reached by our engineers is that there are lower-cost approaches for rehabilitation of the existing dam which ought to be tested before a final decision is reached. Our engineering task force is of the opinion that there is no useful purpose to be served by any further paper studies on this question. Their recommendation is that, as early as possible, engineering investigations be undertaken in a way which will let us experiment with the techniques and measures that are in question. Secretary Alexander and I have discussed this recommendation and have concluded, especially in view of the possibility of significant savings if rehabilitation proves feasible, that it should be tried.

In his testimony, General Graves of the Corps will provide you with more details on specifically what is involved. In taking this course, we believe it will be possible to determine for \$10 to \$15 million—a low cost relative to the costs of rehabilitation or replacement—whether the lower cost alternative rehabilitation methods are, in fact, feasible. If these measure do turn out to be feasible, we can go ahead with the rehabilitation of the existing structure. Thus rehabilitation could well include provision of a 1200-foot lock. A final decision on the level of capacity to be provided in a rehabilitated dam cannot be made, however, until further engineering work has been completed.

On the other hand, if the results of this experiment show that the less expensive ways of rehabilitating the dam do not work, then we can turn to the construction of a new facility with the certain confidence that we have not overlooked an opportunity to effect significant savings.

As far as legislation on Alton Locks and Dam is concerned, then, I have the following specific recommendations:

The Congress should postpone a decision on rehabilitation or replacement until the engineering questions have been resolved.

Any future authorizing legislation should contain a prohibition against a 12-foot channel project on the upper Mississippi River and provide for additional economic and environmental study of future transportation needs of the upper Mississippi and Illinois regions.

There should be action by the Congress to enact a fair and effective system of waterway user charges.

Let me now turn to the question of cost sharing and user charges. DOT has extensively studied the possible impacts of user charges, and the results of these studies are presented in the report, "Modal Traffic Impacts of Waterway User Charges." As President Carter said in his message on water policy: "The beneficiaries of Federal water projects do not bear a fair share of the enormous capital and operating costs."

The really major point here is that commercial users receive major benefits from Federal expenditures, while the full burden of those expenditures falls on the shoulders of the taxpayer. It is simply not equitable, not just, that profit-making businesses should have this much of their costs met by the American taxpayer.

Practically all of the Federal expenditures in support of the waterways are made by the Army Corps of Engineers and the Coast Guard. These expenditures have been rising and now are approaching the \$1 billion a year level. As a result of these Federal programs, inland, coastal and Great Lakes vessel operators do not maintain or pay taxes on the rights-of-way which they use. A notable exception is our St. Lawrence Seaway where tolls on vessels and cargoes not only cover the operation and maintenance costs of the Corporation, but annually return to the Treasury part of the original U.S. investment in the St. Lawrence facilities.

Establishing a fair and efficient system of cost sharing is, obviously, a question of great sensitivity, and the amount and manner in which such a charge is collected could have a significant bearing on whether or not Congress would pass the necessary legislation. In addition to the purchaser of the transportation services and ultimately the consumers, there are the concerns of at least three groups that have to be reconciled in establishing waterway user charges—the users of the waterways, who resist the added costs; the railroad operators who maintain their own right-of-way and feel their competition receives unfair subsidy; and the taxpayers who pay for Federal agencies to furnish the facilities

and services. The Department believes the selection of a policy for cost recovery through waterway user charges should take into consideration the principles of administrative simplicity, political feasibility, and public understanding and acceptance. For these reasons, we believe a fuel tax would be preferable to the segment toll.

The complete details of the proposal have not yet been worked out, and we will work with the Congress on this matter once we have a detailed proposal to present. I can tell you, however, what some of the basic points will be. We are going to ask for a fuel tax which would go up in increments over the next five years so that at the end of that period there would be full recovery of inland waterway operating, maintenance and rehabilitation costs. In addition, all or some portion of the cost with interest of new construction would be recovered over the life of a project. All user charge revenues will accrue to the general fund rather than to any trust fund. While these charges are being phased in, the impact of the user charge on shippers will be closely monitored.

While we believe, in principle, that recreation users of developed facilities should be assessed user fees and that users of developed deep draft systems should also contribute to the cost of those systems, we have not yet developed such proposals in detail. The unique cost recovery situation which already exists on the St. Lawrence Seaway would, of course, also be taken into consideration so that inequities would not result. In a short time the Administration will be presenting a complete proposal, but these are the basic elements.

In conclusion, the Administration believes that it is no longer in the national interest to continue direct taxpayer support of commercial water transportation without some form of cost sharing. Water transportation should join the air and highway modes in paying user charges for Federally provided rights-of-way.

Mr. Chairman, that completes my prepared remarks.

STATEMENT OF BROCK ADAMS, SECRETARY OF TRANSPORTATION, BEFORE THE SUBCOMMITTEE ON WATER RESOURCES OF THE U.S. HOUSE OF REPRESENTATIVES, COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION CONCERNING ALTON LOCKS AND DAM AUTHORIZATION LEGISLATION AND NAVIGATION USER CHARGES, ON JUNE 15, 1977.

Mr. Chairman and members of the subcommittee, I am pleased to be here today to testify on the closely related issues of capacity expansion at Locks and Dam 26 at Alton, Illinois, and waterway user charges.

First, let me tell you where we stand now on Alton Locks and Dam. As you know, the Department recently completed a 120-day study on some of the economic aspects of a single 1200-foot lock at Alton. Our economic analysis led us to the conclusion that based on traffic projections an increase in the capacity of the facility at Alton will certainly be required before the end of the century. However, the uncertainty involved in projecting future traffic makes it difficult to pinpoint an exact date by which this additional capacity will be needed. The Department's review of the projections and analyses done by others suggests that increased capacity may not be needed until the last decade of the century. As a practical matter, however, construction of a facility with increased capacity, in the context of either rehabilitation or replacement of Locks and Dam 26, should start within four or five years.

The study also found that a single 1200-foot lock at Alton would not cause significant diversion of existing rail traffic to the waterways. Expansion of lock capacity at Alton would cost the railroads future traffic which they would, in any event, carry only if a decision were made to hold the capacity at Alton at its present level indefinitely. Thus, as far as a single 1200-foot lock is concerned, the only questions are of timing and costs.

Any further capacity increase at Alton beyond that provided by a new 1200-foot lock and any other major capacity increases on the upper Mississippi and Illinois River system should await the completion of a detailed and extensive analysis of the economic and environmental aspects of such capacity increases. A study of this sort could well require a couple of years. During this period, we will work with other agencies to study commodity projections, the impact of user charges on these projections, intermodal impacts and environmental questions, as well as engineering questions. What we are really talking about, then, is whether a decision should be made on a single 1200-foot lock for Alton before or after such a study is completed. The answer to this question and the question

of whether the existing facility should be replaced or rehabilitated turns on the engineering aspects of the issue.

The engineering questions are not simple. The Corps of Engineers, following a traditionally conservative approach to the engineering problem of the existing structure, concluded that the expense of rehabilitation would be approximately equal to the cost of replacement with a modern structure. If this proves to be correct, then it is crystal clear that the facility should be replaced and that the new facility should have a single 1200-foot lock in it. It would be foolish not to take advantage of new construction to gain a moderate increase in capacity at a relatively slight increase in cost over what it would cost just to replace the existing capacity.

However, the Corps' engineering approach to rehabilitation has been challenged and the view advanced that the cost of rehabilitation is, in fact, much lower than the cost of replacement. I have had a team of my own engineers working with the staff of the Corps to review these differences. The conclusion reached by our engineers is that there are lower-cost approaches for rehabilitation of the existing dam which ought to be tested before a final decision is reached. Our engineering task force is of the opinion that there is no useful purpose to be served by any further paper studies on this question. Their recommendation is that, as early as possible, engineering investigations be undertaken in a way which will let us experiment with the techniques and measures that are in question. Secretary Alexander and I have discussed this recommendation and have concluded, especially in view of the possibility of significant savings if rehabilitation proves feasible, that it should be tried.

In his testimony, General Graves of the Corps will provide you with more details on specifically what is involved. In taking this course, we believe it will be possible to determine for \$10 to \$15 million—a low cost relative to the costs of rehabilitation or replacement—whether the lower cost alternative rehabilitation methods are, in fact, feasible. If these measures do turn out to be feasible, we can go ahead with the rehabilitation of the existing structure. This rehabilitation would include provision of a 1200-foot lock.

On the other hand, if the results of this experiment show that the less expensive ways of rehabilitating the dam do not work, then we can turn to the construction of a new facility with the certain confidence that we have not overlooked an opportunity to effect significant savings.

As far as legislation on Alton Locks and Dam is concerned, then, I have the following specific recommendations:

The Congress should authorize the Army to proceed with either replacement or rehabilitation with a twelve hundred foot lock, depending on the outcome of our engineering test program. A deadline of December 31, 1978, should be placed on the resolution of the engineering and cost questions to prevent inordinate delay. We would be happy to provide you with appropriate language to accomplish this purpose.

Any future authorizing legislation should contain a prohibition against a 12-foot channel project on the upper Mississippi River and provide for additional economic and environmental study of future transportation needs of the upper Mississippi and Illinois regions.

There should be action by the Congress to enact a fair and effective system of waterway user charges.

As you probably know, the President feels very strongly about the three preceding points. He has also indicated his firm intention to veto any legislation which authorizes construction of a new lock and dam without providing for the imposition of a comprehensive waterway user charge.

DOT has extensively studied the possible impacts of user charges, and the results of these studies are presented in the report, "Modal Traffic Impacts of Waterway User Charges." As President Carter said in his message on water policy: "The beneficiaries of Federal water projects do not bear a fair share of the enormous capital and operating costs."

The really major point here is that commercial users receive major benefits from Federal expenditures, while the full burden of those expenditures falls on the shoulders of the taxpayer. It is simply not right, not just, that profit-making businesses should have this much of their costs met by the American taxpayer.

Practically all of the Federal expenditures in support of the waterways are made by the Army Corps of Engineers and the Coast Guard. These expenditures have been rising and now are approaching the \$1 billion a year level. As a result of these Federal programs, inland, coastal and Great Lakes vessel operators do

not maintain or pay taxes on the rights-of-way which they use. A notable exception is our St. Lawrence Seaway where tolls on vessels and cargoes not only cover the operation and maintenance costs of the Corporation, but annually return to the Treasury part of the original U.S. investment in the St. Lawrence facilities.

Establishing a fair and efficient system of cost sharing is, obviously, a question of great sensitivity, and the amount and manner in which such a charge is collected could have a significant bearing on whether or not Congress would pass the necessary legislation. In addition to the purchaser of the transportation services and ultimately the consumers, there are the concerns of at least three groups that have to be reconciled in establishing waterway user charges—the users of the waterways, who resist the added costs; the railroad operators who maintain their own right-of-way and feel their competition receives unfair subsidy; and the taxpayers who pay for Federal agencies to furnish the facilities and services. The Department believes the selection of a policy for cost recovery through waterway user charges should take into consideration the principles of administrative simplicity, political feasibility, and public understanding and acceptance.

When I testified last month before the Senate Environment and Public Works Committee, I stated that the Administration would prefer a fuel tax approach to cost sharing over other options. All other things being equal, that would still be our position. However, enactment of a fuel tax for waterway users this year does not appear to be in the cards.

An approach has been proposed in the Senate that would establish a system of user charges to be paid by commercial cargo vessels on the federally-built and maintained inland waterways. Phased in over a decade, this proposal calls for eventually recovering 100 percent of operations and maintenance costs and 50 percent of new construction. The proposal also calls for the Secretary of Transportation, in consultation with the Secretary of the Army, to study various user charge alternatives and to publish preliminary regulations. Following a public comment and public hearing process, the Secretary would promulgate final regulations, after which the Congress would have 60 days to review them and their impact. If Congress did not amend or disapprove the regulations by joint resolution within 60 days they would go into effect on October 1, 1979.

Taking a realistic view of the chances of enacting a fuel tax based user charge in the near future, the Administration is prepared to support the general approach that has been proposed in the Senate. We believe that legislation similar to the Senate Environment and Public Works version of S. 790 would permit the Administration to accomplish its expressed goals with respect to waterway user charges. This approach would give us an opportunity to review the various alternative and check our impact analyses while also allowing us to involve the public and the interested constituencies in framing the details of the cost recovery regulations. This approach would also allow the Congress to set the basic national transportation policy on this matter in the legislation while reserving the chance for a subsequent review of the regulations before their implementation. The Administration will be urging the Senate to support this approach, and we urge the House to support it also.

In conclusion, the Administration believes that it is no longer in the national interest to continue direct taxpayer support of commercial water transportation without some form of cost sharing. Water transportation should join the air and highway modes in paying user charges for Federally provided rights-of-way.

Mr. Chairman, that completes my prepared remarks.

STATEMENT OF BROCK ADAMS, SECRETARY OF TRANSPORTATION, BEFORE THE HOUSE PUBLIC WORKS COMMITTEE CONCERNING WATERWAY USER CHARGES, MONDAY, JULY 18, 1977.

Mr. Chairman and members of the committee, I am pleased to be here once again to testify on the very important issue of waterway user charges. As I understand the purpose of this hearing, you would like to hear our proposals for waterway user charge mechanisms that involve the use of a fuel tax. I have two such proposals to present to you today.

First, however, I would like to review for you the Administration's position on Locks and Dam 26 and the relationship of this project to the enactment of waterway user charges. In my appearance before you on June 15, I set forth our views on Alton Locks and Dam in some detail. Let me state them very briefly today.

It is definitely our view that a facility with a single 1200-foot lock should be provided either in the context of replacement or rehabilitation of the present facility. Construction of a 1200-foot lock should start within the next four to five years. We will await the results of further engineering test work before making a final decision as to whether rehabilitation or replacement of the facility is the desired option.

The President has made clear, however, that he will not sign an authorization bill for a 1200-foot lock at Alton unless Congress also enacts legislation that provides for waterway user charges that will recover a substantial amount of the Government's spending on construction and operation of inland waterway facilities. I believe that a substantial level would be 100 percent of operating and maintenance costs and at least 50 percent of the costs of new construction. Obviously, user charges that lead to this level of recovery should not be imposed overnight. A phase-in period of up to ten years is acceptable to the Administration. I think a period of such duration provides ample time for adjustment to the charges and should not result in any significant hardship on anyone.

Let me now turn to our specific proposals. First, as you know the Senate version of H.R. 5885 provides that the Secretary of Transportation, in consultation with the Secretary of the Army, shall study user charge alternatives and publish preliminary regulations. Following a public comment and a public hearing process, DOT would promulgate regulations. If the Congress did not disapprove the regulations by concurrent resolution within sixty days, they would take effect on October 1, 1979. This proposal also provides for a 10-year phase-in. One alternative would be to let the process established in the Senate-passed bill stand but, in addition, impose a fuel tax at some modest level. Whatever charges or tolls were developed in the context of the process established in the Senate version would then complement this fuel tax.

A second alternative would be to rely entirely on the fuel tax as a cost recovery mechanism. You could have a phase-in period of from five to ten years. According to our figures, the fuel tax would have to recover approximately one mill per ton mile to meet our cost recovery goal of 100 percent of operating and maintenance costs and 50 percent of new construction costs. The precise level would depend upon the level of new construction activity and operating and maintenance requirements. Let me say at once that there are problems with using nothing but a fuel tax. It bears equally on all segments of the waterway system, whether their operating costs are high or low. If full recovery is realized through fuel taxes, it means that traffic on the Mississippi is paying a substantial cross-subsidy on less fully developed waterways. This is not a problem at lower levels of recovery. For this reason, I am more comfortable with an approach that combines a moderate fuel tax with segment tolls or other charges to lead to a more equitable distribution of the burden of the cost.

Mr. Chairman, that concludes my prepared testimony. Now I will be glad to answer your questions. Let me also say that I and my staff are available at any convenient time for discussion with you and your staff on these matters.

STATEMENT OF BROCK ADAMS, SECRETARY OF TRANSPORTATION, BEFORE THE HOUSE COMMITTEE ON WAYS AND MEANS, CONCERNING WATERWAY USER CHARGES, THURSDAY, JULY 21, 1977

Mr. Chairman and members of the committee, I am pleased to be here today to testify on the very important issue of waterway user charges.

As you probably know, the President feels very strongly that there should be action by the Congress to enact a fair and effective system of waterway user charges. As the President said in his message on water policy, "The beneficiaries of Federal water projects do not bear a fair share of the enormous capital and operating costs."

The major point here is that commercial users received substantial benefits from Federal expenditures, while the full burden of those expenditures falls on the shoulders of the taxpayers. It is simply not right nor just that profit-making businesses should have this much of their costs paid by the American taxpayer.

Establishing a fair and efficient system of cost sharing is, obviously, a question of great sensitivity. Two of the most important factors that must be considered are the amount and manner in which such a charge is collected. With respect to amount we believe that, the charges should recover a substantial amount of the Government's spending on construction and operation of inland waterway facilities. The President and I believe that a substantial level would

be 100 percent of operating and maintaining costs associated with navigation and at least 50 percent of the costs of new construction. Obviously, user charges that lead to this level of recovery should not be imposed overnight. A phase-in period of up to ten years is acceptable to the Administration. I think a period of such duration provides ample time for adjustment to the charges and should not result in any significant hardship to anyone.

Let me now turn to the question of the appropriate manner of imposing the charges. First, as you know, the Senate version of H.R. 5885 provides that the Secretary of Transportation, in consultation with the Secretary of the Army, shall study user charge alternatives and publish preliminary regulations. Following a public comment and a public hearing process, DOT would promulgate regulations. If the Congress did not disapprove the regulations, they would take effect on October 1, 1979. This proposal also provides for a 10-year phase-in. One acceptable alternative would be to provide for the establishment of fees and tolls of the type contemplated by the Senate-passed bill but, in addition, impose a fuel tax at some modest level. Whatever fees or tolls were developed would then complement this fuel tax.

A second alternative would be to rely entirely on the fuel tax as a cost recovery mechanism. You could have a phase-in period of from five to ten years. According to our figures, the fuel tax would have to recover approximately one mill per ton mile to meet our cost recovery goal of 100 percent of operating and maintenance costs and 50 percent of new construction costs. The precise level would depend upon the level of new construction activity and operating and maintenance requirements.

Let me say at once that there are problems with using nothing but a fuel tax. It would bear equally on all segments of the waterway system, whether their operating and investment costs are high or low. If full recovery were to be realized through fuel taxes, it would mean that traffic on the lower Mississippi would pay a substantial cross-subsidy to traffic on less fully developed waterways. Thus, I would be more comfortable with an approach that combines a moderate fuel tax with segment tolls or other types of charges in order to produce a more equitable distribution of the burden of the cost.

In conclusion, the Administration believes that it is no longer in the national interest to continue direct taxpayer support of commercial water transportation without an adequate system of user cost sharing. Water transportation should join the air and highway modes in paying user charges for Federally provided rights-of-way.

Mr. Chairman, that completes my prepared remarks. Now I will be happy to answer any questions you may have.

Secretary ADAMS. I understand that the committee would like me to address the position of the administration with regard to waterway user charges and, in particular, two pending bills.

Thus far, the House and the Senate have come up with different positions and we are hopeful that this matter can go to Conference.

I want to state as my first point that we understand the necessity of repairing the facility at site 26 and I have testified to this both in the Senate and House.

When the legislation was presented before the House of Representatives, it was divided into two parts and there was a closed rule on the portion containing the fuel tax. I wrote to each Member of the House at that time that we favored having a bill move because we do believe that the lock and dam 26 matter should be resolved, hopefully, before the end of this session.

We expected that there would be a more substantial user charge than was provided for in the House bill. I had testified before the committees there that we supported the level of cost recovery contained in the bill passed by the Senate and that we felt that we should move to the Senate position or toward that position.

I used the word "substantial" in my comment to them and in writing to Members of the Senate so that everyone understood that the

President was not willing to sign a bill that had the House cost recovery provisions in it and I think that was understood.

I deliberately avoided stating in my recommendations a specific dollar amount in terms of either administrative charges which the Senate had approved or the fuel tax that had been approved by the House committee because this matter was going to move into conference. The legislative process was working. I did not know what Senator Domenici would state today but it is acceptable to the administration that the House and Senate work to establish a reasonable charge on the waterway system.

I want to emphasize another point. We are talking about a phased in system and we are talking about an examination of this system in its early stages. The charges would be phased in over 10 years and would build up a system similar to those used for highway and airway funding so that money could be accumulated for the replacement of this total lock and dam system, many parts of which are now approaching a 50-year life.

I am certain that members of the Senate Public Works Committee have communicated to you their concern that it is not just this one facility that needs attention. There will be many others, and we have found that the best way to maintain a transportation system in the United States is to have an orderly way of funding projects. Otherwise we are going to end up each time fighting over a funding mechanism for each one of these projects.

I would be happy to discuss the different types of charges: Segment tolls, tolls placed on the use of particular facilities, and fuel taxes. They can be established in a balanced way and provide a substantial amount of revenues for rebuilding and operating and maintaining the system.

Last year operations and management costs on the inland waterway system were \$211 million and new construction costs were \$278 million, for a total of \$489 million. We have indicated previously how these costs can be recovered with various combinations of charges and taxes. One of the important things about a user charge system, Mr. Chairman, is that it builds in a policing mechanism, if you want to use the term. Those who use the system will pay close attention to see that the appropriate things are built and at the appropriate time and that the facilities are properly maintained because it is their money that is involved.

My final point is that we wish to work with the Members of the Senate and the House in working out a solution to this. I have indicated that the House position is not acceptable. We have supported and are willing to continue to support the Domenici approach—I should not call it the Domenici approach because it was passed by the Senate by a vote of over 70 to 20. We are now at the point where we are prepared to move between the Senate and House versions. As for my efforts on the House side, so that you will understand the final comment that I make, I indicated to certain Senators, among them Senator Humphrey, that I would do all I could to see that a user fee and lock and dam bill came back from the House because I knew people on the Senate side felt that it would never appear again over here.

I feel it is very important that we do a decent job on this. It is now back here where it can be handled between the two bodies. I hope it

will be, and I hope we will arrive at a solution before the end of this session.

Now, Mr. Chairman, I would be happy to answer any questions the committee may have.

The CHAIRMAN. Let me just ask about one or two things, Mr. Secretary.

It was my impression when the House voted for the 4-cent tax which is scheduled to go up in a few years to a 6-cent tax, that a majority of the Members of the Senate—and it is just anybody's guess, you never know until you call the roll to find out how they vote—thought that would be a fair charge. Of course, I personally do not favor tolls on the waterways or favor the use of fees, but the vote you referred to was in the mind of a great number of Senators in considering the issue of whether we should have a charge.

If there is to be a charge, you get to point No. 2, What should the charge be? Just how much should it be? Some of us were surprised to find that your administration, speaking through you, urged House Members to vote for a 4-cent tax working up to 6 cents and now you advise us that you would ask the President to veto what you yourself asked the House Members to vote for. I must say that confuses a legislator.

I believe I understand your position somewhat better now that you have explained it here, but are you in a position to say what the administration would settle for in that respect?

Secretary ADAMS. Answering your questions in order, Mr. Chairman, what I wrote to the House of Representatives, and it is very short, was this—

I am writing to you to indicate that the administration supports passage of H.R. 8309, which will come to the House floor shortly and will establish a 6-cent fuel tax on inland waterway commercial traffic after a 2-year phase-in period. The bill would also authorize a new lock and dam at Alton, Ill. The administration does feel that the recovery level in H.R. 8309 is too low but will work on the Senate side to increase the recovery level. I have enclosed a factsheet providing you with background on the issue.

So all the Members of the House were put on notice that the question there was an up or down one, Do you want the lock and dam proposal to go back over to the Senate side so we can proceed with this. And the House decided that they wanted to proceed with this issue.

Now as to what is an appropriate level, Mr. Chairman, and I view this with some trepidation because I know what happens when administration witnesses try to tell members of a conference what they ought to do when they are trying to decide between two conflicting positions, it seems to me that the conference should consider a fuel tax phasing up somewhat higher than the one in the House bill. The second part of the package should provide for the imposition of some type of administrative charges, whether you want to tie them to the use of particular facilities or impose them in the form of a tonnage charge. This would cut down on cross subsidies throughout the system.

I don't think that all the charges should be imposed in the form of fuel taxes.

Third, you should instruct the Secretary to report to you at the end of a 3-year period the effect the charges have had on growth and on traffic patterns and how the system has worked overall.

Most of our transportation movements are joint movements. In other words, they go partially by rail, truck, and water. We are trying, and I think this is our responsibility in the Department of Transportation, to analyze for you how the total system works. With respect to the question Senator Danforth brought forth. I am not here to favor one mode over the other. I would like to see established a well-organized system for the replacement of waterway facilities. I might say with regard to railroads, we are not involved in the replacement of railroad facilities except in instances where they have gone bankrupt or are in liquidation.

In other words, we do not subsidize or are not involved in any kind of Federal program for the so-called well-to-do western roads which are heavily involved in this area. The only railroads that we are involved with in that region are special cases. Particularly we get delegations from the Midwest requesting us to help repair the so-called granger roads to get to the river.

The CHAIRMAN. Well, some of us don't want to vote for 1 cent more of taxation than is necessary for this purpose and I am not sure your answer gives me much guidance as to what I ought to vote for in that regard. It seems to me, Mr. Secretary, that you ought to be able to give us a better indication of what you would settle for. What would you recommend to the President? What do you think the administration would settle for?

We have been told that the President is going to veto any bill that places those locks and that dam in a vital link on the inland waterway system unless he is satisfied with a user fee.

Now I don't want to vote for something that is going to be the equivalent of 40 cents a gallon if the President is not going to insist on that much. If we are going to try to accommodate him in that respect, are you in a position to tell us how much we would have to vote for?

Secretary ADAMS. Mr. Chairman, it has been the position of the administration that at the end of 10 years we ought to be recovering 100 percent of the costs of operation and maintenance and half of the new construction costs. Now 10 years is a long time and what I am saying to you is I think we ought to start toward that goal over a minimum of 3 years and then at the end of that period of time let the House and the Senate review the system and determine whether we should continue on schedule.

I tried to indicate to you that I do not believe that we need to rely solely on a fuel tax that eventually would require a charge of 40 cents per gallon. A portion of the charge could be segment tolls and other charges. If you wish, we can outline for you user charge systems combining fuel taxes, segment tolls, and other types of charges. We can give those to you in a schedule that will range over a 10-year period.

The CHAIRMAN. Do you have any with you now?

Secretary ADAMS. Mr. Chairman, I can give you a schedule based on fuel taxes. I am inquiring from my staff whether they have one involving segment tolls.

[The material referred to follows:]

SCHEDULE BASED ON FUEL TAX

1. COE fiscal year 1977 estimated expenditures for inland waterway navigation:

	Millions
O. & M.....	\$211
New construction.....	278
Total	489

2. Estimated diesel fuel consumption for 1978 on the inland waterway system: 850 million gallons. This figure is premised on the average consumption of one gallon of fuel for 210 ton miles of service and 180 billion intercity ton miles.

3. Under this premise, each cent of fuel tax would be expected to recover approximately \$8.5 million.

4. Under a proposal eventually recovering 100 percent of O. & M. and 50 percent of new construction, a 40 cents per gallon tax would be needed to cover \$350 million in COE outlays.

5. The table below shows projected tolls and revenues for a 10-year, phased program.

[Dollar amounts in millions]

Year	Operation and maintenance	New construction	Total	Rate per gallon (cents)
1st.....	\$21	\$14	\$35	4
2d.....	42	28	70	8
3d.....	63	42	105	12
4th.....	84	56	140	16
5th.....	105	70	175	20
6th.....	126	84	210	24
7th.....	147	98	245	28
8th.....	168	112	280	32
9th.....	189	126	315	36
10th.....	210	140	350	40

In regard to segment tolls, the Department has been reluctant to prepare a preliminary schedule of charges because of the specific commodity and segment studies which would be required under the "cap" provision in section 303(a) of the Senate version of H.R. 5885. (See also section 103(a) of amendment No. 1460 dated October 19, 1977.) That provision limits any toll to 1 percent or less of the value of the commodity being transported on the inland waterways. Because of the difficulty anticipated in establishing such a toll structure, section 303(a) would give the Secretary of Transportation 10 months in which to conduct studies, holding hearings, and draft preliminary regulations on a proposed system of user charges. This would provide sufficient time for the development of a schedule of tolls for each phase, commodity, and river segment.

The CHAIRMAN. I am proceeding by the so-called who-arrived-first rule and Senator Danforth is next.

Senator DANFORTH. Mr. Secretary, the importance of this proposed fee is not that it is a revenue raiser, is it?

Secretary ADAMS. Yes.

Senator DANFORTH. It is?

Secretary ADAMS. Oh, certainly.

Senator DANFORTH. You mean that, therefore, if we could come up with \$200 million from some other source that then we could just junk the idea of the user fee?

Secretary ADAMS. No. What we are trying to establish is the type of thing we have established in some of the other modes so that the users, rather than the general taxpayers, pay for the system.

Senator DANFORTH. You are talking about the philosophical question.

Secretary ADAMS. But it is definitely a revenue raiser and the reason I mention that is that that gives you a regularized system rather than a system of individual appropriations.

Senator DANFORTH. Let's get to the regularized system in a few minutes but you were saying that the reason that you want this is that it will produce \$260 million for the Treasury 10 years from now?

Secretary ADAMS. \$350 million.

Senator DANFORTH. That is the reason you want the 10?

Secretary ADAMS. Yes.

Senator DANFORTH. And the fuel tax in the House bill would produce \$58 million, right?

Secretary ADAMS. That is a little high.

Senator DANFORTH. Beginning in 19—

Secretary ADAMS. The first year, a 4-cent tax would produce \$35 million. Eight cents would produce \$70 million. I can run it out for you.

Senator DANFORTH. I am told that in 1982 if the 6 cents is fully endorsed it gets to \$58 million a year.

Secretary ADAMS. Approximately.

Senator DANFORTH. Whereas the Domenici approach, which is the administration's approach, will get \$260 million a year 10 years down the road, is that right?

Secretary ADAMS. \$350 million.

Senator DANFORTH. \$350 million?

Secretary ADAMS. \$350 million.

Senator DANFORTH. \$350 million.

Secretary ADAMS. Yes.

Senator DANFORTH. We are talking about a \$350 million difference?

Secretary ADAMS. \$350 million difference.

Senator DANFORTH. The differential between the two—that is what we are talking about.

Secretary ADAMS. If you used a fuel tax—this was the question that was originally asked—you would end up in the 10th year with \$210 million to cover O. & M., and \$140 million for new construction, for a total of \$350 million.

Senator DANFORTH. \$350 million.

Secretary ADAMS. That's correct.

Senator DANFORTH. And your point is that the reason you want to impose this tax is that the Treasury needs the money.

Secretary ADAMS. Yes. We are going to be replacing that whole waterway system in the next 20 years.

Senator DANFORTH. So we now have a deficit of \$60 billion and we are fussing about \$300 million, is that right?

Secretary ADAMS. Yes, sir. We fuss about \$300 million because \$300 million multiplied enough times makes \$60 billion.

Senator DANFORTH. And that is what brings us all together, is that so, the need of the Treasury for an additional \$350 million 10 years from now.

Secretary ADAMS. And lock and dam 26. [Laughter.]

Senator DANFORTH. You concede lock and dam 26 is needed.

Secretary ADAMS. Conceded.

Senator DANFORTH. Everybody believes that is necessary don't they?

Secretary ADAMS. Well, not everybody. [Laughter.]

Senator DANFORTH. All of us.

Secretary ADAMS. Senator, we have come a long way on this issue. Several years ago we were talking about two 1,200-foot locks at Alton and replacement of the dam. We are getting near the end of this

after many issues have been narrowed, including what to do on the Upper Mississippi, environmental concerns, and the depth over the sills.

So when you ask me what we are discussing today, it is a very small part of a very large puzzle.

Senator DANFORTH. Isn't it only fair to say that the main issue is not that the Treasury needs \$300 million when in fact it needs \$60 billion? Isn't the fact of the matter that the real issue is the effect that this tax is going to have on what quantity of freight was shipped by river and what by rail?

Secretary ADAMS. No. We are trying to establish for the waterway system a user charge concept which has been proposed I think by five or six Presidents. We have the same type of thing for aviation and highways.

Senator DANFORTH. And to the extent that we don't recover everything it is simply a form of subsidy.

Secretary ADAMS. That's correct. Even the original Senate version contains a subsidy of 50 percent for new construction. We accept the idea that a substantial subsidy will continue for the waterways. We have not objected to that.

Senator DANFORTH. Right. And the form that the subsidy comes in today for the waterways, the form that the Federal subsidy comes in is through free river transportation, correct? That is the form by which—

Secretary ADAMS. Yes, we appropriate money and carry out river projects.

Senator DANFORTH. Maintain, say, a river system and that is the form by which we in the Federal Government subsidize river transportation.

Secretary ADAMS. In addition, we have other things such as Coast Guard navigational aids. But, yes, the Government maintains the system through a number of agencies.

Senator DANFORTH. It is also true that the prime competitor for river transportation is railroads, isn't that correct?

Secretary ADAMS. It depends. In some areas it is trucks and others it is pipelines.

Senator DANFORTH. Mainly, though, when you are thinking in terms of shipping sand and gravel and grain and fertilizer and the things that are shipped on the river, it is true, isn't it, that the main competitor is the railroad.

Secretary ADAMS. In the case of bulk commodities, that is correct. In some cases there is no other competition. In other words, as was pointed out earlier, the railroads in many of those areas are not even able to compete in the area of very heavy bulk shipments.

Senator DANFORTH. All right. We do also subsidize, do we not, the railroads?

Secretary ADAMS. Not substantially in this area. We do in other areas of the United States, yes, sir.

Senator DANFORTH. We subsidized the railroads in handling freight. Isn't ConRail in essence—

Secretary ADAMS. Yes, that is what I am saying and I am not advocating in the least bit that we spread that throughout this part of the country.

Senator DANFORTH. Isn't that a loan program to solve the subsidy?

Secretary ADAMS. The loan program is basically oriented to those who are not able to obtain loans in the private market.

Senator DANFORTH. Form of subsidies.

Secretary ADAMS. Form of subsidy, yes.

Senator DANFORTH. We make State grants for rail continuation, don't we?

Secretary ADAMS. Only on track that otherwise would be abandoned.

Senator DANFORTH. You have such a program?

Secretary ADAMS. We have such a program.

Senator DANFORTH. I think it is a good program but we have such a program. We have also bailed out the railroad retirement system, haven't we?

Secretary ADAMS. That's correct.

Senator DANFORTH. We also have a variety of tax expenditures that benefit railroads?

Secretary ADAMS. The reason I hesitate on that is that we have a very bad series of problems with respect to the taxation of railroads under the revenue code. You probably should have the Secretary of the Treasury address it. What I know from my prior experience is that in writing off tunnels and bridges, et cetera, I am not at all sure that the tax benefits available to railroads are as good as they are to its competitors.

There is a considerable question.

The CHAIRMAN. Might I interrupt, Mr. Secretary. The note I have indicated we had \$350 million in tax benefits, mainly tax expenditures for the rail industry in the 1976 tax bill alone. That is an annual figure?

Secretary ADAMS. Mr. Chairman, there are tax benefits, as you know far better than I, for all segments of American business. What I was trying to say to the Senator was that I cannot state whether they are better than what we give to the barges, the trucks or others.

Senator DANFORTH. Let me just make an assertion to you then. What you say is what your staff prepares for you, what I say is what my staff computes for me but my staff has computed the following: That when you total up all of the various kinds of subsidies for freight—I am not talking about Amtrak at all, I am talking about freight for railroads—you get to about a billion dollars a year and when you totaled up the waterway subsidy you get to \$360 million a year and when you divide that by the ton-miles under the present system without any change at all, without any imposition of a waterway user fee, the present system is fairly close to parity between the two systems of transportation; that is to say, we provide a 1.29 mills per ton-mile of subsidy for railroads and 1.30 mills per ton-mile for waterway subsidy.

Now I think what we are doing here is we have already made a decision that we are going to break that rough period. We are going to provide the waterway system with less in the form of subsidy than we provide the railroad, and if we go the House version, we are going to go from 1.30 mills to 1.10 mills. If we go to the administration's version or the Senate bill, we are going to get to four-tenths of a mill roughly which is about a third of the ton-mile subsidies that railroads are going to be getting. That is really the issue and the only way this comes into play, I frankly think it is ridiculous to be talking about raising revenue of \$300 million 10 years from now.

The fact of the matter is we are making a decision as to how we are going to balance the relevant subsidies between freight that travels by rail on one hand and freight that travels by barge on the other. As I understand the position of this administration, it is that we are going to provide substantially greater subsidies for rail transportation than we do for barge transportation and further that the effect of this is going to be as pointed out in the study of your Department, the Department of Transportation, which is going to be a 20-percent diversion of traffic from the barges to something else which is namely the railroads and that is just exactly what I would like you to say point blank if you can that this is in fact what you are trying to do.

You have decided that you are going to subsidize the railroads more than the barge lines and that the effect of this is going to be a 20-percent diversion of traffic because of the marginally higher prices particularly as you get farther away from the inland waterways.

Secretary ADAMS. Senator, the bulk of the subsidy that is paid to railroads in the United States is paid in order to keep alive a system that exists in the Northeast and is not in competition with the barge system. Many of us agonized over whether the railroad system in the Northeast should collapse. That is where the money goes; it does not go into the area that you are talking about.

We spend very little money in areas where railroads are competitive with the barges. Now it may be that the Congress in its wisdom may have to decide whether you want to keep the railroad system in the Northeast operating—that is ConRail, not Amtrak—and whether the Northeast corridor should be built. That is where the money is going.

So the figures you give have no relevance to a competitive advantage between the two. It is a public policy decision whether you want to keep a railroad system in a part of the country where there are lots of goods to be moved and lots of people to be served. In answer to your second question, if you collected user charges at the end of 10 years that would recover 100 percent of operation and maintenance costs and the railroads didn't change their rates within the 10 years, you might have a diversion of 10 percent of the barge traffic.

Senator DANFORTH. Management alone, that is not the capital cost.

Secretary ADAMS. That is correct. That was the analysis.

Senator DANFORTH. You said we are talking about maybe 20 percent which includes the capital cost.

Secretary ADAMS. That is Senator Domenici's analysis. If you want us to run an analysis, we can do it anyway you want. If you run it with the railroad rates remaining unchanged and not allowing for a change in barge costs, that probably is not relevant in that both are going to change in 10 years. That is why I suggested to the chairman that the Congress will want to look at the charges after a period of time to see what their impact is out on the river.

But any way you want it we will slice it that way so you can look at it.

Senator DANFORTH. You have already produced a book here.

Secretary ADAMS. I indicated to you we would assume that rail rates would stay constant in order to provide a baseline figure while you would have this program in effect because that is what the information was in the Senate.

Senator CURTIS. May I ask one question? This is not directed to the northeast area, but primarily the western railroads.

Secretary ADAMS. That's correct.

Senator CURTIS. Do all the States levy a tax?

Secretary ADAMS. Yes.

Senator CURTIS. Do you know how much the States pay on State and local taxes on their right-of-way?

Secretary ADAMS. It is about six-tenths of a mill per ton-mile.

Senator CURTIS. Do you have any idea how many dollars that is?

Secretary ADAMS. No. We can supply that to you, Senator.

Senator CURTIS. I think that is one of the factors in trying to find out what is fair between all types of transportation—air and rail and highway and waterway—that very properly should be taken into account in reference to the railroads is that they build and maintain and pay taxes on their right-of-way which is rather unique among transportation generally and I thank you very much for inserting the figure.

Secretary ADAMS. We will supply that to you, Senator. I'm sorry, I didn't know that question would come up.

Senator CURTIS. That is all right. For the record will be fine.

[The following was subsequently supplied for the record:]

RAILROAD TAXES BY STATES—1975¹

Taxes payable by railroads of all classes in 1975 to state, county and municipal governments as shown below averaged only one-half of one percent higher than in 1974. They consist primarily of property taxes or other forms of tax assessed in lieu of property taxes. Amounts shown include taxes payable by Class II and switching and terminal companies in addition to those of Class I roads as shown on page 17. Data for 1976 are not yet available.

[Amounts shown in thousands]

Alabama	\$7,697	Montana	\$7,862
Alaska	227	Nebraska	8,992
Arizona	9,605	Nevada	3,682
Arkansas	6,676	New Hampshire.....	261
California	45,998	New Jersey.....	7,214
Colorado	8,562	New Mexico.....	2,310
Connecticut	184	New York.....	20,404
Delaware	530	North Carolina.....	7,039
Dist. of Col.....	970	North Dakota.....	3,971
Florida	8,852	Ohio	28,134
Georgia	7,825	Oklahoma	6,089
Hawaii	—	Oregon	8,106
Idaho	5,208	Pennsylvania	23,168
Illinois	42,564	Rhode Island.....	1,304
Indiana	13,282	South Carolina.....	4,184
Iowa	6,991	South Dakota.....	461
Kansas	13,710	Tennessee	13,457
Kentucky	6,441	Texas	20,679
Louisiana	7,013	Utah	6,460
Maine	1,601	Vermont	216
Maryland	5,234	Virginia	17,063
Massachusetts	4,619	Washington	7,280
Michigan	10,989	West Virginia.....	9,700
Minnesota	22,988	Wisconsin.....	5,513
Mississippi	4,012	Wyoming	5,462
Missouri	15,079		
		Total	475,868

¹ American Association of Railroads, "A Yearbook of Railroad Facts, 1977 Edition."

The CHAIRMAN. Are you through for the time being, Senator Danforth?

Senator DANFORTH. I will be shortly.

Senator CURTIS. Excuse me, Senator. I thought you were through.

Senator DANFORTH. Well, my concern, Mr. Secretary, here you have an industry—and I am talking about the people who work on barges, talking about the people who build them, talking about the terminal companies, the warehouse companies. We have an industry that employs 415,000 people. They have an annual payroll of \$4.3 billion and here for the sake of raising 10 years hence \$300 million we are doing something which at least possibly could divert 20 percent of the business from this mode of transportation. The thing that concerns me as we sit up here in Washington with these highly theoretical ideas, would it not be nice if we created a system in which we paid the replacement cost of lock and dam 26 or something without considering the fact that you have got river valleys, you have got cities that are dependent on this system and it is not a trivial effect that we are going to have?

Why do you think this room is filled with lobbyists right now? It is a very significant affair that we are going to have and what you want to do and what Senator Domenici wants to do is to change a national policy that has been in effect now for a century and a half, for as long as we have had what amounts to the inland waterway system, and this change is going to have some effect, it is not just a theoretical speculative thing, nor is it merely \$300 million. If that is all it is, we could raise the revenue some other way but it is a tinkering with an intricate interrelationship in which people's livelihoods are involved.

The thing that concerns me about this is that we may be doing something which is going to be a catastrophe and the only thing is this \$300 million, 10-year down-the-road matter.

Secretary ADAMS: Senator, I was in the Congress when we deliberated on what was known as the barge mixing rule. We allowed a tremendous change to be made in the competitive atmosphere in favor of the barge people because the barges were more efficient. I am in favor of river traffic, it has grown enormously and it will continue to grow.

All we are trying to do here—and it is the same thing that Presidents, regardless of party, have been trying to do for 20 years—is simply take a system, and we originally did this in this country with the Erie Canal and other facilities, and say that those who use it commercially should pay part of its costs.

We do that with respect to highways. The reason we don't do it with railroads in the same fashion is that they own their own rights-of-way and they have to pay taxes on them. One of the reasons why we have the unusual arrangement in the Northeast is that we believed it to be in the public interest to assist in the retention of remnants of bankrupt railroads so that service could be continued. But, generally, we do not fund projects on the railroads' rights-of-way, particularly in the Western areas that you are talking about.

Senator DANFORTH. The fact of the matter is that we do subsidize the railroads.

Secretary ADAMS. And we are going to subsidize the waterways. We have agreed to that.

Senator DANFORTH. That is right. We are also going to have user fees of one sort of another depending whether we go the House route or the Senate route. It is a very practical question.

Secretary ADAMS. It is.

Senator DANFORTH. And the question is: What kind of an effect are we going to have? I would submit to you that you really don't know but your downside risk figure is 20 percent diversion.

Secretary ADAMS. After 10 years and with no change in railroad rates, Senator. But rates and costs will probably change. For example, take the price of fuel. Diesel fuel has gone from 10 to 40 cents since 1973. This is an enormous difference. These things occur. What we are talking about here is a capital cost being factored into a business over a long period of time and in a cautious fashion.

Senator DANFORTH. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Nelson.

Senator NELSON. No questions.

The CHAIRMAN. Senator Curtis.

Senator CURTIS. I have nothing further.

The CHAIRMAN. Mr. Secretary, I made reference to some of the things that we have done for the railroads. I am not at all proud to do so, but I think we ought to recognize that we have done some things for railroads like everything else.

Secretary ADAMS. I agree, Senator. I don't deny that we have done things for the railroads.

The CHAIRMAN. You say that in the 1976 Tax Reform Act over the period of that act—which contained certain provisions relating to railroads' tax credits and depreciation—\$41 million and then 50 percent placing service at another \$18 million on an annual basis and that is what was projected out, \$352 million.

Those two items total about \$60 million a year for the railroads, but that is not by any means all that was done. I said to your predecessor, Secretary Coleman, in a letter dated December 13 last year, I thought we would be talking about things like this year and, therefore, I wished he would get me all the information on matters of this sort starting out with tax expenditures.

Now some of our local friends have been extremely apt to putting in works just the same as an appropriation.

Secretary ADAMS. Yes.

The CHAIRMAN. And it does, I don't deny it. It put in just exactly what it accomplished.

I suppose he figured he was not going to be around much longer at that point so he didn't send me an answer. I wish, however, somebody in your Department would supply the information I have asked for because we want to know what has been done with regard to the tax expenditures, Government loans, guarantees, grants, land grants, railroad retirement, and passenger operation.

Now here are just a few items that come to me and I am not embarrassed about the fact that I participated. I did it fully and intentionally without any apologies whatsoever. What has been mentioned about the railroad retirement system involves \$254 million to help them with that part of it. What we have done with Amtrak is worth about \$5 million a year. We have provided \$600 million for facilities, mainly rehabilitation, \$1 billion in loan guarantees and \$2.1

billion for ConRail. That, of course, was the point of view in history when people talk about somebody raping the public. They like to go back and talk about what the robber barons did and talk about the granddaddy of them all, the land grants.

When I look at how much acreage was given to railroads and figure out how much that is in square miles, I am not sure the United States is that big, but those land grants I am told worked out to 180 million acres of land that we gave 14 railroads.

I say we gave—I had nothing to do with that. [Laughter.] That is one giveaway they cannot blame the chairman of the Finance Committee for. [Laughter.]

For one example, Forbes magazine recently estimated that Union Pacific's mineral holdings alone under those lands is worth \$1 billion. That same magazine which is not antibusiness estimated that 22 billion tons of coal reserves are held by Burlington Northern and Union Pacific, worth about \$5.5 billion, in the land we gave them. They have enough minerals under the land we gave them to solve the energy crisis if they could just go out and mine all that coal. Those fellows have been well considered. If they are not fat, it is not our fault; we did what we could to make it that way.

Furthermore we have not done badly by the truckers. Every time I drive down the highway, especially in Louisiana on a damp, rainy night on one of our primary systems, it is not at all unusual to see some big, heavy truck stopped on the side of the road. I think the Interstate is better so the slabs don't crack, they just lean. Now you really don't think that that 4-cent tax on diesel is really paying for all the damage that those trucks do to highways, do you?

Secretary ADAMS. No.

The CHAIRMAN. Furthermore, we were led to believe some people thought it was not going to be the waterways coming in, they thought it was going to be private aviation, because my understanding is that it was suggested that we ought to put more taxes on private aviation. Studies of federally financed aviation facilities indicate that they are not getting their full share of the taxes but all the benefits of the aviation facilities that we are providing. What is your impression on that?

Secretary ADAMS. The last analysis that I read on that was that they pay less than the commercial users do into that.

The CHAIRMAN. Now I have had something to do with the last time we put a tax on that and some people thought we were taxing them too much and I thought we were not taxing them enough. I thought they could pay more. We know we have a problem here and I just hope you recognize, Mr. Secretary, that so far as I can see we are subsidizing all forms of transportation in this country—the private passenger automobile being the exception.

It looks like when we get out there in our private automobile we are paying our fair share. With regard to truckers as well as the railroads and maybe the airlines (they may be paying more of a share nowadays) there has always been a big howl at the public trough until we get them into a good financial position.

Secretary ADAMS. I don't know about your description, Senator. [Laughter.]

We help them along the line.

The CHAIRMAN. Well, I will modify that. There might be somebody in the industry that might take exception to my language. The point is I think we have helped all of them.

Secretary ADAMS. Senator, I think that this Nation has become the country it is because transportation has been helped along by the Federal Government, starting with the canals and working our way up to the railroads and then the highway and aviation systems.

Well, what about the fact that all these things were built in the past? I don't know. I suppose we could find out how much all the locks and dams and dredging have been worth. But I think we ought to let bygones be bygones with respect to the things we have already put in place and I think we also should continue to subsidize the barge industry. And all of the proposals that are before us involve a substantial amount of subsidy.

I had the same feeling you have in the time that I spent in the Congress. We help a lot of people out there as I think we should. We try to be fair and we try not to make any mistakes. Therefore, as this matter goes into conference, I hope we do a fair and a decent thing and we will be available to try to help. We are not trying to be contentious with any of the groups that are involved; we know that they are sincere, we know they have their positions too.

Unfortunately, you and I and the other members that are involved in this have to make a difficult decision. It is going to make some people glad and some mad. You and I have done this before and after it's over we hope that we can just move to the next item and that we can survive that.

Senator DANFORTH. Mr. Secretary, you are proposing that the subsidy which is in the front of that, that the value of the subsidy that is now being extended by the Government to the inland waterway system be put to about a third.

Secretary ADAMS. It would be reduced over a 10-year period.

Senator DANFORTH. About a third of what it is now.

Secretary ADAMS. Yes.

Senator DANFORTH. Now surely that is a matter of some consequence.

Secretary ADAMS. It is, Senator. It is a matter of great consequence.

Senator DANFORTH. And it is a matter of consequence to the people whose livelihoods are based on the river, isn't that right?

Secretary ADAMS. Yes, Senator.

Senator DANFORTH. It is not a trivial matter?

Secretary ADAMS. It is not a trivial matter.

Senator DANFORTH. It is not just a waste of their time that some of them should be here today.

Secretary ADAMS. Absolutely not. They have an enormous stake in this. All the parties, as you indicate, that have focused on this have an enormous stake in it and, as I said to the chairman, we are perhaps in the unfortunate position, all of us, where we have to decide. But that is what it is all about and that is what we are trying to do in a reasonable fashion.

I understand your position and the reasons that you are there and I respect you very much for it. I just can't help the fact that this is where we are.

Senator DANFORTH. What strikes me as remarkable—it is not just this, it is so many things we do in Government—is that we should

have come up with some reasonable theory, you know, this sounds good and the effect of it is just tremendous insofar as the people throughout the country are concerned and we should have to toy around with reasonable concepts, what we think is reasonable.

Secretary ADAMS. Senator, the only way I know how to correct that, and that is what we are trying to do, is to start with it. We have studied it, as you pointed out. We have booklets going back 25 years. So at this point you are going into the process. We have put in a phasing-in period as I indicated to the chairman. I can very well understand what you will want and expect from me as Secretary of Transportation.

I suggested that 3 years out—you may want to set a different time—we would come back and report to you the effects of the charges. And other witnesses who are here today would also appear and either say I am right or I am wrong. But I will give you the honest answer you ask.

The CHAIRMAN. Thank you very much, Mr. Secretary.

Secretary ADAMS. Thank you very much, Mr. Chairman, for your courtesy.

The CHAIRMAN. We appreciate your statement.

Secretary ADAMS. Thank you, Mr. Chairman.

The CHAIRMAN. Next we call Senator Walter Huddleston, the Senator from Kentucky.

STATEMENT OF HON. WALTER D. HUDDLESTON, A U.S. SENATOR FROM THE STATE OF KENTUCKY

Senator HUDDLESTON. Thank you very much, Mr. Chairman.

I appreciate the opportunity to appear here very briefly and make a statement before the committee.

The committee has under consideration today a very reasonable compromise of a number of difficult and controversial issues. The Navigation Development Act, H.R. 8309, was sent to the Senate by an overwhelming vote of 331-70 in the House. It clears for construction the replacement of lock and dam 26 at Alton, Ill., eliminating a bottleneck which has been unnecessarily adding to the costs of moving traffic throughout the Midwest. At the same time, it imposes a fuel tax of 4 cents a gallon on bargelines and their customers. The tax rises to 6 cents in 1981.

Efficient transportation is, of course, crucially important to the economic well-being of any region and lucky is the area in which rail, water, truck, and pipelines compete because effective competition produces the lowest price for the consumer and the best quality of service.

Kentucky has more navigable waterways than any other State, except Alaska, but at the same time, it relies on efficient rail, truck, and pipeline service as well. I have and will continue to support each of these modes.

I have also long supported the concept that bargelines and their customers should make a contribution to the cost of maintaining the waterways, but none of us would want to impair the constructive contributions water transport makes to the overriding national goals of fighting inflation and conserving energy.

The question of whether or not there will be some cost recovery has already been settled. The only remaining question is how much, and what the effect of that charge or tax will be. Or put another way, how

much can we tax the water transportation industry without driving substantial amounts of traffic off the waterways and thus destroying a vital mode of transportation.

The think that must be kept in mind is that water transportation, unlike other modes, cannot offer speed of delivery or door-to-door delivery. It offers one primary advantage—low cost for moving bulk commodities. If it loses that advantage, it will lose its appeal and traffic.

In breaking precedent with the traditional toll-free policy maintained by our Government for over 200 years, we are risking many unknowns. That is why I think we should proceed with caution and with full knowledge of the facts. I am reassured by the fact that this bill calls for an in-depth study of the impact of waterway taxes.

Navigation improvement has been one of the Nation's great success stories. Few success stories can match those of the rivers serving Kentucky. The Ohio River canalization project, for example, was authorized in 1910 anticipating 13 million tons of traffic annually.

In 1975, Ohio River tonnage exceeded 140 million tons. The Tennessee canalization project anticipated annual tonnages of about 13 million and in 1975 carried 28.3 million tons. The Cumberland project was authorized for an anticipated tonnage of 2.2 million in 1946 and carried 11.8 million tons in 1975. The Green River project was authorized in 1954 for an anticipated tonnage of 5.4 million and carried in 1975 15.9 million tons.

This remarkable development has had a highly positive effect on the growth of the economy of Kentucky and of the region. It has stimulated billions in private investment in industry and agriculture, producing the kind of local payroll that all communities desire. It has called forth investment by local cities and towns in river port and terminal facilities, many of them financed by local bond issues backed by anticipated future traffic.

Having established the precedent of cost sharing in this bill, I think it is now urgent to study in depth the impact of this tax and any future escalation.

There are many complex issues. Who are the ultimate beneficiaries of navigation investment? What will the impact of various levels of barge taxes be on rates of competing modes? What will the impact be on farm income, on balance of payments, on our troubled steel industry?

To what extent does navigation development, which stimulates the entire economy, also stimulate business opportunities for competing transport modes? How do direct and indirect Federal aids compare as between modes and is there any unfairness as between modes? And, above all, how can we move toward a comprehensive and neutral transportation policy?

Kentucky is an inland State and I must confess to concern that shallow draft navigation appears to be singled out for a tax while deep draft and Great Lakes facilities are exempted.

Another unfortunate aspect of this particular legislative situation, in my opinion, is that in some minds it has developed into a contest between the barge companies and the railroads.

That is exactly what is wrong with much of our transportation policy in this country. We pit one mode against another rather than

searching for a common, integrated system which gives this country the full advantages of each while promoting competition and efficiency.

We need a national transportation policy, and we also need some kind of overall transportation account within the Department of Transportation to assure that all modes are treated fairly, that they have equal access to capital, that competitive equity is maintained, and that each mode is used to its full potential.

I am hopeful that the institution of some cost-recovery on the waterways will be a step in that direction, that it will diminish the propensity to pit one mode against the other, and that it will promote an integrated transportation policy.

But the question here today, as I said, is how much should we tax the water transportation industry. I favor the principle of cost sharing, but I think there is nothing to be lost and everything to be gained by adopting a maximum fuel tax of 6 cents a gallon at this time, and saving escalation until all the relevant facts outlined in the study proposal can be evaluated.

I had rather be cautious now than be sorry later.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much for a very fine statement.

Senator Huddleston, you emphasized the one thing that I think ought to be our objective and that is to try to work toward an integrated transportation policy to try to see to it that all of those in the transportation industry make a good profit if they are operating efficiently and try to find a way they can all work together for the future good of all, including the common goals of the entire country. I don't think that is too much to hope for.

Senator HUDDLESTON. I think obviously each system has certain inherent advantages and disadvantages. The question then is how does the Government play its proper role without favoring one over the other. Obviously the answers to those questions are not now available.

I think the testimony we have heard today indicates that we do not have adequate answers yet to all those questions and to run pell-mell into the preconceived notion that barge traffic ought to pay for all of the operation and maintenance and part of the construction costs immediately does not seem to me to be reasonable at this point. We have not made that kind of determination on the question of other modes.

For instance, the gasoline tax does not pay for maintenance of the Federal highway system. The States maintain those systems; most of them do it substantially through an additional tax on accessories or on gasoline but they have other methods, too. So we have not really looked at this whole picture to the extent that we can say right now we ought to proceed down this road. There is plenty of time after the imposition of the program called for in the House bill to make the right determination and the study seems to me to be the best approach.

I might point out, too, that the vote that was taken in the Senate quoted by Secretary Adams of, I believe, 72 to 20 was not a true reflection, in my judgment, of how the Members of the Senate feel about this particular issue. That was the vote, I believe, on final passage. The real key vote was on an amendment, I believe, offered by Senator Stevenson relating to a study and that vote was much closer, 51 to 44, I believe.

After that issue was lost, there was only one other ball game in town and it passed substantially. I believe the Senate would give very seri-

ous consideration to accepting what the House has proposed and which was supported by the administration up until it passed the House. Give us this ground work, give us this foundation to move ahead on and then determine what a proper approach ought to be. I would hope that would be the case, Mr. Chairman.

The CHAIRMAN. Thank you so much, Senator Huddleston, for a very fine statement.

Next we will hear from the Honorable James Symington on behalf of the American Waterways Operators, Water Transport Association, National Committee on Locks and Dam 26, American Inland Waterways Committee, and the National Waterways Conference.

Mr. Symington, we are very happy to have you before the committee. We are pleased to have your statement.

STATEMENT OF HON. JAMES SYMINGTON, ON BEHALF OF THE AMERICAN WATERWAYS OPERATORS, WATER TRANSPORT ASSOCIATION, NATIONAL COMMITTEE ON LOCKS AND DAM 26, AMERICAN INLAND WATERWAYS COMMITTEE, AND THE NATIONAL WATERWAYS CONFERENCE

Mr. SYMINGTON. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, it is my honor to appear before you this afternoon on behalf of those to whom navigation on the inland rivers is most important. It is a large list. It includes virtually every national farm organization. Farmers, especially in our heartland, rely on the rivers to take their grain to market and to bring to them essential fertilizer and other supplies.

I speak for those who make electricity, those who mine coal, or distribute home heating oil and gasoline; those who make chemicals, paper, and steel. Also, of course, the some 1,800 companies and 90,000 employees who operate the 25,000 barges and 4,100 towboats that ply our great rivers in the service of America's people and her continuing destiny as the world's foremost trading nation.

A specific list of the principal supporters of H.R. 8309 as passed by the House by a vote of 331 to 70 is attached to my written statement.

Naturally, as one who served in the House on behalf of a community which owes its origins and continued good health to the dowry conferred on it by the Father of the Waters, I am as grateful for the House's action as I am hopeful that the Senate may confirm it.

Of course, as Senator Danforth indicated, the House has already confirmed the principal thrust of the Senate action by passing for the first time in history a new charge on the waterways.

Speaking of the Father of the Waters, Mr. Chairman, I think that Senator Domenici made an apt allusion when he referred to Abe Lincoln's action as an attorney on behalf of a railroad back in 1854. Later, as President, he looked forward to the day when the Mississippi could roll unvexed to the sea which replacing the lock at 26 would help it to do along with the traffic upon it. Beyond that, it would be interesting to try to learn the extent to which navigation aids and other procedures and flood control measures have helped to fortify the structures that rail bridges enjoy over the many rivers of our lands, a contribution which, as far as I can tell, is not charged to the railroads.

Mr. Chairman, the Senate having worked very hard on all the issues posed by the various elements in this legislation, has one major remaining question to resolve: That is whether the user tax provided in the House-passed version is a proper and adequate charge under all the circumstances.

I think the committee has detected some difference of opinion on this question. There seems to be four points of view on it.

One, such a departure from long-established toll-free waterways policy is, *per se*, a grave mistake.

Two, if it is warranted by changed circumstances, a 4- to 6-percent tax per gallon is dangerously high.

Three, it should be much higher.

Four, it is at the right level to permit proper adjustment by the industries affected, and proper monitoring as to its impact according to the study provisions of the bill.

The significance of the mandated study and 3-year report to Congress should be noted at the outset—because it goes to the question of adequacy of the initial tax.

No more succinct expression of this significance has appeared than that of the *Journal of Commerce*, Tuesday, September 20, in its editorial entitled "The Price of Dam 26." The concluding paragraph of that editorial may appear to articulate the obvious. But the obvious can occasionally get lost in the shuffle of ideas and interests. It reads:

Once the concept of special taxes on users of inland waterways gets on the statute books, it will be relatively easy for Congress to vote increases in the tax rates; much easier than getting the precedent established. So if the barge lines and their customers are a bit uneasy over the price they are paying for Dam 26 and the new locks at Alton, we think they have reason to be. Once Congress gets accustomed to the idea that it can legislate barge rates up to almost any levels, it is any man's guess what it will do.

Mr. Chairman, in that connection, what man would have guessed a few years ago that the 95th Congress would find so signal a provision of the Northwest Ordinance of 1787, later incorporated into the constitutions of so many States, and their enabling laws, inadequate to the demands of our time? To abandon that promise may seem a small step for this Congress. But it is a great leap into the unknown for this Nation. First, hear the words of George Washington, penned July 25, 1785:

My attention is more immediately engaged in a project which, I think big with great political, as well as commercial, consequences to the States, especially the middle ones; it is by removing obstructions and extending the inland navigation of our rivers, to bring the States on the Atlantic in close connection with those forming to the westward by a short and easy transportation.

Mr. Chairman, may I now read the subsequent ordinance provision just to remind ourselves where we have come from:

The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways and forever free, as well to the inhabitants of said territory as to citizens of the United States * * * without any tax, impost, or duty therefor.

On the strength of this compact, Mr. Chairman, fashioned from Washington's hope, and chiseled into the granite of our foundations, our forebears made the bold decisions that created a nation out of a frontier—out of a wilderness. Their descendants, the some 95 percent

of our people who live in States directly served by deep and shallow-draft navigation, look now to your committee for guidance as to how and in what manner this early legacy, this trust, if you will, must be withdrawn, and replaced by a tax.

It is certainly any man's apprehensive guess what Congress will do with a brand new taxing opportunity. One thing we know, the law of gravity is greatly ignored by taxes. They go up. And I rather suspect from what I hear and read that any report prepared even in part by the Department of Transportation 3 years hence will suggest that they do so.

The question then recurs: Is the 4- to 6-cent-per-gallon tax on diesel fuel a right and reasonable way to begin?

Mr. Chairman, the diverse groups and interests for which I speak today, after long and arduous discussion and comparisons of notes, balance sheets, anxieties and doomsday projections, are prepared to say a barely audible, "Yes." Nor are any victory celebrations planned should the Senate adopt this compromise level of tax, for that's what it is, Mr. Chairman, a very appreciable compromise between the position we found ourselves in prior to Senate passage of S. 790 and the awesome provisions of that amendment.

If it is compromise one seeks, this is it. Granting, if you will, that H.R. 8309 is, per se, a compromise bill, does it provide for "substantial waterway user charges," an expression contained in Secretary Adams' letter of October 18? In passing, it would seem they were sufficiently substantial to warrant administration support in the House.

In any event, a 4-cent tax on a gallon of diesel increases its cost by over 10 percent. A 6-cent tax would add 15 percent to the cost of today's gallon. If one were to ask the average citizen if he would consider increases of from 10 to 15 percent in the cost of his fuel "substantial," the answer would most likely be, "Yes." Should the people's representatives come to a different conclusion?

Take another perspective. The annual net profits of the waterways industry as a whole are in the neighborhood of \$75 to \$80 million. According to Senate staff estimates, the 4-cent tax could return up to \$30 million the first year and \$40 million the second year, while the advent of the 6-cent tax would cost the industry \$58 million in 1982. Surely any new tax calculated to cut net profits in half—and more than half—must be considered substantial at least in the view of the taxpayer.

Would not such a carrier taxpayer be inclined to pass such insupportable costs on to his shippers, and ultimately the consumers of energy, food, fibre, ore and steel, and other materials? And is the impact of such an inevitable process not inflationary?

In the case of overseas shipments, especially of grain, is it not adverse to our balance of payments position? Last year, our farm exports—so much of which passed through the Mississippi locks to the gulf and the world's oceans—reached \$22 billion, creating a favorable balance of agricultural trade of over \$21 billion and offsetting the nonagricultural trade deficit of \$10 billion, a deficit almost entirely due to the importation of oil and our rueful dependence on foreign sources for that commodity.

Mr. Chairman, it is well said that our energy crisis presents us with the moral equivalent of war. In order to do battle, to carry the new loads of coal as substitutes for oil, the railroads have indicated the

need for \$18 billion more in track and non-track improvement aid through a whole series of tax writeoffs and advantages.

I have no idea whether that level of assistance is warranted. It may well be, for we need dependable rail systems. That is one good reason why no waterways spokesman has asked for time to oppose the request.

We ask in our turn only that the Congress not impose charges on our water thoroughfares that would artificially shift an even greater share of the burden to a competing mode that can't handle its current obligations without considerable Federal help.

Indeed, attention is called to the fact that since 1824 the national public investment in waterway maintenance and improvement has exceeded \$5 billion. I can recall voting for a rail appropriation in excess of that figure in one year. Nor do I believe moneys allocated for rail improvements confer such additional environmental and recreational benefits as flow from proper waterways projects. I wish this would be.

There is far more at stake here than the fate of waterways carriers. The continued health, balance, and stability of an internal economic system founded on the freedom of navigation principle is at stake. If circumstances dictate that it should be disturbed, it should be disturbed carefully.

It seems to us, Mr. Chairman, that what the Congress would wish to achieve—and I believe you have said it today—is a proper balancing of all the various inducements and burdens extended to evoke the maximum effort, efficiency, and cooperative spirit of all the modes. A proper study would assist it in doing so.

Secretary Adams, during his confirmation hearings, advocated such an intermodal transportation policy. If Congress were inclined to move in that direction, a good beginning would be its favorable response to the bill before you, Mr. Chairman. Because experience with its provision will give you, this committee, and the entire Senate a fair opportunity to evaluate this historically novel element in the evolution of our transportation policies.

[The appendix follows:]

APPENDIX A

SUPPORT FOR H.R. 8309 AS PASSED BY THE HOUSE

This statement is submitted on behalf of the following organizations which wholeheartedly support H.R. 8309 as passed on October 13, 1977, by the House of Representatives:

AMERICAN ASSOCIATION OF PORT AUTHORITIES

An organization of public port authorities located on the Atlantic, Gulf and Pacific coasts, Great Lakes and inland rivers.

AMERICAN INLAND WATERWAYS COMMITTEE

An organization of leading inland water carriers formed to coordinate and promote inland waterways interests with respect to Locks and Dam 26 and waterway user charge legislation.

AMERICAN WATERWAYS OPERATORS, INC.

A nationwide trade association of some 300 firms in the barge and towing industry.

NATIONAL COMMITTEE ON LOCKS AND DAM 26

A coalition of some 30 agricultural, industrial and labor organizations, as well as numerous private firms supporting the expeditious replacement of Locks and Dam 26, including the following:

American Farm Bureau Federation
 American Soybean Association
 Associated Milk Producers, Inc.
 Boat Owners Association of the U.S.
 Building and Construction Trades Council, AFL-CIO
 Chicago Maritime Council
 Farmers Grain Dealers Association of Iowa
 Farmers Union Grain Terminal Association
 Fertilizer Institute
 Inland Rivers Ports and Terminals, Inc.
 International Longshoremen's Association, AFL-CIO
 Midcontinent Farmers Association
 Minneapolis Grain Exchange
 Minnesota Association of Cooperatives
 Minnesota Agrigrowth Council, Inc.
 National Association of Electric Companies
 National Association of Wheat Growers
 National Council of Farmer Cooperatives
 National Farmers Organization
 National Farmers Union
 National Grange
 National Rural Electric Cooperative Association
 Northwest Country Elevator Association
 Seafarers International Union of North America
 Transportation Institute
 Upper Mississippi Waterway Association
 Wisconsin Federation of Cooperatives

NATIONAL WATERWAYS CONFERENCE, INC.

An organization of some 500 waterway-oriented businesses, industries and agencies, including five principal membership categories: river valley associations, companies shipping or receiving products by water, water carriers, shipyard and other waterway service industries, and public agencies such as port authorities and state water boards.

WATER TRANSPORT ASSOCIATION

A national trade association representing the holders of I.C.C. certificates of public convenience and necessity operating on the inland rivers, the Great Lakes and in the coastwise and intercoastal trades.

Mr. SYMINGTON. Thank you.

The CHAIRMAN. Thank you very much, Senator Symington, for a very eloquent statement.

I don't see my colleagues. It tends to happen that we get hearings started and by the time that the Secretary of Transportation made his statement I am left herewith presiding over this. I will try to see to it that every member of the committee sees your statement and studies it and I will try to do the same thing for the other witnesses.

Thank you very much.

The CHAIRMAN. Next we will call Mr. William H. Dempsey, President, Association of American Railroads.

**STATEMENT OF WILLIAM H. DEMPSEY, PRESIDENT, ASSOCIATION
 OF AMERICAN RAILROADS**

Mr. DEMPSEY. Mr. Chairman, my name is William Dempsey. I am president of the Association of American Railroads.

I have a prepared statement which we have filed, Mr. Chairman, and I would like to ask that it be included in the record.

Thank you.

I don't propose to take up too much of the chairman's time this afternoon. Our statement is on file. The issues have been thoroughly canvassed by the preceding witnesses, it seems to me. The chairman and the rest of the members of the committee are, I am sure, familiar with the position of the railroads. So I would just like to make a few very brief comments.

In particular, in reference to some of the questions that have been asked and some of the comments that have been made this afternoon: The railroads oppose the House bill as imposing a user charge that is far too low. It would recover less than 10 percent of Federal expenditures. The railroads believe, as we have from the start, that a system of user charges should be imposed that would, after a reasonable phase-in period, recover all of the Federal expenditures both for maintenance and operation and for new construction on the waterway system.

Now Senator Danforth expressed some dismay at the fact that, as he put it, we would be seeking to help the railroad industry by hurting a competitor and at the same time the companion industry. I know the chairman is exerting his efforts to bring about further cooperation among the different modes of transportation. I heard Senator Huddleston express the same general sentiments and I have been asked the same question in other committees of the House. I have to say that I think is a reasonable question to ask. It gives me no particular personal pleasure to be seeking Federal legislation that waterways operators oppose and fear will harm them. I want to assure the chairman that we have given our position long and hard thought. If we could see any reasonable alternative to the position that we have taken, why, we certainly would adopt that alternative.

The fact of the matter is that after some prolonged study of the economics of our industry, we felt obliged to bring the current situation to the attention of the Congress and this committee.

The problems in the rail industry came to general public attention with the collapse of the Penn Central, the largest bankruptcy in the history of private enterprise. We, of course, were aware of the precarious state of the railroad industry before then, but it has been since the Penn Central bankruptcy that we have set a good many knowledgeable people to an analysis of why it is that the rail industry is in the troubled position that it is.

In the last 20 years we have seen a precipitous decline in this industry. In the 1940's the railroads carried almost 70 percent of all intercity freight traffic. In 1950 we carried 50 percent, and in 1975 that was down to about 38 percent. We have not had a rate of return on net investment as high as 4 percent since the 1950's. We have not had a return as high as 3 percent since the 1950's. Last year as an industry our rate of return was about 1½ percent.

Now that is a pathetically low figure. The question that we put to ourselves and that we feel we must speak to the Congress about is, well, why is that?

We have come to the conclusion that there are two reasons. One of them is that we are overregulated, and our competitors—the barge industry included—are for the most part, unregulated. About 90 percent of the traffic moving on the waterways is unregulated.

Unregulated carriers are able to vary their charges depending upon market conditions and their charges vary as much as 300 percent from one season of the year to another. We are just not able to charge our rates like that. I know that the Congress is very sensitive to that problem and took a large step in redressing it last year in the Quad R Act—one of the most important pieces of railroad legislation in the last 50 years—and I know the chairman played a major role in that. We simply have to see how it is going to work out.

I know that the Congress is going to oversee the application by the Interstate Commerce Commission of that piece of legislation.

Now the second problem that we see is that our competitors have been much more heavily subsidized than the railroads. Different figures have been used today. I refer the chairman and the committee to the figures in appendix A of my statement, which are taken from the study that the Department of Transportation made pursuant to section 902 of last year's Quad R Act.

What those figures indicate is that there has been a marked disparity between what the railroads on the one hand and the barge industry on the other have received in Federal assistance. So far as the motor carrier industry is concerned, we are convinced that the heavy trucks do not pay their fair share of maintenance costs on the Federal interstate highway system. The indirect subsidy there may range between \$10 and \$20 billion a year, on enormous subsidy.

Now if we are right on that, it seems to us that there are only two possible approaches to take. One is to reduce gradually the subsidy to competing modes. This seems to us to be proper once those modes are mature and can stand that kind of gradual reduction of Federal assistance.

I have never taken the position that subsidies are immoral or bad public policy in all cases; of course they are not. They are often necessary to promote the common welfare the subsidies given to the barge industry were necessary to open those areas of the country that are served by the barges. The land grants to the railroads helped open the West. It seems to me that no one could complain about the worthiness of subsidies to the different modes to aid their development. But at the same time, once the various modal competitors are mature and established, then it does seem to us that it is appropriate to reduce and, if possible, to eliminate the subsidies so that shippers will make modal choices based on the full economic cost of each mode.

There is another way to do it, of course, and that is to have counterbalancing subsidies. However, the Congressional Budget Office puts the subsidy to the barge lines at a level of 41 cents for every dollar paid by shippers. The railroad industry received 3 cents in subsidy for every dollar shippers paid. I have not worked it out exactly but we had about \$18 billion in revenue last year so we are talking about something like \$8 billion a year, if we were to receive the 41 cents per dollar subsidy that large lines get. It seems a little much to come and ask for that amount.

So that is the background, Mr. Chairman, for why we appear before you and why we appeared before the different committees of the House seeking and supporting the enactment of a waterway user charge system.

I would just say one or two more things just for the record on a couple of matters that were raised in questions. Senator Hansen asked about State and local taxes. In 1975 those taxes amounted to a little over \$475 million a year so that, of course, I agree with—I guess it was Senator Curtis asked that.

I agree with the Senator's observation that amount is relevant when one is looking on the one hand at a right-of-way system that is owned and maintained by the railroads and also taxed and a right-of-way system on the other hand for the waterway industry that is provided by the Federal Government.

Senator Danforth spoke several times of his estimate of the 20-percent diversion of traffic and I think that is an important factor. He got that, I take it, by extrapolation from the study that was made by the Department of Transportation which indicated that there could be as much as a 10-percent diversion of traffic from the barge industry if there were a 100-percent recovery of operations and maintenance and, therefore, I take it from what he said if you also recovered construction costs that figure might go as high as 20 percent. But the study by the Corps of Engineers indicates that would not be so and I am quoting from their table 2 which shows that a doubling of the rate of recovery did not result in a doubling of the diversions.

A further 50-percent increase leads to only an additional 1-percent loss of traffic. This suggests a very low elasticity. The greatest traffic losses occur between zero- and 50-percent recovery and the demand curve shows lower elasticity above that level.

So I don't really think that the studies that have been made suggest that there would be anything like a 20-percent diversion and, of course, any diversion would be over the period of time in which the waterway toll is phased in. The precise figures are given in my statement. The DOT projections for traffic increases between now and 1990 for the barge industry and for that matter for other transportation segments are very, very large and much larger than any diversion that could possibly take place.

Mr. Chairman, that is all that I have to say this afternoon. I thank you for the opportunity to appear before you.

The CHAIRMAN. Thank you, Mr. Dempsey. I just want to ask you about this one item. It is my understanding that barge operators are concerned about the failure of the Interstate Commerce Commission to require a full cost allocation by railroads in setting rates on the so-called back hauls. Is this not something that Congress should be concerned about in increasing the transportation cost on barges?

Mr. DEMPSEY. Mr. Chairman, I wish I could respond intelligently to that question but I just don't know enough about these rate matters. Certainly there are rates that are set by the railroads, water compelled rates. They are lower than other rates because of water competition; there is no question that we feel the impact of the subsidy to the water carriers. What that means is that since we have to maintain our fixed plant other shippers have to make it up so our rates are

higher elsewhere and we cannot provide the kind of service that we should.

Beyond that I would be glad to look into this matter of backhaul rates, Mr. Chairman, and supply you an answer as promptly as I can.

The CHAIRMAN. It is something I don't like. I am not happy at all about being in a position at issue between the bargelines and the railroads. I personally want to see both modes of transportation make a good return, a good part of the profit. I would like to see the railroads make a better profit than they are making now.

If there is some way we can work it out so you could better coordinate the right facilities to that mutual advantage, I would like to see it done. I am sure you are familiar at least in general with my thoughts on that subject.

Mr. DEMPSEY. I surely am, Mr. Chairman. I appreciate that.

The CHAIRMAN. I want them to make money, I want them to make as much as the average manufacturer and a little more, as far as I am concerned, especially now because I am chairman of the Service and Transportation Subcommittee. I would like to see them do better than the manufacturing people. The same with the bargelines.

Thank you for your statement.

Mr. DEMPSEY. We understand your interest in the railroad industry and we appreciate all the help you have been to us in the past.

The CHAIRMAN. Thank you very much.

[The prepared statement of Mr. Dempsey follows:]

STATEMENT OF WILLIAM H. DEMPSEY, PRESIDENT, ASSOCIATION OF AMERICAN RAILROADS

My name is William H. Dempsey. I am President of the Association of American Railroads, whose members operate 97 percent of the railroad mileage and produce 97 percent of the revenues of all U.S. railroads. The railroad industry feels that the time has come to end the huge Federal subsidy to inland waterway users. The Senate-passed bill, H.R. 5885, approaches that goal. H.R. 8309 does not.

Historically, the Federal government has provided aid to transportation in order to open new areas of the nation, to expand markets, and to improve communications. During the last century highways, railroads and waterways all received some government aid. This aid speeded the development of transportation arteries that made it possible to market Iowa grain in New Orleans and Nebraska hogs in Chicago. And most of the aid was paid back, through reduced transportation rates and user fees. The railroads, through reduced railroad rates and various special taxes, returned much more to the United States Treasury than they received. Through highway user taxes, the Federal government substantially recovered the cost of highway construction, although I note parenthetically that all users—in particular heavy trucks—have not paid their appropriate share of this cost. But the waterways users paid next to nothing for the benefits they received.

Now, Federal navigation-related expenditures on waterways have climbed above one-half billion dollars a year—and the barge companies still pay nothing. In addressing the question of waterway user charges, Congress has the opportunity to correct one of the most glaring inequities in national transportation.

Every President since Franklin Roosevelt has supported waterway user charges. Numerous studies over the past forty years have supported the presidential positions. In fact, we know of no major study that has ever concluded that barges should not pay user fees.

The landmark 1961 report of the Special Study Group on Transportation Policies in the United States (commonly referred to as the "Doyle Report") found that the (then much smaller) subsidy to waterway users was unjustified and that the imposition of waterway user charges might well result in greater economic efficiency. While the report conceded the need for a phase-in of user charges to avoid economic disruptions, the authors were unimpressed by barge-

men's claims that imposition of user charges might put some waterways out of business. The report called for ultimate full recovery of all navigation-related maintenance and construction costs.

More recently, the National Water Commission came to similar conclusions in an exhaustive 1973 study of national water resources. The Commission found three basic weaknesses in Federal inland waterway policy: --

1. "Serious deficiencies" in the way decisions are made on construction of new projects.
2. No assumption by non-Federal interests of any part of the cost of Federal waterway projects.
3. The planning and building of inland waterways without regard to the national transportation system.

Accordingly, the Water Commission called upon Congress to "enact legislation requiring non-Federal interests to assume an appropriate share of the cost of Federal waterway projects." This share was seen as 100 percent of operation, maintenance and repair costs of existing waterways, and in addition the full cost—plus interest—of any new project, unless some "national defense benefit" made a partial Federal subsidy desirable.

Indeed, just last year Congress adopted a policy that collides with continued subsidization of the users of the inland waterways. Section 902 of the Railroad Revitalization and Regulation Reform Act of 1976 establishes the goal of a transportation market in which market shares are governed by customer preference based upon service and full economic costs. Thus this provision directs the Secretary of Transportation: ". . . to examine ways and means by which future policy respecting Federal aid to rail transportation may be so determined and developed as to encourage the establishment and maintenance of an open and competitive market in which rail transportation competes on equal terms with other modes of transportation. . . ."

The response to this Congressional mandate was the Study of Federal Aid to Rail Transportation, released by the Department of Transportation in January of this year. This study concluded, among other things, that Federal subsidies to inland water transportation have been unsound economic policy and unfair to transport modes—principally railroads—competing with water carriers. Further, "The maintenance of an open and competitive market among mature modal competitors requires the elimination of most, if not all, Federal subsidies to transportation. Where circumstances require long-term Federal financial involvement in the operations of a mode of transportation, such Federal involvement should be based on the appropriate form of cost sharing or cost recovery."

Note especially the phrase "mature modal competitors." Subsidies to waterways could be justified in the early years of this nation's history by the need to develop new markets and open new areas of the country. But this nation, and the transportation systems that serve it, are now mature. The benefits of the waterway subsidy, which once accrued to many people and many areas of the country, now flow to the barge companies and to the oil, steel, chemical, coal and export grain companies whose scale of operations can generate shipments in bargeload lots of thousands of tons each. It is primarily these industrial giants, in fact, who own the private and unregulated barge companies that account for two-thirds of total barge traffic today.

And the subsidy is huge. During the decade from 1965 through 1975, the Corps of Engineers alone spent nearly \$3.6 billion in operating, maintaining, and constructing our system of inland waterways. According to the Congressional Budget Office, the net effect is that forty-one cents of taxpayer money is provided to the barge lines for every dollar paid by those who ship by waterway. During these same eleven years during which the Federal Government spent \$3.6 billion on waterways, the railroads had to spend about \$19.7 billion of their own revenues for construction and maintenance of their own roadway. In addition, they paid nearly \$2 billion more in taxes on roadway and track property. Consequently, while waterway users were receiving a government subsidy for right-of-way of about forty-one cents for every dollar paid by waterway shippers, railroads had to spend about twenty cents of each freight revenue dollar to maintain their right-of-way.

The railroad industry and rail shippers are seriously disadvantaged by such an uneven-handed government policy. The penalty comes in two forms. First, freight traffic is diverted from railroads to barges because barge costs, and therefore barge rates, are artificially reduced by the enormous public subsidy. Second, the railroad rate structure is artificially depressed, not only on water competi-

tive routes, but also on products moved by rail from points far removed from the waterways but which compete with products moved by rail or barge on competitive routes. It is impossible to say with precision what the total financial impact on the railroads has been; but our best estimate is that the waterway subsidy currently drains from the railroads hundreds of millions of dollars per year in net revenue.

The railroads cannot stand lost revenue of these dimensions. The financial condition of the industry is well known. Net railway operating income in recent years has actually been well below levels achieved in the 1920's and 1940's, despite the fact that today's inflated dollars are worth far less. The industry's rate of return on net investment has not risen above three percent since 1966. Last year it was 1.49%. And the industry's return on shareholders' equity has ranked near the bottom of the list of major industries year after year. In contrast, while it is not easy to come by earnings data for the largely unregulated barge industry—and none have been volunteered—it is uncontested that barge lines as a group are considerably more healthy financially than the railroad industry. Return on investment figures of between ten and 15 percent are commonly cited. The DOT, for example, reported an average 15.2% return for the 1973-1976 period.

Moreover, it is not only the railroads and the general taxpayers that suffer from the existing policy of subsidization. The artificial economies of subsidized water transport induce industry to locate new plants at waterside locations, thus distorting patterns of industrial location and injuring communities that cannot offer subsidized water transport. The depression of railroad earnings attributable to this subsidy also hurts the shippers and communities—and they are in the great majority—that must continue to rely upon railroads. To the extent that the revenue lost because of the subsidy is made up, the burden is imposed upon rail shippers through rates higher than would otherwise be necessary. And to the extent that the lost revenue is not made up, the railroads are disabled from maintaining and modernizing the plant upon which rail shippers and landlocked communities must depend. The irony is that Congress may ultimately have to spend billions on railroads to undo the havoc wreaked on the railroad system by the billions spent on waterways. This would indeed be a bizarre and costly system of compensating taxpayer subsidies.

The "free ride" that government navigation expenditures give to barge operators is not only unfair to railroads, other competing modes, and many shippers; it also contributes to unsound waterway investment decisions. Other private enterprises, such as railroads, who must pay for capital expenditures out of their own revenue, examine capital expenditure proposals with scrupulous care. Waterway users, with no financial responsibility for the system they use, have nothing to restrain them from asking the Congress each year for larger and more expensive facilities. The Locks and Dam 26 controversy is a case in point. The cost of a new dam will be some \$421 million. According to GAO, the cost of rehabilitating the existing dam would not be more than \$85 million. Even with a new 1200 foot lock, the cost of rehabilitation would be some \$240 million less than a new dam. Given the existing subsidy program, it is scarcely surprising that the waterway users support the most expensive alternative. If they had to pay for it, one wonders whether their enthusiasm for the new dam and locks would not wane considerably. The short of it is that the establishment of a system of user charges that would recapture capital costs from waterway users would help assure rational decisions on difficult and often controversial waterway investment issues.

For all of these reasons, the existing system of waterway subsidies is infirm and should be replaced by a user-charge system. And that user-charge system should provide a full recovery of the navigation-related costs of constructing, operating, and maintaining waterways. There is no basis in reason or equity for a system that falls short of full recovery of these costs. Anything less than full recovery will continue to disadvantage railroads vis-a-vis water competition, will continue to encourage economically unjustifiable waterway construction projects, and will continue to deprive the Government and taxpayers of revenues for which they have more deserving public uses.

What level of user charge is necessary to recover total navigation expenditures? Assuming a user charge in the form of a uniform toll per ton-mile on shallow draft vessels and using figures from the 1977 Corps of Engineers' budget for inland projects with assigned navigation benefits and traffic forecasts, the appropriate user charge to recover 100 percent of Corps' expenditures for opera-

tion, maintenance, rehabilitation and construction would be 3 mills per ton mile. While this figure may seem high in relation to the level of barge rates charged shippers, which average about 6 mills per ton mile, it is only a reflection of very high level of Corps' expenditures on waterways as indicated in the finding of the Congressional Budget Office that the Federal funding provides forty-one cents to match each dollar paid by those who ship by water.

If instead the user charge is to take the form of a fuel tax, the tax necessary to recover 100 percent of 1977 expenditures for operation, maintenance, rehabilitation and construction of inland waterways would be approximately sixty-four cents per gallon. (This amount would grow as the trend to larger tows reduces fuel consumption per ton mile and, if as currently planned, growth in expenditures increases faster than waterway traffic expands.) Again, this amount seems high in relation to the price per gallon of the fuel that waterway operators must pay. In fact, it would more than double the price of that fuel, currently about thirty-five to forty cents per gallon. To put this figure in perspective, however, one must realize that if the Federal government paid for railroad roadway maintenance, construction and taxes in 1976—the equivalent of its involvement in the inland waterways system—and recouped those costs from a tax on the fuel railroads consume, the fuel tax would have been eighty-six cents per gallon.

The House bill, H.R. 8306, provides for a six cent a gallon fuel tax by 1981. In relation to the sixty-four cents per gallon tax needed for full recovery of the Federal expenditures on waterways, a six cent a gallon tax is transparently trivial. It would recover only about nine percent of government expenditures and would do nothing whatever to redress the unfair competitive advantage held by the barge lines. Such a tax, or anything remotely resembling it, would serve no purpose except possibly to delude the public into believing that barges were finally "paying their way."

Let me turn now to the principal contentions that have been advanced by the opponents of a user tax.

Their central argument has been that for many years reliance has been placed by shippers and barge lines upon the existing subsidy policy, and that a sharp revision of that policy will bear unfairly upon many waterway users. At the least, they say, no more than a six cent fuel tax should be levied before a study is made of potential adverse impacts of a higher charge.

The fundamental flaw in this argument is that it wholly ignores the conclusions of the studies that have already been made. I have listed some of them already. But that is not a full catalogue by any means. A preeminently important study—because it deals exhaustively with the impact issue on the basis of current data—is the three volume March 1977 study by the Department of Transportation. That study found that the impact on waterway shippers of a user charge system would be minimal. Thus, a charge that would recover 100 percent of operation, maintenance, and rehabilitation costs would amount to "commonly only a fraction of one percent" of the delivered prices of the commodities shipped, and would rarely exceed one or possibly two percent. For example, such a charge in the form of a segment toll along the Illinois River would amount to seven-tenths of one percent of the price of corn, six-tenths of one percent of the price of wheat, and four-tenths of one percent of the price of soybeans, based on a national average price per bushel of \$2.70, \$3.06, and \$5.25 respectively. As to fertilizer, the impact would be less than four-tenths of one percent per ton. As to coal, where the impact would range from one cent to ten cents per ton, the effect of passing on the entire amount to consumers would be negligible, ranging from "less than one-hundredth of one cent" per kilowatt hour to no discernible effect at all. As to steel, the impact would be "a fraction of one percent of total costs even for the worst case." And for oil, the effect would range between one and a half percent of delivered price and one and nine-tenths percent.

As to the barge lines, the DOT study concluded that an immediate user fee recovering 100 percent of operations, maintenance, and rehabilitation costs might reduce waterway traffic up to 10 percent in the worst case, and that the industry is in a good position to adjust to user fees. For the three years 1973 to 1975, gross return on total capitalization averaged 15.2 percent. Moreover, the manner in which barge rates are set—grain rates fluctuate 100 to 300 percent between peak and slack shipping seasons, for example—indicate that waterway operators are quite capable of hearing user fees.

These impact figures from the DOT study did not take into account recovery of construction costs, which for 1977 will be about 125 percent of operations.

and maintenance costs. But the impact figures are so small to begin with that even doubling them affords no support for the argument that no decisive action can prudently be taken in the absence of another protracted period of study.

These data, moreover, undermine another argument advanced by user charge opponents—the contention that imposition of a user charge would fuel inflation. But I note in addition that if the impact figures were ten times as large as they are, that argument would still be meritless. For it is self-evident that a user charge system would not increase the costs of transportation; it would simply shift those costs from the taxpayers to the beneficiaries of that transportation. Indeed, a user charge system would actually reduce the overall actual costs of transportation, since under the present system of subsidy a substantial amount of waterway traffic is moving by what is in fact the most costly mode.

To be sure, as the Doyle Report concluded, a period of adjustment to a new policy may be appropriate. The railroad industry, therefore, supports the principle that a user charge system should be phased in over a reasonable period of years in order to permit adjustments by all affected parties. This would, for example, allow the natural traffic growth on the waterways to offset diversions of traffic. In a report issued last January, the Department of Transportation projected a 53 percent increase in tons and a 73 percent increase in ton-miles for the water carrier industry by 1990. When these figures are compared with the Department's conclusion that a user fee recovering 100 percent of operations and maintenance would divert no more than 10 percent of barge traffic in the worst case, it is plain that the result of full user charges, if phased in over a reasonable period, would simply be to reduce modestly the rate of growth of the barge industry.

Moreover, the railroads do not oppose the notion, reflected in the Senate bill that the Secretary of Transportation should be charged with the responsibility of monitoring the administration of a user-charge system and reporting to Congress so as to insure that no untoward and unanticipated effects go unnoticed. A phase-in of the charges, coupled with such oversight, would afford ample opportunity for legislative adjustments should any prove desirable. But, I repeat, where a subject has been as meticulously examined as this one, and where the judgment of informed and disinterested persons has so uniformly pointed toward full recovery of navigation-related costs, there is no justification for legislation that fails to specify full recovery as the final plateau of user charges.

The next argument of the waterway interests does not go to the merits of federal policy respecting the waterways. It goes, instead, to the character of the federal policy toward the railroads. The argument, in short, is that federal subsidies to railroads have been at least as large as federal subsidies to barge lines, and that therefore whatever may be said about the public's right to complain, the railroads should not be heard from.

The flaw in this argument is rather simple. It is rooted in fiction rather than fact. Fortunately, the Congress need not choose between the claims and counter-claims of interested parties. For, once again, the issue has been thoroughly canvassed, this time by the Department of Transportation in response to a specific requirement in Section 902 of the 1976 Railroad Revitalization and Regulatory Reform Act. The pertinent detail from that study is set forth in Appendix A hereto. The short of it, DOT concluded, is that, while the net subsidy to waterway users was some \$14.5 billion between 1824 and 1975, the railroads received only about \$1.8 billion over the same period and paid back in special charges over three times that amount.

The waterway witnesses have expressed displeasure with that study. That is understandable. But they have offered no credible basis for rejecting it. It is not credible, for example, to equate federal loans to railroads with federal subsidies to waterway users, as the waterway supporters sometimes are inclined to do. The railroads know the difference; the Congress surely does; and the waterway users would, too, if the Congress were to transform their subsidies from grants to loans.

It is worthwhile noting, too, that the existence of this Department of Transportation study of past federal assistance to both railroads and waterways wholly undermines the waterways users' contention that no significant user charges should be levied until a study is conducted, not merely of the impact of such charges, but also of the extent of federal aid to railroads. It is symptomatic

of the bankruptcy of the arguments of the opponents of user charges that they are obliged to contend that nothing should be done unless the Congress orders again this year the study that it ordered, and received, last year.

The user charge opponents advance another contention relating to the railroads. They say that competition is a good thing, and that in the absence of barge competition rail rates would escalate. To begin with, a user charge system will scarcely drive the barges off the rivers. There will still be ample competition. Beyond that, as we have noted, the ability of the barge lines to compete on the basis of federally provided money is simply the ability to compete unfairly; and while the consequence to some rail shippers is artificially low, barge-compelled rates, the consequences to the vast majority of rail shippers are either rates that are higher than they would otherwise be, or service that is not as good as it otherwise would be, or both.

Finally, the opponents of user charges maintain that any system of user charges should be structured so that it would not represent a method of recovering the navigation-related costs of the inland waterway system. If we understand this argument correctly, it is designed to secure a charge that would be fixed at some specified amount per gallon rather than a charge that would be tied to federal expenditures. This is the type of charge provided by H.R. 8309 and is one of the principal defects of that bill. First, the only rationale for a user charge system is that it will recover federal costs that are justly charged to private parties rather than to taxpayers, and accordingly legislation should provide for the adjustment of charges to actual expenditures. Second, and even more important, if the charge were fixed, new construction would, in effect, be "free" and there would be no incentive for waterway users to apply normal economic tests to such projects.

This does not mean that a fuel tax as such is objectionable. The problem is not the nature of the charge, but rather the fact that in the House bill the charge is fixed rather than adjusted periodically to conform to actual federal expenditures. Of course, it is hard to think in terms of such an adjustment when the tax recaptures but an insignificant fraction of the subsidy.

I should note that the Senate bill contains a feature that is undesirable for the same reason as a fixed tax. That feature is the provision that puts a ceiling on the waterway user charges that may be borne by any type of shipment equal to one percent of the value (including transportation costs) of such shipments. Such a provision thwarts the purpose of user charges in much the same way as setting the user charge at some fixed amount per ton mile or per gallon of fuel. The total value of commodities shipped by water in recent years is on the order of \$49 billion, so the one percent ceiling would limit collection to \$490 million per year at present. This ceiling is barely high enough to cover 100 percent of operations, maintenance and rehabilitation expenses plus 50 percent of construction expenditures as provided in the Senate-passed bill and is not high enough to permit recovery of 100 percent of expenditures. Given the rapid increase in these expenditures during recent years, the recovery of even only 100 percent of operations, maintenance and rehabilitation expenses plus 50 percent of new construction costs is soon likely to be precluded by the one percent ceiling. Once river navigation expenditures exceed the amount that can be collected under the one percent ceiling, then any further increases in expenditures occasion no increase in user charges, and the fiscal discipline that comes from having to relate charges to costs is lost. In fact, the more marginal projects—the ones that most require scrutiny—could be added at no cost to the users.

The proposed ceiling also discriminates unfairly among commodities, relieving shippers of some commodities of part of their responsibility for waterway costs and unduly burdening shippers of other commodities. For example, if user charges were distributed uniformly over all ton miles of traffic in shallow-draft vessels, coal traffic would bear user charges of about \$83 million under the Senate-passed bill. The one percent ceiling, however, would limit user charges on coal to about \$32 million, thus permitting coal traffic to escape \$51 million in user charges. The total shortfall in user charge collections from all commodities whose payments are limited by the one percent ceiling would be about \$130 million. Other commodities whose proportionate share of user charges had not reached the one

percent ceiling would be called upon to make up this shortfall. Consequently, shippers of soybeans, petroleum products and iron and steel products would be obliged to pay more than their proportional share of user charges.

For these reasons, while the Senate bill is vastly superior to the House bill, which we oppose, the final form of the user charge should not include such a ceiling.

A final word about the nature of the user charge. The Senate-passed bill, delegates to the Secretary of Transportation the responsibility for determining the form of the charge—whether it be lockage fee, gross ton mile tax, and so on—subject to disapproval by the Congress and provided only that the charge recover 100 percent of operations and maintenance costs and 50 percent of new construction costs. It would, of course, also be possible for the Congress to specify the type of charge, such as a fuel tax, as is provided in the House bill. The Secretary of Transportation, in testimony before the Water Resources Subcommittee of the House Committee on Public Works and Transportation, suggested that it would be desirable, though not essential, to “combine a moderate fuel tax with segment tolls or other charges to lead to a more equitable distribution of the burden of the cost” as among the relatively high and low cost segments of the system, as long as the end result is recapture of 100 percent of operations and maintenance expenses and 50 percent of new construction costs. While, as I have indicated, we believe that 100 percent of new construction costs should be recovered, we believe that this suggestion of a combination of a fuel tax and other types of charges deserves consideration.

Mr. Chairman, that concludes my prepared testimony. I will be glad to answer questions.

APPENDIX A

FEDERAL AID TO RAIL TRANSPORTATION

The data in this Appendix are taken from the recent D.O.T. Study of Federal Aid to Rail Transportation. The Study shows that the railroads received a total of \$1.8 billion in Federal aid, including the value of land grants, during the period 1824–1975. Of this \$1.8 billion, \$800 million consists of grants to Amtrak. Amtrak was created to take over rail passenger services that Congress recognized could no longer make a profit. Grants to Amtrak do not subsidize or benefit the railroads. That leaves \$1 billion at most that can possibly be construed as Federal assistance to rail transportation. As an offset to this \$1 billion in Federal assistance, the Study shows that the railroads paid the government over \$8 billion in special taxes.

Since the D.O.T. Study covers the period thru 1975 only, the totals include neither Congressional appropriations to fund the Railroad Retirement deficit, nor authorizations under the 4R Act of 1976.

The frequently-cited \$6.7 billion of aid in the 4R Act consists mostly of loans, which railroads will of course have to pay back. Of the \$2.5 billion in grants authorized by the Act, nearly \$2 billion is for the Northeast Corridor Improvement Project and emergency assistance to commuter rail lines. The remaining grant money is funding for employee protection agreements made during the formation of Conrail, and for subsidies to money-losing branch lines.

The House Committee on Interstate and Foreign Commerce considering the question of responsibility for the shortfall in the Railroad Retirement Fund, concluded:

The railroads had no part in the creation of the current situation. The lost reimbursement to the Railroad Retirement System arising out of individuals becoming entitled to Social Security benefits arises out of non-railroad employment performed by these individuals—employment which has not benefited the railroads in any fashion. A further factor leading to lost reimbursement arises in part out of the provisions contained in the Social Security Act, and the formula for computation of the benefits thereunder—again matters over which the railroad industry had no control.

The Committee feels that it would therefore be unfair to the railroad industry to saddle the carriers with the cost of phasing out dual benefits.

Federal aid to railroads

Total (1824-1975)-----	\$1, 798, 000, 000
Less grants to Amtrak-----	635, 600, 000
Less administrative expenses of FRA and USRA-----	49, 400, 000

Net aid to railroads----- 1, 113, 000, 000

Consisting of:

Pre-World War II aid (primarily land grants)-----	535, 500, 000
Defaults on loans made under the Transportation Act of 1958-----	107, 000, 000
Rail Service Assistance Grants (payments to bankrupt Northeast railroads to keep them running until Conrail was organized)-----	191, 600, 000
Emergency Rail Restoration Aid (to repair damage to Eastern roads caused by Hurricane Agnes in 1972)-----	27, 400, 000
Federal Railroad Administration Research and Development Expenditures ¹ -----	253, 000, 000

Offsetting payments by railroads

Total ----- \$8, 146, 300, 000

Consisting of:

Savings to Government from reduced rates on government traffic imposed as a condition of land grants-----	1, 000, 000, 000
Federal freight waybill tax (1942-1958)-----	3, 120, 700, 000
Federal passenger ticket tax (1942-1970)-----	2, 025, 600, 000

¹ Much of this money has been spent on high-speed passenger transportation research of little use to freight railroads.

The CHAIRMAN. Next we will hear from C. H. Fields, assistant director, national affairs, American Farm Bureau.

STATEMENT OF C. H. FIELDS, ASSISTANT DIRECTOR, NATIONAL AFFAIRS, AMERICAN FARM BUREAU

Mr. FIELDS. Mr. Chairman, the statement is fairly short but I will ask that it be submitted for the record and I will get right down to the meat of it and get done real quickly.

I am sure you are familiar with the Farm Bureau and I will not read the introductory remarks about the organization.

Let me say that on behalf of our 2.6 million members, the earliest possible and feasible replacement of locks and dam 26 at Alton is a matter of great importance to farmers. I quote here from the policies adopted by the Farm Bureau at our convention last January, but I will not read those at the present time.

Now for 2 years we have said that we have no objection to a reasonable user fee on waterways, a principle already well established in the Great Lakes system. We do not favor such a fee, however, if the amount of type of the charge is to be left to some administrative agency, as provided in S. 790. This is a decision that should be made by the Congress.

We also prefer that the proceeds from the fees imposed be placed in a trust fund similar to the highway trust fund and the air transportation fund. We regret that neither the House nor the Senate bill includes such a provision.

We fully realize that whatever charges are applied will be paid for by shippers, including farmers and their associations, and that the resulting increases in barge fees will no doubt be matched by increases in railroad freight rates, as has just been indicated by the spokesman for the railroads.

However, in the interest of a balanced transportation system, with equal treatment in terms of public financing for all modes, we believe that it is in the public interest, as well as the long-run interest of the water transport industry, that such charges be instituted.

The system of user fees that would be imposed by S. 790 is not in line with Farm Bureau policy. The fees would be determined by the Secretary of Transportation, rather than by the Congress; there is no provision for a trust fund; and we believe the targeted amount of the fees to be imposed is unreasonable and would have a crippling effect on water transportation, our most energy-efficient mode.

H.R. 8309 provides for a reasonable imposition of fees in the form and amount set by Congress. Except for the absence of a trust fund provision, we find the House bill much more acceptable than S. 790. Therefore, we recommend that this committee endorse the enactment of title II of H.R. 8309 and that the bill then receive prompt consideration.

Now it may be that the fees imposed by H.R. 8309 are too modest; however, the bill provides for an in-depth study of the impact of the fees on the water carriers and on the other modes and for consideration of the kind of fees and amounts that would be in the public interest.

In the meantime, enactment of title II of H.R. 8309 would produce sufficient funds during the next 10 to 12 years to pay for the construction of the new dam and locks at Alton, Ill., which is the critically needed project that has been held up awaiting agreement on the user fee question.

We appreciate this opportunity to present these views of Farm Bureau members.

The CHAIRMAN. Thank you very much, sir. I appreciate your statement very much.

[The prepared statement of Mr. Fields follows:]

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION TO THE SENATE FINANCE COMMITTEE

(Presented by C. H. Fields, assistant director, national affairs)

Farm Bureau is a voluntary, nongovernmental organization of more than 2.6 million families in 49 states and Puerto Rico, representing farmers and ranchers who produce every agricultural commodity produced on a commercial basis in this country.

At the most recent annual meeting of the American Farm Bureau Federation, the voting delegates of the member State Farm Bureaus adopted the following policy:

"The replacement of Locks and Dam 26 at Alton, Illinois, should proceed at the earliest possible date through prompt and resolute action by the Congress. Farm Bureau will support the necessary legislation.

The earliest feasible replacement of Locks and Dam 26 at Alton is a matter of great importance to farmers and to the agricultural industry in the entire mid-section of this country.

The Farm Bureau delegates also adopted a statement on the subject of user fees:

"We believe the best way to assure funding for further improvements in the inland waterway system is through the creation of a dedicated water transport fund at the national level.

"We will accept the imposition of a reasonable user fee on water transportation dedicated for waterway purposes providing that its basis and maximum level are clearly established in advance and are utilized for those waterways from which those fees are derived. Any user fee applied to water transportation should be at a level which will provide no more than that portion of the cost of waterways allocable to transportation . . ."

We have no objection to a reasonable user fee on the waterways, a principle already well established on the Great Lakes system. We do not favor such a fee, however, if the amount or type of the charge is to be left to some administrative agency, as provided in S. 790. This is a decision that should be made by the Congress. We also prefer that the proceeds from the fees imposed be placed in a trust fund similar to the highway trust fund and the air transportation fund. We regret that neither the House nor the Senate bill includes such a provision.

We fully realize that whatever charges are applied will be paid for by shippers, including farmers and their associations, and that the resulting increases in barge fees will no doubt be matched by increases in railroad freight rates. However, in the interest of a balance transportation system, with equal treatment in terms of public financing for all modes, we believe that it is in the public interest, as well as the long-run interest of the water transport industry, that such charges be instituted.

The system of user fees that would be imposed by S. 790 is not in line with Farm Bureau policy. The fees would be determined by the Secretary of Transportation, rather than by the Congress; there is no provision for a trust fund; and we believe the targeted amount of the fees to be imposed is unreasonable and would have a crippling effect on water transportation, our most energy-efficient mode.

H.R. 8309 provides for a reasonable imposition of fees in the form and amount set by Congress. Except for the absence of a trust fund provision, we find the House bill much more acceptable than S. 790. Therefore, we recommend that this Committee endorse the enactment of Title II of H.R. 8309 and that the bill then receive prompt consideration.

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We appreciate this opportunity to present these views of Farm Bureau members.

The CHAIRMAN. Next we will call on Mr. Howard Brown, director of American Rivers Conservation Council, accompanied by Prof. Steve H. Hanke of Johns Hopkins University.

**STATEMENT OF HOWARD BROWN, DIRECTOR, AMERICAN RIVERS
CONSERVATION COUNCIL, ACCOMPANIED BY PROF. STEVE H.
HANKE, JOHNS HOPKINS UNIVERSITY**

Mr. BROWN. Thank you, Mr. Chairman.

My name is Howard Brown. I am director of the American River Conservation Council, a public interest organization here in Washington. Our principal objective is the preservation of a portion of our Nation's heritage of free-flowing streams. The large Federal subsidy of inland waterway transportation is of very great concern to us because it creates great pressure to build new waterways which destroy that Heritage of rivers.

Before I get started, there was discussion earlier at the end of Secretary Adams' statement about the relative subsidy to various transportation modes. There are studies by the Congressional Research Service and the Congressional Budget Office on this subject and if I could turn their summaries in for the record I would appreciate it, if the full studies have not already been put in.

The CHAIRMAN. Is that what you have? You mean what you have in the back of your—

Mr. BROWN. No, this is something I was not planning to put in the record but since I heard the discussion I thought perhaps it ought to go in.

The CHAIRMAN. Why don't you send it forward to the committee and let me take a look at it. All right.

[The material referred to follows:]

FINANCING WATERWAY DEVELOPMENT: THE USER CHARGE DEBATE

The federal government builds, operates, and maintains a network of inland waterways that are used by barge operators to carry about 11 percent of domestic freight. There is general agreement that federal development and operation of waterways should continue, but there has been recurring debate in the Congress of how these activities should be financed. Currently, federal expenditures for waterways are financed from general revenues. A frequently proposed alternative would require waterway users to pay at least part of the federal costs. User fees could be paid through a fuel tax, a tonnage fee, or a similar mechanism.

In the 94th Congress, the debate on the authorization for a U.S. Army Corps of Engineers project near Alton, Illinois, rekindled interest in the issue of how to finance inland waterways. As a result, in this session of Congress the Senate Committee on Environment and Public Works reported a bill that combined authorization for a single-lock project at Alton with the establishment of a system of user fees (S. 790). The Carter Administration also supports user charge proposals. Finally, on June 22, 1977, the Senate approved an Alton/user charge package that was offered as an amendment to the Omnibus Rivers and Harbors bill.

MAJOR ISSUES

Resolution of the question of waterway user charges requires examination of several key issues. The Congressional Budget Office (CBO) has analyzed the available studies, including two recent investigations of the likely impact of user charges on the barge industry. The major issues and the CBO findings include:

Issue.—Do domestic waterway carriers now receive special treatment, particularly when compared with their competitors—railroads, trucks and pipelines?

Finding.—Barge operators are the only domestic freight carriers who pay no part of the expense of building or maintaining their rights of way. Federal subsidies are equal to about 42 percent of all barge revenues, compared with 3 percent for railroads, 1 percent for trucking companies, and no subsidy at all for pipelines.

Issue.—Would reducing the existing subsidy through introduction of user charges severely damage the financial position of waterway carriers?

Finding.—A unique aspect of this year's debate on waterway user charges is that, for the first time, detailed studies are available on the impact of user charges on barge companies. One study concludes that the barge industry would lose 10 percent of its current traffic to competitors if varying fees were charged for access to specific segments of a waterway according to the cost of operating and maintaining that segment. If fees were uniform for all segments, the study concludes that traffic losses could reach 12 to 15 percent. A second study estimates that the diversion of cargo would range from 7.1 percent to 9.5 percent. Both studies assume fee levels that would cover all costs of operation and maintenance but none of the costs of construction. Both studies also assume that railroads and other competing carriers would not raise their rates by amounts equal to the increases in barge rates.

The converse of these findings is, of course, that the waterway subsidy makes it possible for barge operators to hold rates at levels low enough to divert between 10 to 15 percent of cargo that might otherwise move by rail, truck, or pipeline.

Issue.—Can the subsidy that gives barge operators a competitive edge over rail, truck, and pipeline be justified on such secondary grounds as energy efficiency or economic development?

Finding.—Opponents of waterway user charges argue that barge transportation should be encouraged by a subsidy because it is more energy-efficient than competitive methods of transportation. Relative energy use varies greatly in specific circumstances because of differences in size, speed, and type of shipments for barges, railroads, pipelines, and trucks. When reasonable estimates vary so widely one can only conclude that blanket statements on energy efficiency

are unwarranted. In 11 reports surveyed by CBO, estimates of energy use for domestic water transportation generally fall in the range of 500 to 700 BTUs per ton-mile (the movement of one ton of freight a distance of one mile) while the usual range for rail freight was 800 to 700 BTUs and 400 to 500 BTUs for oil pipelines. Estimated fuel use by truck transport is significantly greater than that for other modes.

Opponents of user charges also argue that subsidized barge transportation serves as a magnet for industrial location and therefore as a stimulus for economic development. A flaw in this argument is that the subsidized waterways are located along some 15,000 to 25,000 miles of waterside areas in both large and small, rich and poor communities and cannot precisely lure industry to areas most in need of economic development. At best, the subsidy can be viewed as providing a locational advantage to all water-served areas. If areas are generally depressed, the subsidy could serve as a developmental tool by attracting industries from other sections of the country. Unless regional economic development is the goal, however, other policy tools such as business loans and public work grants are obviously more precise than a nationwide subsidy.

FEDERAL AID TO DOMESTIC TRANSPORTATION

CHAPTER VI—SUMMARY AND FINDINGS

This report contains estimates which can be thought of as gross Federal aid to domestic transportation; direct Federal expenditures which benefit transportation and aids which are less direct such as loan guarantees and public domain granted in aid of construction of transportation facilities. A general summary of gross Federal aid for transportation facilities is in Table 6-1.¹ Federal assistance ranked in the following ascending order: rail, water, air and highways.

A different perspective is obtained from a comparison of Federal aid after adjusting for the amount of Federal aid which can be allocated to commercial users of the transportation facilities and after subtracting the tax revenues or other direct pecuniary benefits received by the Federal Government as a result of Federal aid to transportation. Federal assistance so adjusted for pecuniary benefits to the Federal Government can be identified as net Federal aid. A summary of net Federal aid to transport carriers is in Table 6-2.

TABLE 6-1.—SUMMARY OF GROSS FEDERAL AID TO RAIL, HIGHWAY, AIR AND INLAND WATER TRANSPORTATION, 1806-1977¹

[In billions of dollars]

Description	Low estimate	High estimate
Federal aid to railroads (1835-1977)-----	0.1	3.2
Federal aid to water transportation (1827-1976) ² -----	11.7	14.0
Federal aid to air transportation (1918-75)-----	20.0	21.4
Federal aid to highways (1806-1975)-----	72.9	72.9

¹ Gross Federal aid refers to Federal aid without considering land-grant transportation rates, excise taxes or user charges.

² The estimates include National Weather Service expenditures for the period 1972-76 only, Coast Guard expenditures for the period 1971-75 only, and Corps of Engineers through 1975.

Source: Data presented in this study.

¹ Computation of constant dollar estimates would likely infer a level of precision that is unwarranted as a result of: the long time dimension that is covered, the economic life of transportation facilities, the lack of exact comparability across types of aid and across modes, problems in coverage of data for the National Weather Service, the Coast Guard and the Corps of Engineers, the judgments involved in arriving at pecuniary estimates in some cases, and the inseparability of recreational and commercial navigational data.

TABLE 6-2.—SUMMARY OF NET FEDERAL AID TO RAILROADS, INLAND WATER NAVIGATION, AND COMMERCIAL HIGHWAY AND AIR CARRIERS, 1885-1977¹

[In billions of dollars]

Description	Low Estimate	High Estimate
Intercity buses (1957-76)-----	0.04	0.04
Railroads (1885-1977)-----	(. 7)	2.2
Large trucks (1957-76)-----	2.5	2.5
Air carriers (1957-76)-----	.7	5.0
Inland water navigation (1957-76) ⁴ -----	9.0	9.0

¹ Net Federal aid refers to Federal aid reduced by land-grant transportation provided to the Government in the case of railroads; and the estimated underpayment in the case of buses, large trucks, air carriers and inland water navigation.

² The parenthesis indicates a net benefit to the Federal Government.

³ This amount includes \$1,100,000,000 Federal aid to intercity rail passenger service. As discussed in ch. II, there is considerable discussion as to whether aid to intercity rail passenger service should properly be considered Federal aid to railroads.

⁴ Since separate amounts for recreational users and commercial users has not been determined, the estimate includes benefits to both. The estimates include National Weather Service expenditures for the period 1972-76 only, Coast Guard expenditures for the period 1971-75 only, and Corps of Engineers expenditures for the period 1957-75.

From the land-grant railroads the Federal Government received free and reduced-rate transportation until 1945. From trucks, buses and air carriers the Federal Government has collected user charges and transportation-related excise taxes.

The rank in ascending order of net Federal aid using the low estimate is: railroads, intercity buses, air carriers, large trucks, and inland water navigation. The rank in ascending order using the high estimate is: intercity buses, railroads, large trucks, air carriers, and inland water navigation. According to the data available to this study, in the low estimate, inland water navigation has received more net Federal aid than rail, buses, large trucks and air carriers combined. In the high estimate inland water navigation has received \$640 million less than rail, buses, large trucks and air carriers combined when Federal aid to intercity rail passenger service is included as an aid to railroads and \$360 million more than rail, buses, large trucks and air carriers combined when it is excluded.

Mr. BROWN. The CRS study gives both gross and net figures for aid to the various transportation modes with high and low estimates of both. Under gross aid, aid to railroads, I will use the low estimates, was one-tenth of \$1 billion—this is a cumulative figure over time.

Aid to water transportation is \$11.7 billion.

Air transportation \$20 billion and highway transportation \$73 billion.

For net subsidy, again using the low estimate—the high estimates are proportional:

Intercity buses forty-one hundredths of \$1 billion.

Railroads a negative seven-tenths of \$1 billion. This is for net subsidy; payment is going from the railroads to the Federal Government.

Large trucks \$2½ billion.

Air carriers seven-tenths of \$1 billion.

Inland water transportation, \$9 billion.

In the CBO study the figures they came up with was that Federal subsidies are equal to about 42 percent of all barge revenues compared to 3 percent for railroads, 1 percent for trucks and no subsidy at all for pipelines.

We strongly endorse the concept of a waterway user charge for the inland waterway system. Such a charge must, however, provide for full recovery of the costs of constructing and operating the waterways. The 4- to 6-cent-per-gallon fuel tax of H.R. 8309 as passed by the House is a token measure which would recover at most 10 percent of costs.

Also since a fuel tax does not relate to the costs of individual waterways, it does not remove the economic distortion of decisionmaking and is highly unfair.

Shippers and barge operators on waterways with very low costs, such as the lower Mississippi, would be having to pay part of the very high costs of other waterways, present and future. We must acknowledge that some of our existing waterways are not at all cost effective. Only by requiring the beneficiaries of new waterway projects to repay the costs of those particular waterways can we reduce the tremendous incentive which currently exists for construction of new waterways regardless of their economic efficiency.

I urge you to retain the user fee provisions of S. 790 as previously passed by the Senate. While we would quarrel with some of the compromises embodied in that legislation, it could be a major step toward sound decisionmaking and fair treatment of the American taxpayer and the reduction of unnecessary destruction of our Nation's rivers.

I see three general issues involved in waterway use charges: (1) General taxpayer equity; (2) national transportation policy; and (3) environmental diseconomies. The general taxpayer equity issue is straightforward. The American people are being forced to pay the very substantial costs of first constructing and then operating and maintaining barge canals—\$400 million per year—which directly benefit a relatively small number of companies.

Attached to my statement is a list of 95 regulated, exempt, or private carriers operating on the inland waterways and their ownership. Only a quick reading of this list is necessary to see that the waterway subsidy goes directly to some of the largest corporations in America.

Federal subsidy of waterways is a historical leftover from early years of our Nation when waterways were seen as a way to help develop the interior. From today's viewpoint the subsidy is not at all justified.

People talked about the historic policy of not having tolls on our waterways and we had this for 150 years. That policy is 150 years old and it is no longer appropriate. The interior we were developing at that point was west of the Appalachians.

The second issue is one of national transportation policy and the part that barges and other transportation modes play in our national transportation system. The user charge issue is much more than petty infighting between the barges and the railroads. The total effectiveness of our national transportation system is at stake.

Unfortunately, the railroads are in serious financial trouble, and the subsidy to the barges is a significant factor. Our Nation is highly dependent upon a sound railroad system. The railroads not only serve all parts of the country rather than just those served by waterways, but they also carry all kinds of goods, not just the bulk commodities which the barges can carry. There is considerable excess capacity already available on the railroads without having to build new waterways or new rail lines.

A major concern of transportation planning these days is energy efficiency. The barge industry has frequently claimed that it deserved subsidy because it was more efficient than the railroads. Those claims, however, are based on misleading assumptions. First of all, these studies do not account for the relative circuitry of waterways, such that barges often travel much greater mileages than competing railroads to reach the same destination. Also, barge transport often requires truck or other energy-costly connections at either end.

The subject of truck transport is also important because, if the railroads' service is diminished, the barges cannot carry many of the goods or carry them to most of the places served by railroads; the gap would have to be picked up by trucking or other very financially and energy-costly means of transport.

The third big issue and the one that we are most interested in and the reason for user charges is the environmental disruptions of the inland waterway system. The most severe impacts are from the construction of new waterways. Proposed new waterways at this time include some of the most environmentally damaging and economically wasteful of any projects ever undertaken with taxpayers' money. The maintenance of existing waterways involves extensive dredging. The dredging itself is highly disruptive to river ecosystems and the disposal of the dredging can totally spoil adjoining wetlands and fish and wildlife habitat.

In addition, navigation projects have been shown to increase river flood stages and consequently greatly increase loss of life and property from floods.

User fees could play a very major role in discouraging environmentally and economically wasteful projects by reducing the tremendous incentive which currently exists for the construction of such projects. A totally federally constructed and maintained waterway is clearly seen as a welcome gift by barge operators and industries who would be able to use it, and pressure for their authorization is intense regardless of the actual merits.

If the waterway users had to pay a significant share of the costs, we might end up with fewer and better projects.

At the end of the 93d Congress an administration bill was sent to Congress which called for a segmented toll user charge system. Under this proposal, waterway users would pay in accordance with their share of the use of a waterway and the cost of maintaining that particular waterway. The waterway industry worked out figures as to how much charges based on such a scheme would be. The variances were very great, with relatively high charges for certain segments and rather low charges for other segments.

Claims that this would be prohibitive for the high charge segments were made and cited as opposition to such a scheme. To me this very clearly states the need for user charges. Users of these waterways supposedly would switch to another mode if they had to pay even part of the operation and maintenance costs, let alone the construction costs. If there had been an effective waterway use charge system, these waterways would never have been built. It is my hope that you will recommend for congressional enactment a user charge system that will reduce the tremendous pressure which now leads to the authorization and construction of such unwise and inefficient waterway projects.

Thank you very much for allowing me this opportunity to testify. Attached to my statement is a list of companies and a one-page memorandum prepared by a number of national conservation organizations which sets forth the principal reasons for user charges, if that could be included for the record.

I would be more than happy to answer any questions.

Thank you very much.

The CHAIRMAN. I would ask that these attachments be included at the end of your statement.

[The material referred to follows:]

REGULATED CARRIERS

1. American Commercial Barge Line (East Texas Gas Transmission).
2. Arrow Transportation Co. (Champlon-International).
3. Dixie Carriers, Inc. (Kirby Industries).
4. Federal Barge Line (Pott Industries).
5. Gulf Canal Lines (Pott Industries).
6. Ingram Corp. (Ingram Materials, Inc.).
7. Midwest Towing (Cargo Carriers—which is owned by Cargill).
8. Ohio Barge Line (U.S. Steel).
9. Ohio River Co. (Midland Enterprises (Eastern Gas & Fuel Assoc.)).
10. Sioux City & New Orleans Barge Line (Henry Crown & Co.).
11. Union Mechling Corp. (Dravo Corp.).
12. Valley Line (Chromalloy American Corp.).

EXEMPT (CONTRACT) CARRIERS

1. Agri-Trans Corp. (owned by C. F. Industries, Farmers Grain Dealers Assn. of Iowa, Farmers Union Grain Terminal Assn., Illinois Grain Corp., Missouri Farmers Assn. and St. Louis Grain Corp.).
2. Alamo Barge Lines (Phillips Petroleum Co.).
3. Alamo Chemical Transportation Co. (Phillips Petroleum Co.).
4. Alamo Water Transportation Co. (Phillips Petroleum Co.).
5. Cargo Carriers, Inc. (Cargill).
6. Central Soya Co., Inc.
7. Chotin Transportation, Inc. (Midland Enterprises, Inc.-Eastern Gas & Fuel Assoc.).
8. Consolidation Coal Co.
9. Continental Navigation Co., Inc. (Continental Grain).
10. Continental Oil Co. (exempt and private).
11. Ingram Barge Co. (Ingram Materials, Inc.).
12. Inland Towing Co. (Ashland Oil, Inc.).
13. Madison Coal & Supply (Amherst Industries, Inc.).
14. Mid-America Transportation Co. (Peabody Coal).
15. Missouri River Barge Lines, Inc. (Chromalloy American Corp.).
16. Nilo Barge Line (Olin spelled backwards).
17. Pillsbury Co.
18. Power Transportation Co. (Peabody Coal).
19. Sabine Towing & Transportation Co., Inc. (Chromalloy American Corp.).
20. Seley Barges, Inc. (Seley Power, Inc.).
21. Thomas Petroleum Transit (Ashland Oil, Inc.).
22. Twin Rivers Towing Co. (Consolidation Coal Co.).

PRIVATE CARRIERS

1. Agrico Chemical.
2. Allied Chemical Corp.
3. Amoco Oil Co.
4. Archer-Daniels-Midland.
5. Ashland Oil, Inc.
6. Atlantic Richfield Co.
7. Barold Div., N. I. Industries.
8. BSAF Wyandotte Cor. (Wyandotte Chemicals).
9. Bunge Corp.

10. Cities Service.
11. Consolidated Grain & Barge Co.
12. Continental Oil Co. (private & exempt).
13. Diamond Shamrock Corp.
14. Dow Chemical.
15. Dravo Corp. (Eastern Construction & Engineering Works Div.).
16. Dundee Cement.
17. E. I. DuPont, Inc.
18. Exxon Co., Div. of Exxon Corp.
19. FMC Corporation.
20. Freeport Sulphur Co.
21. B. F. Goodrich Chemical Co.
22. Halliburton Co.
23. Hooker Chemical Corp.
24. Ideal Cement Co.
25. Indiana & Michigan Electric Co., Inc.
26. Ingalls Iron Works.
27. Ingram Materials, Inc. (private and regulated).
28. International Paper Co.
29. Jones & Laughlin Steel Corp.
30. Louis Dreyfuss Corp.
31. Marquette Cement Mfg. Co.
32. Martin Marietta Cement Co.
33. Merichem Co.
34. Mississippi Lime Co.
35. Missouri-Portland Cement Co.
36. Mobile Oil Corp.
37. Monsanto Co.
38. Morton Chemical.
39. North American Coal Corp.
40. PPG Industries, Inc.
41. Peabody Coal Co.
42. Peavey Co.
43. Pennwalt.
44. Phillips Petroleum Co.
45. Radcliff Materials, Inc.
46. Reichhold Chemical Corp.
47. Shell Oil Co.
48. Standard Oil of Kentucky.
49. Stauffer Chemical Co.
50. Tenneco Oil Co.
51. Tennessee Valley Authority.
52. Texaco, Inc.
53. Texasgulf, Inc.
54. Triangle Refineries, Inc.
55. Union Carbide.
56. Union Oil of California.
57. U.S. Gypsum. Co.
58. U.S. Steel Corp.
59. Universal Atlas Cement Co.
60. Warren Petroleum Co.
61. Weirton Steel, Div. National Steel.

ADVANTAGES OF COMMERCIAL NAVIGATION CHARGES¹

No. 1. Commercial navigation charges would provide wise waterway planning

The demand for anything free is unlimited. A user fee should assure that only those waterway projects which are really necessary will be built. Since barge companies will have to pay the high costs of new construction, maintenance, and operation themselves, we will discover which projects are needed and which are being built for no better reason than that the federal treasury will pay for it.

It is our belief that such questionable projects as the Red River Waterway and the Tennessee-Tombigbee barge canal would never be considered, much less

¹ We use the term "commercial navigation charges" to make clear that recreational boaters should not be required to pay a toll. Locks and dams inhibit, rather than help these users.

constructed, if private interests had to deal with the huge cost overruns and questionable benefits these projects entail.

No. 2. Commercial navigation charges will remove distortions in transportation planning

Providing a 100 percent subsidy to barges gives them a tremendous competitive advantage over other modes of transportation. Because the barges receive their right of way for free, they can charge an artificially low rate, thereby pulling toward the river traffic which is more efficiently moved by other modes, such as rail and truck. The subsequent loss of revenue to the rail lines can result in higher rates and lower quality service to those who must depend on the railroads and truckers.

These distortions are not minor. In 1973, the chairperson of the National Water Commission stated, "The economics of some waterway projects are so distorted that if you took the money spent for the waterway project and set up a trust fund, you could ship all the anticipated waterway traffic by rail at no cost to the shipper!"

No. 3. Commercial navigation charges will improve tax equity and save money

Federal waterway subsidies are approaching one billion dollars annually, according to the DOT. Much of that is paid by taxpayers who are not served by barge lines and therefore stand little to gain by reduced barge rates. Such is the case of Northeastern taxpayers. At a recent conference of Northeastern governors, the governors concluded that users of inland waterways should pay a user fee so that residents of the North would not be required to subsidize the transportation system of other regions at the same time that their own transportation system was in great need of repair and upgrading.

No. 4. Commercial navigation charges will be good for the environment

As the Locks and Dam 26 issue has clearly illustrated, increasing barge traffic can tax the extremely fragile river ecosystems to a great degree. On the Ohio, Mississippi and Illinois Rivers, we can observe patterns of habitat destruction, lowered water quality, and soil erosion traceable to the barges and the associated flood plain development that has accompanied the improvement of these rivers. Limiting traffic to that which is economically justified will minimize these river damages.

No. 5. Commercial navigation charges will save energy

Subsidization of waterways has created an overbuilt waterway system, overlapping an overbuilt rail system and an equally sprawling highway system. And, all continue to grow. Such a mixture of different modes leads to waste of energy on a massive scale as railways lie unused while new barge or highway construction proceeds at a rapid pace. This is an excess capacity that is maintained by subsidy expenditures.

An example of this problem is the proposed \$1.6 billion dollar Dallas to Houston barge canal which would parallel the tracks of two existing railroads and an interstate highway.

The CHAIRMAN. Thank you very much.

Mr. BROWN. With me is Prof. Steve Hanke.

The CHAIRMAN. Do you have a separate statement, Professor?

Mr. HANKE. Yes, I have a separate statement I will submit for the record, Mr. Chairman.

Mr. HANKE. The statement summarizes a report that I prepared with Dr. Robert K. Davis that was entitled "Pricing and Efficiency in Water Resource Management," and this report was submitted to the National Water Commission and the Commission recommendations regarding user fees were based in part on that particular piece of work.

I think, given the hour of the day, I will attempt to summarize briefly the major points in the particular debate on user fees as I see it. It seems to me that the debate has become rather jumbled and confused as it has continued to fall over the past months and really one needs to return to some first principles and ask some fundamental

questions rather than looking at some of the details in terms of specific impacts, and so forth.

I think the two key questions that revolve around the purpose of a user fee are whether a user fee system can be designed to improve the efficiency with which we use resources that go into the provision of waterways and also can the revenue be derived from sources in away that is both equitable and efficient and I think a user fee system could be designed that would be consistent with efficient resource allocation and also equity.

If you look at the past record of investment in waterways, the Federal analysts who perform benefit-cost analysis on these projects have done an incredibly poor job in evaluating and predicting what the cost of these projects are. This is documented in a very fine fashion by Professor Haveman in a book entitled, "The Economic Performance of Public Projects."

If one assumes that you cannot evaluate the benefits and costs of these projects in any reliable way at the Federal level, you are left with the question of how you can make appropriate investment decisions that can perform the benefit-cost analysis.

I think the most appropriate people to perform the analysis in this case are the barge owners themselves, the users of these waterways. They can perform the analysis only if the prices or user fees that are displayed to them reflect the costs of the resources that are used in the construction and operation of the waterways.

The cost elements associated with the construction and operation of waterways fall into three categories and user fees would have to fall into three categories if in fact you wanted the job to be evaluating the projects really to be put over in the hand of the barge operators where it should appropriately be because, after all, they are the ones that in effect know what the benefits are that are associated with using these highways, if you will.

The three elements are the operating and maintenance costs. These could be appropriately charged for on the basis of segment tolls that would be segregated by the river system and they would be equated to the average cost of operating the particular segments in question.

The second component is the congestion cost components. This could be reflected to the barge owners by way of a congestion fee at congested locks. The price or level would be set to reflect the value of lost time associated with this.

The third component is a capital component. This could be appropriately reflected to the barge owners by an annual license fee for the right to use particular waterways and they would be set as capital investments in that particular waterway.

So a user fee system that would be efficient and encourage barge owners to make decisions based upon the cost of the resources that they were using up would be one that contained these three elements: the segment toll, the congestion fee and an annual license fee.

As I understand it, the Senate bill is consistent with that kind of a user fee system. The House bill, on the other hand, that relies solely on gasoline taxes is not consistent with that type of an approach. The gasoline tax in no systematic way reflects the cost of using a particular waterway and, of course, it has no reflection upon the congestion cost associated with using a particular waterway.

That ends my statement, if you would like to ask me any questions. The CHAIRMAN. Well, thank you, gentlemen. I think I understand your position and understand your arguments.

If you want to add something to it, I would be glad to have it.

Mr. HANKE. I don't care to add anything. Thank you.

Mr. BROWN. No.

[The prepared statement of Mr. Hanke follows:]

STATEMENT OF STEVE H. HANKE, PROFESSOR OF APPLIED ECONOMICS, THE JOHNS HOPKINS UNIVERSITY

Gentlemen, my name is Steve H. Hanke, and I am currently Professor of Applied Economics at The Johns Hopkins University in Baltimore, Maryland. I want to thank you for the opportunity to present a summary of the policy conclusions that I have derived concerning the economics of investing in and operating inland waterways. My conclusions are primarily based on a study that Dr. Robert K. Davis and I conducted for the National Water Commission in 1971, Pricing and Efficiency in Water Resource Management.

My remarks are limited to a discussion of the following topics:

- (1) The economic rationale for levying user fees for the use of inland waterways;
- (2) the determination of the appropriate level and structure to be used in designing an efficient and equitable user fee system;
- (3) the determination of the specific types of user fees to implement to achieve efficiency and equity in the provision and use of inland waterways.

AN ECONOMIC RATIONALE PER USER FEES

Two economic arguments can be used to challenge the practice of allowing free use of waterways. These arguments are efficiency and equity.

From an efficiency point of view, the ideal pricing policy is one in which price is set at a level that equates marginal social benefits and costs. This is accomplished when the price that a user is charged for the use of resources is equated to their incremental (marginal) costs. If prices are set below marginal costs, resources will be overused. Alternatively, if prices exceed marginal costs, resources will be underused. When prices are equated to marginal costs, the appropriate amount of transport resources will be produced, the appropriate intermodal mix of services will be produced, and the appropriate mix of inputs will be used to produce each type of transport service, because costs to the user of transport "highways" will properly reflect the relative scarcities of inputs they use.

Waterway operators use valuable transportation "highways"—paid for by the Federal government. Since the operators do not consider either the costs of resource services provided by the Federal government or the congestion costs they impose on each other, marginal private and social costs diverge; prices for the use of waterways are less than their marginal costs. Barge owners consider the incremental costs of operating their barges and not the costs they impose by using waterways. Costs to barge operators and barge rates are therefore too low and the intermodal mix of transportation services is biased in favor of inland waterways. From society's point of view, it would be preferable to charge waterway operators user fees and congestion tolls so that private marginal costs reflected society's marginal costs. This would, in effect, internalize the costs of providing waterways and induce barge operators to make decisions that were based upon the real resource costs associated with the provision of inland waterway transport.

The imposition of user fees and congestion tolls would not only act to eliminate the divergence between private and social costs so that existing waterways would be operated more efficiently, but it would also greatly aid water resource planners when they are deciding on the desirability of making new investments or phasing out old ones. A system of pricing for the use of inland waterways would generate information regarding the willingness of barge owners to pay for the waterway services that they use. Such information would aid planners when they were attempting to determine whether to shut down an existing waterway or invest in new facilities, since they would have sound data that reflected the value of the waterway to its users.

Perhaps most importantly, a user fee system would increase the efficiency with which the "political market" operates. Waterway operators and the populations in areas near waterways do not pay for navigation projects, yet they receive the project benefits. The fact that these beneficiaries do not pay for improvements causes them to overestimate the potential value of the waterway improvements. As a result of this separation of benefits and costs, potential beneficiaries apply pressure to their political representatives to seek Federal investments for their locale. This pressure has been effective. For example, Congress passed the Department of Transportation Act of 1966 which dictates that benefits from navigation projects be calculated for purposes of project evaluation so that they exceed the real project benefits. In addition, politicians apply more subtle pressure on the U.S. Army Corps of Engineers to construct navigation works. In order to serve its clientele in Congress, the Corps finds it desirable to overestimate benefits and understate the costs from the provision of navigation works. By failing to charge project users the costs they impose, the "political market" is seriously distorted in favor of additional projects. A system of user fees, in which beneficiaries pay for the incremental costs they impose, is the most efficient way to stop those practices.

In addition to improving the efficiency with which inland waterways are built and used, a user fee system would improve the equity associated with the provision of these transport "highways." Equity is concerned with the distribution of benefits and costs. I employ a concept of equity that is embodied in the "benefits principle" of taxation. Equity is achieved when project beneficiaries pay in accordance with the costs that they impose and benefits they receive. A user fee system (assuming it did not recover more than the appropriate costs) would be more equitable than the current no-charge system, since barge owners would be required to pay for some of the costs that they generate.

THE APPROPRIATE LEVEL AND STRUCTURE FOR A USER FEE SYSTEM

If one accepts the conclusion that some type of user fee system would improve efficiency and equity, one is faced with the problem of determining the proper level and structure at which to set user fees.

"Textbook" Marginal Cost Pricing

As suggested above, setting user fees equal to marginal costs, would result in an efficient allocation of resources, given that other modes of transportation bought inputs and sold their services at prices that were equated to marginal costs. However, these conditions do not hold in the transportation sector of the economy. Railroads, the primary substitute for barge transport, are regulated by the Interstate Commerce Commission (ICC). Their rates, although somewhat lower on routes that compete with waterways relative to routes that do not face competition, must be approved by the ICC. These rates are set so that they exceed the appropriate marginal costs. The *American Commercial Lines v. Louisville and Nashville Railroad, 1968*, provides an interesting account of the ICC's attitude on requiring rail rates to exceed marginal costs. Since the regulatory authority that approves rail rates imposes constraints that result in rail rates that exceed marginal costs, it is no longer necessarily true that the prices for inputs by waterway firms should be equated to marginal costs. To obtain the proper allocation between modes of transport when the above conditions exist, prices should be set so that the ratio of prices between modes is equal to the ratio of their marginal costs. This rule suggests that, from an efficiency point of view, a price should be charged for waterway services that exceeds marginal cost.

Variable cost pricing and multipart tariffs

A user fee system in which prices would be equated to variable costs (operation and maintenance costs) which are highly correlated with, but not proportional to the volume of waterway traffic, would approximate the relationship (discussed above) between rail and barge rates, and would lead to greater overall efficiency than "textbook" marginal pricing. This fee should apply to existing uncongested waterways. If these fees were changed, the appropriate costs would be charged to users. They would balance their benefits against these costs, promoting efficient resource use. Moreover, these rates would be relatively easy to calculate, a feature not associated with "textbook" marginal cost pricing. One could anticipate user fees based upon the variable cost pricing rule to range from approximately 0.1 mill per ton-mile on highly used, low cost waterways, such

as the lower Mississippi, to 350 mills per ton-mile on the Kentucky River system (based on costs in 1970).

Although a pure variable cost pricing rule would approximate both the efficiency and equity objectives on existing uncongested waterways, it has major weaknesses if it is the only fee charged on "new" waterways. First, on "new" waterways, there would be an equity drawback. The costs generated by users of a "new" waterway (long run marginal costs) would not be recovered, and a subsidy would be required to make up the difference between variable and long run marginal costs. Secondly, there would be an efficiency problem with "new" waterways. The appropriate incremental cost for a "new" undertaking includes an annualized capital component. This is in contrast to existing undertakings in which the investment decisions have been made and the capital is in place and "sunk". It is only by using this willingness-to-pay test for "new" capital that one can determine whether the users' benefits derived from "new" facilities are greater than costs. If barge owners were only required to pay the variable costs of operating and maintaining "new" waterways, the capital inputs would be free. Consequently, the demand for these inputs would be excessive and inefficiencies in their provision would result.

It is desirable for barge owners operating on existing uncongested waterways to be allowed to obtain additional units of waterway service at the appropriate incremental costs (average variable cost). At the same time it is desirable, from the point of view of investment efficiency on "new" undertakings, that the total cost, which includes an annualized capital charge, be covered. A barge owner does not only have to decide whether to consume additional units of waterway service, but he also has to decide whether to consume the service at all. This can only be discovered by asking him to pay for the total cost of supplying the "new" service. The most desirable way to accomplish this end is to impose a two-part tariff. One part would be equated to average variable cost, and would reflect a cost that would allow the barge owner to properly determine whether to consume additional units of water service. The other would be independent of incremental consumption and would cover the capital cost of the facility. This portion of the user fee would be based upon an annual charge for the right to use certain waterways.

For uncongested waterways, my proposed system of user fees would consist of a single tariff set at average variable cost on existing waterways and a two-part tariff on "new" waterways. These separate pricing rules for existing and "new" waterways are based upon both efficiency and equity considerations. To summarize, the capital portion of existing waterways is "sunk"; the decision to invest has been made. Hence, the inclusion of historical capital cost is not relevant for decision-making and efficiency considerations on existing waterways. However, the decision concerning the level at which the waterway should be used must be made. This can be properly made if price is equated to average variable cost. The provision of "new" waterways includes an investment decision. This decision must be based upon an analysis of projected total benefits and total costs, which should properly include an annualized capital cost component. The capital cost component should be collected through the use of an annual fixed charge. In addition to the investment decision, an operating decision must be made on "new" waterways. The appropriate signal for this decision will be given if a price is levied and set at average variable cost.

Congestion costs

Thus far, my discussion of user fees has been made in the context of an uncongested waterway. When a waterway is more fully utilized, congestion costs (additional costs to shippers of being slowed down by other vessels on the waterway) become important. The fact that the operation of one vessel affects the movement of others on the waterway creates a divergence of private and social marginal costs. The addition of a vessel to crowded waterway adds to the waiting time of all vessels. This phenomenon is particularly important on waterways with many locks. The private operator, however, considers only the cost (measured in waiting time) of his own vessels when deciding whether to employ an additional vessel. The divergence of social marginal cost (the total increase in waiting time of all vessels) is greater than the private marginal cost (the increase in waiting time of the operator's vessels). Since private costs govern the decision-making process and since private costs are less than social costs, waterways will be overused. In the absence of congestion tolls, the marginal user of the waterway imposes more costs on society, in terms of slowing down other cargoes, than the value he adds in transporting his cargoes.

To correct for congestion, congestion tolls should be set at a level that allows for the equating of marginal social benefits and costs. These tolls would reduce the queuing on congested waterways, and allow those shippers who valued time most highly to pass through locks before those who valued time less highly. This would result in an increase in the total value that shippers derived from the use of waterways. Congestion tolls would not only encourage the efficient use of existing locks, but they would provide valuable information to planners when deciding whether to expand facilities. Capacity should be expanded when the annual amount collected in congestion tolls exceeds the annualized capital cost of expanding capacity.

SPECIFIC TYPES OF USER FEES

Three types of user fees should be employed to achieve an efficient and equitable user fee system. These are: segment tolls, license fees and congestion fees. These types could be used if S.1529 were adopted, while they could not be applied if H.R. 8309 were enacted. Therefore, I strongly recommend that S. 1529 be accepted, rather than H.R. 8309.

Segment tolls

Segment tolls are user fees or charges based on a measure, such as ton-miles shipped per segment. If segment tolls were adopted, the tolls should be set equal to the average variable cost on various segments of a waterway. The operation and maintenance cost of the segments of the system would be charged to the firms using those segments. Within the waterway system, incentives would exist which would cause usage to be allocated from high to low cost routes. Also, information would be generated that would be of value to the managers of the waterways. If, for example, a sufficient number of barge owners were not willing to pay enough, through segment tolls, to cover average variable costs, then the portion of the waterway system in question should be discontinued.

The collection of these tolls would be relatively easy. The segment tolls could be recorded quite easily on those portions of inland waterways in which locks were in operation. As barges passed through locks on various segments, segment tolls would be recorded and the barge owners would subsequently be billed. On segments where no locks are in operation, a system utilizing barge logs would be required. Toll would be assessed on the basis of the reported logs. The system would be administered in a fashion similar to that used by the Internal Revenue Service for income taxes.

License fees

A license fee is an annual charge unrelated to the rate at which a waterway is used. This type of fee could be employed as the second part of a two-part tariff—the fixed annual fee. It would be imposed as a part of a two-part tariff on "new" waterway systems and would be set at a level to cover the difference between variable and total costs.

Congestion fees at locks

A third part of the multipart tariff would be introduced on congested waterways. Congestion fees at locks would be based on the cost of congestion (the divergence between marginal social and private costs). Congestion tolls could be determined on the basis of the time that other tows were delayed. As indicated above, it would clearly improve the efficiency with which congested waterways operated and the way in which new investment decisions were made.

The congestion fee also has particular merit in the problem of allocating costs to recreational boats. Recreational boatsmen, especially from the standpoint of the number of craft, are major users of waterways. Not only do they receive the same free locking services as commercial carriers, but rules exist that favor the recreational users. The present policy of lock operation is such that after a maximum of two commercial barge lockings, recreational boats are allowed to pass a set of locks. On crowded waterways, this policy can cause significant inefficiencies as higher valued freight carriers are forced to wait while recreation boats are locked through. With congestion tolls, pleasure boats could be grouped together. As a lockage unit they would face the same lockage rules as the commercial tows. This would avoid the preferential treatment that pleasure boats now receive at locks. It would also improve the allocation of the locks' capacity as some pleasure boats could plan their lockages at off-peak times to avoid congestion tolls.

CONCLUDING OBSERVATIONS

Table 1 summarizes what I consider to be an efficient and equitable user fee system for inland waterways.

TABLE 1.—RECOMMENDED USER FEE SYSTEM

User fee element	Types of waterways			
	Existing		New	
	Uncongested	Congested	Uncongested	Congested
Segment tolls (P=AVC).....	(1)	(1)	(1)	(1)
Annual license fee (annualized capital cost).....			(1)	(1)
Congestion tolls (waiting-time cost).....		(1)		(1)

¹ Indicates that the pricing policy would be imposed.

In terms of structure, my recommendations are consistent with S.1529 since segment tolls, license fees and congestion tolls could all be elements of a national user fee system if the proposed legislation was adopted.

My recommendations are not consistent with the structure of the user fee system contained in H.R.8309. A fuel tax represents the only element in H.R.8309. While this tax would be relatively easy to collect, it would not lead to an efficient allocation of resources. The purpose of a user fee system (the price system) is levy user fees so that they reflect the scarcity of resources being used. Fuel taxes do not reflect the value of resources used to build and operate specific waterways and locks. Therefore, they do not promote the efficient use of waterways and locks, and should not be an element in a national user fee system that attempts to promote the efficient use of resources.

In terms of level, my recommendations are not consistent with S.1529, which is the most desirable bill being considered today. There are limitations in S. 1529 on the level of user fees. I recommend that you consider removing these limitations to reflect my recommendations. These amendments would result in user fees that were higher than those now contained in S.1529, and would result in a level of user fees that accurately reflected the costs of providing inland waterways.

That concludes my statement. Thank you.

The CHAIRMAN. We have a statement here, and I guess I assume that these witnesses do not plan to testify, and so I will ask that it be included in the record. The statement is from Mr. Lewis T. Hardy, executive vice president of the Hardy Salt Co., and another statement by Mr. Harry D. Gobrecht, vice president—transportation and physical distribution, United States Gypsum Co.

[The prepared statements of Mr. Hardy and Mr. Gobrecht follow:]

STATEMENT OF LEWIS T. HARDY, EXECUTIVE VICE PRESIDENT, HARDY SALT COMPANY

Our company's headquarters are in St. Louis, Missouri. We have salt plants in Michigan, Utah and North Dakota. We regularly ship by rail and truck to about 25 states, but primarily to seven states in the upper Midwest.

We are firmly convinced that no additional funds should be appropriated for commercial purposes on the inland waterway system until appropriate fair and equitable user charges are legislated. Although it may be wise to have a phase in period, eventually these charges should recoup all navigation-related waterway expenses.

In the meantime we are not opposed to major repairs or even replacement of Locks & Dam 26, depending on the most desirable solution after all alternatives have been carefully reviewed, provided that the costs will eventually be borne by those who benefit. We support the user charge portion of the bill passed by the Senate, H.R. 5883, even though it only recoups 50 percent of the new construction cost. However, we are very much opposed to the 1 percent cap which, in my case, should not apply to the new construction portion of the user charge.

We favor user charges on the inland waterway system for two reasons. First, it affects our business directly. Our taxes and those of our employees are being used to subsidize our competitors' barge transportation of salt. In our industry transportation costs amount to about 25 percent of the total sales dollar. Our largest plant is located in Michigan, which for many years was the largest salt production state in the Union. Over the past 20 years, however, its share of market has been slashed by more than 50 percent—from 22 percent to 9.8 percent of the total domestic salt market. During this same period, Louisiana salt producers almost doubled their share of market increasing it from 16 percent to 80 percent. How did this happen? First, bulk salt started moving up the river from five large Louisiana salt mines to serve the de-icing and chemical markets. However, this soon expanded to the point where there are now over 50 receiving terminals throughout the inland waterway system where the salt is screened and packaged and distributed to the general salt trade, such as to feed manufacturers, water softener dealers and others, taking away business from northern and midwestern producers in their normal marketing areas. Moreover, in 1974, imported solar salt produced in the Dutch West Indies started coming into the market via barges subsidized by the American taxpayer and even by our own employees and others working in U.S. salt plants whose jobs are being threatened. Overall, U.S. imports have increased from less than 2 percent in 1955 to about 15 percent in 1974 of the total U.S. dry salt market.

We are not against free trade for we believe we can compete in the free marketplace. However, it is very difficult when our competitors, both domestic and foreign, are allowed to move their product by 100 percent subsidized water transportation.

In the past ten years our rate of growth has been about half of the average for the domestic dry salt industry. Our market lag is directly attributed to the inroads being made by subsidized barge salt moving from the Gulf up the Mississippi Valley.

The continual subsidization of barge transportation takes business away from the railroads and tends to force them into abandoning branch lines throughout our normal marketing area where there are many branches serving the small towns. As these lines are abandoned, our customers are forced to rely on trucks from barge terminals. This, again, affects our business.

The second reason we are for user charges is on a matter of principle. As a taxpayer, we believe that the adoption of user charges would tend to reduce demands by social interest groups for federal funds. This is particularly true in the water transportation area. If the benefactors knew ahead of time that they would have to pay for these expensive installations, then their demands would subside to only the most necessary, vital and efficient installations; whereas under the present system of complete subsidy the demands continue to escalate.

Certainly each commercial facility should be paid for out of the profits of those who use it. We feel the barge line operators can pay their own way and this is proven by these well established and documented facts. Barge lines earn in excess of 10 percent return on equity as compared to less than 8 percent for the railroads. With such earnings we see no reason why they cannot compete in the open market, just like we have to do and everyone else.

With the growing national debt, every effort must be made to recover in user fees the amounts that the federal government spends on transportation facilities. This would be a good step toward greater fiscal responsibility in government. The United States Chamber of Commerce, the Missouri Chamber of Commerce, and the Minneapolis Chamber of Commerce have a formal policy supporting user charges for commercial waterway facilities. It is of signal importance that Minneapolis should adopt such a stance this year, considering that they are at the head of the Mississippi River, so to speak, and therefore would be the greatest benefactor of increased capacity through Locks & Dam 26. The Missouri Chamber also passed its resolution in February of this year. Obviously they understand someone has to pay for these projects and they are willing to support a program of reimbursing the federal government for monies so expended.

I would also like to point out that the National Industrial Traffic League, the largest shipper oriented organization, composed of approximately 1,800 firms—both large and small, is on record as supporting segmented waterway user fees.

No one is proposing, to my knowledge, that we go back and try to recover from the beneficiaries of this waterway system the cost of prior investments which are mammoth. However, since all these locks and dams were built in

the 30's, there is a strong possibility that this could be the beginning of a program to replace each of them one at a time, beginning with Locks and Dam 26. If this is a possibility, then we should set up a system now for recovering any cost of new construction. The Bill passed by the Senate, H.R. 5885, provides for eventual recovery of 50 percent of new cost of construction. We believe this should be 100 percent, but certainly this would be a strong step in the right direction.

Even if only 50 percent cost is assessed on a new transportation facility, then those who benefit would join the rest of us in insisting that the most economical and logical capital investment would be made. This needs to be done now before any more taxpayers' money is spent on capital investments.

The Senate should not adopt the House flat minimum fuel tax contained in Title II of Bill H.R. 8309 because the amount recovered from the barge operators would bear no relation to the amount they will demand be spent on new navigation facilities.

Thus, we support the concept embodied in H.R. 5885 but object to the one percent cap as unwise and counterproductive. Perhaps as a compromise the one percent cap could be made to apply to operation and maintenance costs on existing waterways, but not on the new construction sought by the barge industry. In this way you would lessen the impact on the small operator on less efficient segments of the river, but at the same time not encourage massive new expenditures on unwise projects.

Although we can't speak for every bulk shipper or even the salt industry as a whole, a number of companies in our industry have indicated their support of user charges. These companies are the Carey Salt Company of Hutchinson, Kansas, a division of Interpace, New Jersey; American Salt Company with plants in Kansas and Utah; and the Morton Salt Company of Chicago. I have also been advised that I could speak for Snyder Molasses Company of Chicago, as they support the position we have taken.

STATEMENT OF HARRY D. GOBRECHT, VICE PRESIDENT, TRANSPORTATION AND PHYSICAL DISTRIBUTION, U.S. GYPSUM CO.

My name is Harry D. Gobrecht. I am Vice President—Transportation and Physical Distribution, United States Gypsum Company, Chicago, Illinois.

United States Gypsum Company is a diversified manufacturer of building materials and related articles. We utilize all modes of transportation including railroads, for-hire and private motor carriers, ships on the Atlantic Ocean and Great Lakes, inland waterways and airlines. Our transportation and distribution expenses approximate \$150 million monthly.

I have been employed by the United States Gypsum Company since 1948 and was appointed Vice President—Transportation and Physical Distribution in 1977.

I actively participate in a number of transportation and business organizations. These include The National Industrial Traffic League of which I am an officer, and also the Gypsum Association of which I am chairman of the Transportation Committee.

My primary company functions can be simply described as an overall responsibility to the company to obtain a maximum amount of service for each transportation and distribution dollar that the company spends; also, to insure that our transportation expenses are kept as low as possible consistent with the services that we require.

I testified before the Subcommittee on Water Resources of the Committee on Environment and Public Works, United States Senate, on April 19, 1977, when they were considering the various Senate Bills on Locks and Dam 26 and Inland Waterway User Charges, and the Committee on Ways and Means, United States House of Representatives, on July 21, 1977, when they were considering similar House bills.

I would also like to point out that I am testifying only on behalf of the United States Gypsum Company and not as a representative of any of the organizations in which I or the Company participates. My testimony has been fully endorsed by U.S. Gypsum Company management.

I have been closely following the legislation involved in the Lock and Dam 26 issues.

During 1976, following the introduction of Senator Nelson's bill (S. 3425) and Senator Mondale's bill (S. 3506), I wrote a letter to the sponsors of these bills, and to members of the Senate Water Resources Subcommittee of the Public Works Committee.

My letter stated the following:

Congress has an opportunity to resolve controversies:

1. The use and alleged misuse of public funds to create, improve and maintain the Nation's inland waterway facilities;
2. The sole prerogative of Congress to authorize the type of waterway facilities economically justified to meet the needs of our Nation's economy.
3. The imposition of user charges appropriate to the benefits derived;
4. The effect of the use of public funds to create and improve inland waterway facilities on the environment and other transport modes.

I then suggested that Congress should, through appropriate legislation and continued oversight, insure that these issues are adequately resolved at minimum expense.

I specifically advised the Senator, who received my letter, that I fully supported the objectives of S. 3425, including the following mandates:

1. Comprehensive studies on the environmental impact of the Locks and Dam project;
2. Resolving the issue of cost vs. repair of the existing two locks and dam prior to Congressional appropriation of funds;
3. Specific Congressional approval of any expansion of the channel depth from nine to twelve feet;
4. Proper maintenance of the present Lock and Dam 26 facilities until such time as Congress approves any change.
5. Congressional impact assessment on future changes on the financial strength and quality of railroad service.

My letter ended with the suggestion that legislation that would result in appropriation of federal funds to expand the capabilities of the Mississippi and Illinois waterways, including Locks and Dam 26, should be accompanied by additional legislation that will make user charges mandatory in an amount appropriate to the benefits that will be enjoyed by waterway users.

OTHERS SHARE MY VIEWPOINT

My letter on the 1976 legislation also mentioned the waterway policy of the National Industrial Traffic League that I fully support.

The NIT League has a membership of over 1800. It includes representatives from industrial firms, trade associations and chambers of commerce, and shipper associations. Membership is representative of most of the shipping public. No carriers are permitted in the membership. League policies and action have won for it the reputation of an able and constructive contributor in the field of transportation.

National Industrial Traffic League waterway policies can be summarized as follows:

User charges—The majority of League members have consistently voted to support the principle of waterway user charges.

User charge levels—User charges should be reasonable, determined by public authority and reflect the extent and character of use made and benefits derived.

Segmented user charges—Each waterway or section thereof shall be treated separately, and not be required to carry the burden of more costly projects.

Effect of user charges—User charges should consider the effect on the movement of traffic, or the navigational use, of an established waterway, specific industries, and particular sections of the country.

The user charge issue was challenged by several members at the League's 1975 and 1976 annual meetings. In both instances the majority of League members voted to make no change in the existing user charge policy.

DO I REALIZE WHAT I AM SAYING?

Since my position in favor of the imposition of fair and reasonable user charges on the inland waterways has become known, I have had dozens of individuals ask me why.

I've had friends come up to me with an incredulous look on their faces, and disbelief in their voices, stating that it's impossible for them to understand how any company or any individual who is responsible for the purchase of transportation services, could possibly advocate user charges in any form or for any transport mode. These same individuals have said—

Don't you realize that your freight rates will increase?

Don't you realize that breaking the tradition of free use of the waterways will result in the imposition of user charges in other areas?

Don't you realize that the railroads need to have some low-cost competition and that many of your rail freight rates will immediately increase if the competitive costs go up? They then say, look at history. Railroads increase their rates at every opportunity and they will do it again.

Don't you realize that the public as a whole benefits from the development of the inland waterways. The benefits of recreation facilities, flood control, water supply, pollution abatement, etc. far outstep the modest expense of supplying these facilities.

Don't you realize that the low cost of inland waterway transportation has a multiplying effect and results in lower gasoline, fuel oil, coal, fertilizer, grain and farm products, and endless other commodity costs? Impose user charges and your company, and you yourself, will end up paying higher prices for many of the essential things that you buy. After all, they say, the user charges won't be absorbed by the barge companies. They will pass them on to the shipper, whose company will then pass them on to the consumer through higher prices. Haven't you had enough inflation? Don't you care about your own pocketbook?

Every one of these discussion invariably ends up with one final statement: Does your company know what you are saying? Does your company approve your position?

At this point the suggestion is made that I should remain silent if I can't agree to the continued development of the waterways without the imposition of user charges.

I've done a lot of soul-searching after listening to the endless list of "Don't you realize" statements.

I have attempted to rationalize the issues on the basis of the type of analysis that I, and every other professional transportation executive make when determining shipment allocations between competing transportation modes. I have become even more convinced that the issue of user charges must be resolved and that their imposition is required and justified.

ALLOCATION OF TRAFFIC BETWEEN COMPETING TRANSPORTATION MODES

Every manager in charge of his company's transportation activities spends a great deal of his time closely examining his transportation costs. These managers also attempt to determine how transportation and distribution costs will affect the ability of his company to profitably penetrate various markets, most of which are subject to dynamic competition.

In making these evaluations, many factors must be considered. They include—

1. Service requirements of the company and its customers;
2. Prices which can be charged;
3. Manufacturing costs; (If the company has the option to ship from more than one manufacturing or distribution location, the cost from each such location must be considered);
4. Loading costs for each transport mode being considered; (such costs will vary for each transport mode and must consider relative packaging costs as well as material and labor required to place materials on or in the carriers equipment, protect it in transit, and insure a safe journey);
5. The freight charges that are paid to the carriers;
6. The unloading costs and the cost of disposal of the dunnage and load protection materials.

If inbound materials are being studied, the procedure would then be reversed.

There are dozens of other cost factors that will vary between competing transport modes, and with different companies; that must also be considered.

Some shippers or receivers have large investments in loading facilities or equipment that are designed and suitable for only one transport mode. A change from one transport mode to another could require the write-off of these investments or expenses when the facilities or equipment remain idle. In some instances, write-off or idle time expenses are so great that a change from one mode to another cannot be seriously considered.

Still other companies have located their plants or warehouse solely to take advantage of transportation conditions, costs and services that existed at the time these decisions were made.

What I'm trying to emphasize is the fact that the determination of transportation and distribution costs, and decisions to utilize one transport mode in favor of all viable alternatives, is difficult and involves numerous and complex cost and service factors.

DIVERSION OF TRAFFIC FROM WATERWAYS TO RAILROADS OR MOTOR CARRIERS IF USER CHARGES ARE ESTIMATED

I attempted to make some type of determination of the amount of traffic now moving on the waterways that shippers might allocate to other transport modes if user charges are established.

I soon discovered that it was not possible for me to even closely estimate the amount of diverted traffic simply because there are too many factors, other than user charges, or rail-waterway freight rate differentials, that must, and will be considered when making traffic allocation decisions.

I did reach one conclusion. The figures quoted by both the waterway and railroad interests are grossly inflated. I believe that some traffic will be diverted but it will not reach the magnitude predicted by the waterway interests.

THE EFFECT OF USER CHARGES ON DISTRIBUTION DECISIONS AND COSTS

Senator Domenici, when introducing S. 790, disclosed the results of his studies on the effect of user charges on costs. (*)

Grain—User charges would add about 40 cents to the cost of a ton of grain selling for \$113.50— $3\frac{1}{2}/10$ ths of one percent.

Gasoline—user charges would add about 40 cents to a ton of gasoline selling for \$184.40 per ton—less than $3/10$ ths of one percent. The Senator's study indicated only a 14¢ per ton increase when industry figures are adjusted to a more realistic figure— $1/10$ th of one percent.

Such facts are persuasive. They add credence to my conviction that user charges can be imposed with very little detrimental effect on unit costs experienced by either industry or consumers.

While the per ton or unit effect on costs might appear negligible, the overall cost effect, due to the tremendous number of tons transported is significant.

Take grain—Assume that the 40¢ per ton figure is correct; this would add almost \$9 million to the cost of the 22 million tons of grain transported through Locks and Dam 26 in 1972.

Take gasoline—It would add over \$4 million to the cost of the 8 million tons of petroleum products that moved in 1972. Such cost increases are not taken lightly by any industry or industry group. For some of the large waterway users it is well worth the legislative battle that we are witnessing to avoid such overall cost increases and fight for continued public funding of the waterways.

THE ISSUES

The current waterway controversy seems to boil down to two overriding issues:

1. Locks and Dam 26 Issue

A. Must it be repaired or replaced to maintain its effectiveness?

B. Should the capacity of the locks and dam be increased to meet the predicted requirements of the inland waterway users?

C. Assuming that some changes must be achieved; can the objectives be best achieved, at the lowest expense, through repair or replacement?

I do not intend to comment on the Lock and Dam 26 issue. Such determinations are best made by expert engineers, economists and others who have made such studies. The final decision should, in my opinion, be the exclusive prerogative of Congress. I hope that Congress, in its wisdom, will not pass this responsibility to others. Decisions should be on the basis of sound economic data and analysis.

2. The User Charge Issue

The subject of user charges has been debated in and out of Congress for years.

Senator Domenici's S. 790 introductory remarks listed eighteen different studies and positions on inland waterway user charges between 1939 and 1976. Most of the studies specifically recommended that a user charge system be established.

Mr. Credo of the American Waterways Corporation has called the present issues a bellweather case which will point to the future of waterway development.

The railroad position is well known. They point to potential economic ruin if something isn't done to soften the economic effect of subsidized inland waterway competition.

(*) User charges based upon 100 percent of operating and maintenance costs, plus 50% of the cost of new construction

Shipper views vary. Heavy users of the inland waterways oppose user charges. They use all types of arguments to prove that government inland waterway expenditures are fully justified. They point to the benefits that they claim are enjoyed by everyone. They predict increased prices, inflation, etc. that will be the direct result of user charges of any type and in any form. I have observed, however, as evidenced by the NIT League policies, that the vast majority of shippers not only favor user charges but are somewhat dismayed that this issue was not resolved years ago.

SEPARATION OF THE ISSUES

My readings and studies of the Locks and Dam 26 issue tend to indicate that the facility must be replaced or repaired.

Few people still seriously question the fact that something must be done. The user charge issue debate goes on and on and on—just like it has for years.

As a result it has been suggested by some individuals, and some groups, that the two issues should be separately considered and resolved.

To me the purpose and implication of these suggestions are obvious.

The Locks and Dam 26 problem has already been largely resolved. At this point it appears to be only a matter of how much money is to be expended and the point-in-time when the money will be spent.

The opponents of user charges want a new dam and new locks with greater capacity. They want the facilities now. They want the facilities to be built at public expense with no contribution of their own. They don't want further debate on user charges since they know that they will run the risk of exposing the fallacies of their own arguments.

Mr. Smith, of the American Waterways Operators, who favors the separation of the issues states: "The railroads are attempting to hold L & D 26 hostage to the waterway user tax."

This is the type of argument that has been used for years.

The issue of user charges goes far beyond the simple jockeying for competitive position between the railroads and the waterway companies and waterway users. The American taxpayer, whose taxes pay for the facilities, are also beginning to think and be heard. This is what scares the user charge opponents and why they want the issues separated.

I would urge that the issue remain joined. I also urge that both issues be promptly resolved.

THE LOGIC OF USER CHARGES TODAY

To me the expenditure of public funds to create transportation facilities made a lot of sense in the early stages of our country's economic development. Railroads, motor carriers, airlines and inland waterways have all benefited from public grants in the past. So has the public. It is doubtful if any of these transport modes could have developed or matured without such public expenditures.

Today, however, we have mature industries. The developmental period is over. The necessity for public expenditures for right-of-way and facilities is also over.

I believe that most enlightened and objective transportation managers agree with the logic and necessity for the removal of subsidies from the inland waterways. These people also know that the railroad-waterway battle is real.

All transportation managers are witness to the desperate railroad dilemma between their costs and revenues. Railroads, when requesting Interstate Commerce Commission permission to raise their rates, point out that costs have risen rapidly with only slight increase in revenues and tonnages transported. Most transportation managers also know that railroad freight rate levels are volume sensitive. We know that the railroads will require lesser rate increases if they can transport greater volumes. We also know that the effect of greater volume is reflected in all freight rates. We also know that additional diversion of volume from the railroads will result in the necessity for still further increases that will be felt on all railroad movements. We also know that when some rates are held down to meet, or partially meet waterway competition, that the railroads have little choice but to raise rates on non-competitive traffic. Such are the economic facts of railroad rate making if railroads are to conduct overall profitable operations.

Removal of waterway subsidies will not necessarily result in the ability of railroads to meet the cost of all waterway movements. At best, it will permit them to compete on a "more equal" footing.

Many voices have been recently raised asking for more even-handed regulation and government policies between the various transport modes.

All transport modes are essential to our country and its commerce.

All segments of transportation should remain within the private sector.

All transport modes should be able to, and encouraged, to compete for their share of the shipper's transportation dollar that they are best equipped to handle.

Few people favor the granting of multi-million dollar grants to railroads as outright gifts with no repayment provisions.

If such grants were made, however, for the purpose of building and maintaining railroad right-of-way and equipment, railroad costs would be reduced and railroad management could reduce rates to a level that would make it difficult for any of the other transport modes to compete. If this was done, many industries would benefit through lower rates. The cost savings impact would also be shared by many times more people than now benefit from waterway subsidies.

The logic of one-sided subsidies for one transport mode, therefore, fails to make any sense from the standpoint of even treatment or overall public benefit.

TYPE OF USER CHARGES

My previous testimony before the Senate included the fact that I favor the imposition of a segmented type of user charge.

I am definitely opposed to fuel tax charges or other charges based on any system-wide type of assessment.

My position in favor of the imposition of inland waterway user charges is largely motivated by my conviction that inland waterway facilities should be constructed only when their cost can be offset by real benefits to the public as a whole. Imposition of fuel tax charges or system-wide charges will not result in the same type of effective restraint against wasteful and unnecessary facilities, as will charges based on cost keyed to the particular waterway segment or facility involved. In addition, it is not equitable or just for inland waterway users to share in costs for facilities where they obtain little, if any, benefit.

SUMMARY

In summary I would like to quickly restate my positions:

1. *User charges*—They should be reasonable and assessed against those that directly benefit from the inland waterways.

2. *Segmented user charges*—Charges should be assessed for each waterway segment whenever new expenditures are required. They should *not* be assessed on the basis of a fuel tax or other form of system wide expenses.

3. *Separation of issues*—The Locks and Dam 26 repair or replacement issue and the user charge issues should remain joined. Neither issue can be fairly resolved without consideration of the other.

4. *Need for prompt congressional action*—Both issues should be promptly resolved through appropriate legislation.

Finally, I endorse HR 5885 (originally S.290) which was passed by the Senate on June 21, 1977. I believe that this bill will resolve the issues and will result in the greatest overall benefit to the public and most of the country's shippers.

The CHAIRMAN. Thank you very much.

[Whereupon, at 4:40 p.m., the committee recessed.]

[By direction of the chairman, the following communications were made a part of the record:]

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C. October 18, 1977.

HON. CARL T. CURTIS,
Dirksen Office Building,
Washington, D.C.

DEAR CARL: The Finance Committee, I understand, is scheduled to discuss the issue of waterway user charges tomorrow morning.

I would hope that the Committee will do nothing that would limit the Senate's ability to reaffirm the position the Senate took on June 22 approving a comprehensive waterway user charge provision. The amendment I will offer to H.R. 8309 will be virtually identical to the bill passed by the Senate in June. It will also incorporate the House tax provision as a dollar-for-dollar credit against the

more comprehensive user charges in my approach, which is based on a recovery of a percentage of Federal expenditures.

Attached is a brief fact sheet that details the differences between the two bills, as well as the reasons I believe our Senate approach is preferable.

Sincerely,

PETE V. DOMENICI,
U.S. Senator.

Enclosure.

COMPARISON OF HOUSE'S WATERWAY USER CHARGES BILL WITH THE BILL PASSED
BY THE SENATE ON JUNE 22

HOUSE BILL

Imposes a fuel of 4¢ a gallon on barges using certain inland waterways; excluding new waterways. (The fuel tax rises to a permanent 6¢ a gallon in FY 1982). At these levels, the House tax would collect less than 10 percent of annual Corps expenditures on commercial inland waterways.

SENATE BILL OF JUNE 22 (TO BE OFFERED BY DOMENICI IN LIEU OF THE HOUSE'S
APPROACH)

Phase-in over a period ending in fiscal year 1990 of user charges to recover a percentage of annual Corps expenditures: 100 percent of operations and maintenance and 50 percent of new capital. User charges can't exceed 1 percent of the delivered price of a commodity. Allows for congressional veto, by concurrent resolution, of the user charge schedule. The full tax is retained as a dollar-for-dollar credit against charges owed.

Both bills contain studies of impacts allowing for mid-course corrections.

Both bills initiate collections in fiscal year 1980.

RATIONALE FOR SENATE APPROACH IN PREFERENCE TO THE HOUSE BILL

1. *Percentage recovery* is used in other water resources projects where the beneficiaries are identifiable.
2. A percentage relationship is important to make users the "watchdogs against waste" and prevent unnecessary work.
3. The Administration has indicated it will veto Locks and Dam 26 without "substantial" user charges. Ten percent recovery is too low.
4. The only way to get a reasonable compromise and a bill that will be signed is to go to conference to strike a balance.
5. Approval of the House approach rewards the House's refusal to go to conference on the Senate's June decision.

STATEMENT BY THE HONORABLE BILL ALEXANDER

Mr. Alexander: Mr. Chairman, I appreciate the opportunity to give testimony to the Committee on this issue of vital importance to the inland waterway transportation industry. As the Committee is well aware, my District and my State are particularly dependent upon the transportation provided by the Mississippi and Arkansas rivers.

I have long been involved in addressing the needs of our inland waterways and in providing whatever assistance I can to support and promote the water resources of this country. I plan to continue to do this.

I want to applaud the Committee's initiative in re-opening hearings on this issue before the House and Senate conferees meet to come up with a compromise on H.R. 3199, the Navigation Development Act of 1977. As a reluctant supporter of the House version of this legislation, I firmly believe the waterway user charge embodied in the House bill is the way to proceed, if we must have such a waterway user charge on the nation's barge operators. To accept the language contained in the Senate bill will, I believe, cripple beyond repair the inland waterway transportation industry.

While I personally believe the Congress should await the report of the National Transportation Policy Study Commission, due next year, before embarking on such a course of taxation, I realize that the votes are here in the Congress to enact

such a tax. The chore, thus, is one to ensure that, in levying a user charge, we do not break the back of the industry.

Throughout the debate on the user charge issue, little mention has been made of the biggest loser—the consumer. It is the consumer who will have to pay for waterway user charges, and in increase in barge rates will mean an increase in water competitive rates as well.

Mr. Chairman, the Senate user charge provision will jeopardize the most energy efficient and cost effective mode of transportation available today. I urge this Committee to support the House position.

STATEMENT OF HON. AUSTIN J. MURPHY

THE IMPACT OF A WATERWAY USER TAX ON THE PITTSBURGH AREA

Mr. Chairman, soon the Senate Finance Committee will consider H.R. 8309, which will impose a waterway user tax for the first time in the history of our country. This action will alter the practice set out in the Northwest ordinance, that our Nation's waterways would remain free. I am presenting to my colleagues today, my testimony before the Ways and Means Committee concerning the impact of these fees on the Pittsburgh area, so that they will consider the full impact of this issue before making a final decision.

Mr. Chairman, in the Northeastern and Midwestern parts of this country our industries have been greatly distressed in recent years. This story is not new to members of this committee. The imposition of a waterway user tax would only add to this decline.

As you know, river transportation is extremely slow. If we add the burden of an increase in costs to this already slow method of transportation I fear many industries may revert to shipping by a more expeditious manner on highways and by rail. This is an undesirable alternative for transporting bulk goods when river transportation is accessible.

In this time of energy shortages and crisis it would behoove us to do everything we can to increase river transportation rather than decrease it. I would like to point out that 20 percent of the Nation's coal is shipped by river, almost 20 percent of the Nation's petroleum is shipped by river, and 4 percent of the Nation's basic minerals are shipped by river. Imposition of a user fee many severely hamper the distribution of these energy resources.

The 22d district of Pennsylvania, which I represent, relies heavily upon the Monongahela, the Ohio, and the Allegheny Rivers for transporting both the raw materials and the finished products which keep our industries operating. In fact, the Monongahela River, along which I reside and into which I can throw a stone from my home, has a great gross tonnage of commerce each year than the Panama Canal. Some of us in the United States seem almost willing to fight a war over the Panama Canal. All I am saying is let us save the Monongahela River. All through the history of this country we have seen the wisdom of aiding water projects: dams, irrigation, recreation, flood control, and I think it would be a total lack of wisdom if we would now turn our backs on the inland waterways and start charging for their use.

As you know, the Pittsburgh area is one of the Nation's leading steel producing areas, producing in excess of 20 million tons annually. The steel industry directly provides more than 70,000 jobs in the area and tens of thousands more in support and related industries. The steel industry grew up in this area because of the available river transportation and remains totally dependent on it. Coal, one of the basic materials in the steel process, moves up the Monongahela River from West Virginia and the 22nd district at a rate of almost 60,000 tons per year. The Army Corps of Engineers Study estimated that there would be an average cost increase near 18 percent on the Monongahela River. The same study estimates diversion of 98 percent of river traffic on the nearby Allegheny River. A cost increase such as this would be devastating to the steel industry which is already in a depressed state.

Besides the increase in costs, the steel industry would face the burden of the user fee when they ship their finished products. Approximately 3 million tons of steel from the Pittsburgh area is shipped to the South and Southwest via the inland waterway system. The majority of this steel is in direct competition in the gulf coast area with imported steel.

Steel imports now make up 14 percent of all U.S. steel consumption. The imposition of user fees could by some estimates raise this to 30 percent by 1980. Due to Pittsburgh's location at the end of the inland system, the majority of losses would be suffered there.

In effect by imposing waterway user fees the Congress will be imposing a tariff on domestic products and subsidizing foreign steel imports because the deep water facilities they use are not subject to these fees. This would increase our dependence on foreign steel as one of the basic materials in our economy, a situation which proved unhealthy in the case of oil.

In conclusion, I urge this committee, or if this committee would recommend, I would urge Congress or the Departments of Commerce and Transportation to undertake an economic feasibility study to determine the effects of a user charge on industry as well as the regions most affected by the charge.

STATEMENT OF THE HONORABLE HAROLD L. VOLKMER

Mr. Chairman, I am most grateful for this opportunity to submit my statement for the record and express my support for H.R. 8309, the Navigation Development Act.

As a Representative whose District is bordered by 102 miles of the Mississippi River, I am well aware of the importance of Locks and Dam 26 to the economic well-being of Northeast Missouri as well as the entire nation. The poor physical condition of the existing facility and the inability of the locks to handle even current traffic without costly delays make replacement imperative. Barges wait an average of 18 to 21 hours to pass through the locks and during busy months, the wait can be as long as three days. Consequently, these delays increase transportation costs and raise consumer prices. Since barge freight is primarily for agricultural uses, there is a great need for the mid-continent agricultural community to have a reliable flow of traffic on the river.

Before turning to the issue of the fuel tax before this Committee, I would also like to express my support for the Roberts/Blouin amendment, which was adopted by the House. The second part of this amendment would prohibit any federal official from studying the feasibility of deepening the river channel, unless authorized by Congress. This provision is essential to the legislation. Twelve foot channels are environmentally and economically unsound and could cause disastrous damage to bottom farmlands.

Finally, I would like to express my support for the 4¢ fuel tax as passed by the House. The cost of constructing and maintaining our river navigation facilities no longer justifies their free use. However, I urge the Committee not to approve an increased fuel tax which would be detrimental to agricultural producers, industry and consumers. As it is, farmers are not receiving a return on their grain and livestock. If a higher tax is imposed, the farmer will receive even less of a return.

It is of utmost importance that Congress enact H.R. 8309 this year. While remedial measures have corrected the more serious and immediate deficiencies at Lock and Dam 26, permanent repair is impractical because of engineering and cost considerations. Since past delays have already cost consumers millions of dollars, Congress must guarantee that there will be no interruption of commerce which would adversely affect the entire Midwest's economy. The new, larger lock will greatly reduce this waste of time and money.

Again, I would like to thank the Committee for this opportunity and urge your expeditious consideration of this legislation.

THE PENNSYLVANIA STATE UNIVERSITY,
University Park, October 20, 1977.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance, U.S. Senate, Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR LONG: This letter concerns the fuel tax provision contained in H.R. 8309, which I understand is now being reviewed by the Senate.

It appears that the fuel tax rates specified in the bill (four cents per gallon beginning on October 1, 1979, and increasing to six cents per gallon after October 1, 1981) will provide the Treasury with annual revenues totaling only about ten percent of expected annual federal outlays for construction, maintenance, and

operation of shallow draft navigation facilities. Moreover, this token-sized percentage will shrink continuously if, as is highly probable, (1) navigation outlays rise over time in response to inflation and/or changes in maintenance and capacity requirements, and (2) the fuel tax rate remains fixed at six cents per gallon. Such a result would not represent a fair return to American taxpayers, nor would it signify the achievement of even a modicum of improvement in economic efficiency within the transport sector of the nation's economy. A superior alternative approach to H.R. 8309's fuel tax provision was considered earlier this year by the Senate, in the form of both S. 790 and amendments to S. 1529, and I respectfully urge that this approach be drawn upon by the Senate as it contemplates means for improving the House-inspired fuel taxation method.

My reasons for offering this suggestion are explained in greater detail in the enclosed statement of testimony which I presented during hearings on S. 790, and which I would like you to include, along with this letter, in the record of Senate action on H.R. 8309. In closing, I should emphasize that the views expressed in both this letter and the enclosed statement are entirely my own as a teacher and researcher in transport economics and policy. They bear no relationship whatsoever to policy preferences of either The Pennsylvania State University or any other private or governmental entity.

Sincerely,

JOHN C. SPYCHALSKI,
Professor of Business Logistics.

Enclosures.

STATEMENT OF JOHN C. SPYCHALSKI ON WATERWAY USER CHARGES

Mr. Chairman and Members of the Subcommittee on Water Resources: My name is John C. Spychalski. I am a professor of business logistics in the College of Business Administration of the Pennsylvania State University. My duties include teaching and research in transport economics and policy, an area in which the subject of user charges on publicly-provided facilities obviously plays a significant role. I first want to thank you for giving me an opportunity to comment on various aspects of this important topic. I should also emphasize that the views expressed in my testimony are entirely my own and bear no relationship to either the Pennsylvania State University or any other public or private entity.

The general case in support of waterway user charges has been presented clearly and impeccably in more than a score of reports issued by both governmental and impartial private study groups since the early 1930's. The basic objectives of waterway user charges which cause virtually all transport analysts to favor their enactment are:

1. Greater efficiency in the allocation of traffic and resources among competing modes of transport;
2. Greater efficiency in the utilization of existing transport plant and equipment capacity;
3. Greater efficiency in the location of manufacturing, extractive, agricultural, and other economic activities;
4. Greater equity in relationships between and among (a) owners, creditors, and employees of inland water carriers and competitors thereof; (b) owners, creditors, and employees of firms which ship and receive freight; (c) consumers; and (d) taxpayers.

The proposed Inland Navigation Act of 1977 provides a welcome set of means for moving toward the achievement of these objectives, and I would now like to focus on the characteristics and implications of various portions of the bill.

FIFTY PER CENTUM RECOVERY: AN OVERMODEST OBJECTIVE

Section 5(e) of the proposed Act places an ultimate upper limit of fifty percent on the proportion of annual federal expenditures which are to be recovered by user charges. This recovery standard, while infinitely superior to the current rate of zero, is insufficient when judged by both efficiency and equity criteria.

Pipeline and railway firms, the leading transport alternatives to inland water carriage, presently must recoup virtually *all* of their operating, maintenance, and capital outlays (on equipment *and* infrastructure) from revenues generated by rates charged to shippers. (Various opponents of waterway user charges have recently asserted or implied that such is no longer the case insofar as rail transport is concerned. This contention will be addressed later on in my

testimony.) And, motor truck operators presently make substantial contributions toward federal and state highway expenditures. Enactment of the fifty percent limit thus would leave open a wide range or margin for the underpricing of inland water transport services in comparison with services of alternative transport media. The potential for continued transport resource misallocation stemming from this condition prompts me to suggest that the Subcommittee consider replacing the fifty percent limit with a provision that would require the achievement of a much greater measure of equality between user charge-generated revenues and navigation-related expenditures. In addition to enhancing allocative efficiency in transport, such a provision would greatly diminish the inequity which results when inconsistent criteria are used in judging the economic performance of competitive entities, as is presently the case in substitutive relationships between water carriers and other transport media.

CONGESTION CHARGES

High merit and strong support should be accorded to the proposed Act's authorization (in section 5(d)) of the application of congestion charges to navigation facilities. Variations in the level of charges which are keyed to fluctuations in demand for facilities usage can alleviate waterway capacity problems in an economically efficient manner by rationing traffic flow demands on the basis of the relative values which different waterway users place upon operation over specific segments of a system at particular points in time. I cannot, within the limits of this testimony, enter into an extended discussion of the theoretical, administrative, and operational considerations that pertain to congestion charging. However, two points concerning it should be mentioned here.

First, the application of congestion charges would extend to navigation facilities a form of pricing little different in economic principle and results from that which is currently practiced in the pricing of regulation-exempt inland water carrier services. That is, the rates on traffic moved under the terms of exemptions specified in Part III of the Interstate Commerce Act fluctuate freely in response to changes in the demand for, and supply of, water transport service capacity. During periods of relatively heavy water transport demand, and hence also higher water freight rates, shippers who value water transport service at amounts less than peak period rate levels seek out and utilize alternatives which yield higher net gains. For example, such shippers can and often do hold commodities in inventory until peak water traffic periods pass and water freight rates fall to levels equal to or less than those which they are able and willing to pay. Such demand-sensitive fluctuations in freight rates also induce greater efficiency in the supply of water transport equipment; carriers have an incentive to maintain capacity at levels which, in terms of cost requirements, do not exceed the aggregate value which shippers place upon water freight services during peak and off-peak traffic periods taken together.

Second, the basic intent and purpose of congestion charging on inland waterway facilities is identical to that which the Congress expressed when it enacted provisions in the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), section 202) which are designed to encourage the development of new railway ratemaking patterns based on seasonal, regional, and other forms of peak and off-peak fluctuations in the demand for rail transport services. The Congress explicitly identified several objectives for such pricing patterns, including (1) the provisions of "sufficient incentive to shippers to reduce peak-period shipments, through rescheduling and advance planning," and (2) improvement of "the utilization of the national supply of freight cars."

SEGMENT CHARGES AND CONSEQUENCES OF USER FEES

The proposed Inland Navigation Improvement Act's authorization of the application of tolls on a segmental basis provides a vital tool in the quest for greater economic efficiency because it will, if properly applied, produce close matchings of the specific costs and benefits that relate to particular sections of the national waterway network. The use of such a pricing method thus offers a means for minimizing or avoiding the internal cross-subsidization that results when uniform tolls are applied to waterway systems which consist of sections with wide variations in operating, maintenance, and capital costs.

The objective of greater precision in the matching of transport costs and benefits, like the previously-mentioned concept of congestion charges, was recently endorsed by Congress when it enacted the Railroad Revitalization and

Regulatory Reform Act of 1976. Included in that Act are provisions which (1) encourage the filing of "separate rates for distinct rail services," that will "encourage the pricing of such services in accordance with the carrier's cash-outlays for such services and the demand therefore," and (2) direct the Interstate Commerce Commission to develop a new cost and revenue accounting and reporting system for railways which will "assure that the most accurate cost and revenue data can be obtained with respect to light density lines, main line operations, (and) factors relevant in establishing fair and reasonable rates."

It is no secret within freight transport circles that water carriers, various shippers, and other groups which benefit from inland navigation facilities fear that the application of segment charges would subject relatively high cost, low density sectors of the inland waterway system to close economic scrutiny. And well it should, for the long-term subsidization of transport facilities which benefit a limited number of entities or groups cannot be adequately justified on the basis of either efficiency or equity.

Opponents of user charges frequently voice dire assertions about the consequences of such charges, regardless of the form or manner in which they are applied. However, a 1975 study by the General Accounting Office, which assumed cost recovery proportions far greater than those specified in the proposed Inland Water Navigation Act, suggests that the opponents' representations are overwrought. Additional evidence that the consequences of user charge imposition are likely to be moderate rather than cataclysmic has been provided by two more recent studies—the first, a consultant's report submitted to the U.S. Army Corps of Engineers (*Potential Impacts of Selected Inland Waterway User Charges*, CACI, Inc.—Federal: Arlington, Virginia), and the second, a study conducted by the U.S. Department of Transportation's Transportation Systems Center

MODAL TRAFFIC IMPACTS OF WATERWAY USER CHARGES

Of more basic importance, however, is the fact that expressions of alarm over the impact of user charge initiation can grow in intensity to the point where they obscure the need for taking actions essential to the achievement of greater long-run efficiency in both transport and transport-dependent economic activities. That is, concern over a relatively limited set of short-run consequences should not be permitted to block or divert attention from corrective action that will improve long-run performance.

An often neglected point in discussions of the consequences of waterway pricing alternatives is the question of the extent to which shipper-received savings will ultimately be passed on to consumers. The oligopolistic and duopolistic structures of some of the industries that rank as prominent inland water shippers suggests that at least a portion of such savings might remain in corporate treasuries rather than contribute to the expansion of consumers' purchasing power.

USER CHARGES AND PUBLIC POLICIES TOWARD RAILWAYS

User charge opponents have recently begun to propagate the contention that rail transport is not, and has never been, as self-sustaining as both rail industry partisans and numerous independent observers commonly represent it to be. The cause of historical accuracy demands that several general observations be made in response to this contention. First, no single significant federal rail public assistance effort has endured for periods of time comparable to the life span of user charge-free navigation improvement activities. Second, the majority of federal railway assistance measures have involved some form of repayment mechanism designed to provide at least partial, and in some instances full reimbursement. For example, rail carriers which obtained property through still off-mentioned Nineteenth Century land grants were required to carry government agencies' traffic at rates as much as fifty percent below regular charges. So-called land grant rate obligations existed until 1940 for non-military government freight traffic and mail, and until 1946 for military freight and passenger traffic.

Most loans made to railways by the Reconstruction Finance Corporation during the 1930's were repaid in full, with interest. Post-1970 federally-sponsored efforts to reorganize the plant, equipment, and services of bankrupt railways in the Northeast have involved large federal outlays for which no reimbursement will be made. However, even the Northeast situation involves requirements for the repayment of certain types of assistance, as a reading of financing pro-

visions in the Railroad Revitalization and Regulatory Reform Act of 1976 will reveal.

In contemplating objectives and conditions which Congress established for the Consolidated Rail Corporation—e.g., long-run self-support, including coverage of right-of-way, track structure, and real estate tax expenses—one cannot escape the conclusion that a similar obligation should be at least as feasible and appropriate for the much more financially sound entities which utilize inland navigation facilities. On this thought, I will close. Thank you for your attention.

STATEMENT OF HERBERT BRAND, PRESIDENT, TRANSPORTATION INSTITUTE

Mr. Chairman and Members of the Committee: My name is Herbert Brand.

I am President of the Transportation Institute, a maritime industry research organization of 140 member shipping companies. Our member companies are engaged in the Nation's foreign and domestic shipping trades, including barge and tugboat operations on the inland and intracoastal waters of the United States and the Great Lakes.

We appreciate the opportunity to participate in these hearings and to present our views on the question of user charges for commercial water operations. This is an issue of extreme importance to the domestic shipping industry and to those industries and workers who are dependent upon the continued availability of efficient, low-cost water transportation.

The Transportation Institute has consistently opposed the imposition of user charges. We have been particularly opposed to efforts in the current Congress to enact and impose such charges. We feel there is absolutely no rationale for the imposition of such a tax on such an inexpensive and fuel-efficient mode of transportation. Proponents of user charges have allowed this issue to become emotionally charged and have considered it in a climate so clouded by other issues, especially Locks and Dam No. 26, that the potential for a punitive user charge being imposed on water carriers in the guise of fairness and equity is a dangerous possibility.

We do not feel that the issue of user charges has been approached in a rational way. The enactment of a revenue-raising measure not on its own merits, but by holding a public works project hostage, is not in keeping with the best traditions of the Congress of the United States. This is an inappropriate method of enacting legislation.

I wish it to be clear that we support and believe there is an urgent need for the reconstruction of Locks and Dam No. 26. We believe the evidence shows that Locks and Dam No. 26 should be replaced and the project should be given the go ahead. However, we also feel that if the case for Locks and Dam No. 26 cannot be made, imposing a user charge on all domestic water carriers will not make this project meritorious.

Notwithstanding the above both the Senate and the House of Representatives have adopted measures closely linking these two issues. In this regard, we are unalterably opposed to the Senate language contained in S. 790 and that subsequently appended to H.R. 5835. This language delegates Congressional authority to determine the form and scope of the tax to the Executive Branch. This is not the way taxes are imposed upon American industries and this should not be the way a tax should be imposed on America's domestic water transport industry. In addition, the cost recovery concept it espouses could lay waste to an essential and extremely important transportation mode.

Faced with the necessity of having to choose between two bills containing user tax language equally distasteful to us, we find that the House Ways and Means Committee language contained in H.R. 8309 is, however, highly preferable to the Senate language already referred to.

No one can foresee what the impact of the House-adopted fuel tax will be on water carriers and waterborne commerce in the United States. Still, the 4-cents-per-gallon tax, rising to 6-cents-per-gallon, has a precedent in the fuel tax paid by motor carriers and is consistent with portions of the President's energy program.

Some have estimated that the initial 4-cents-per-gallon tax will amount to over 30 percent of the barge companies' net profits and the 6 cent figure to over 45 percent of their net profits. In addition to their corporate taxes this is hardly an insignificant amount.

Thus, Mr. Chairman, we strongly urge your Committee to recommend passage without amendment of H.R. 8309. This legislation represents a radical departure from long-standing federal policy. As such it would be unwise and unwarranted to subject an essential transportation mode, rendering safe, cheap and efficient service to shippers and consumers alike, to the harsh and punitive charges espoused by some in the Senate. This is all the more true since the impact of the tax contained in H.R. 8309 is unknown.

We trust this Committee with jurisdiction over and expertise in tax matters will recognize the potential for harm on an important industry if H.R. 8309 is not adopted as passed by the House of Representatives. On this matter we strongly urge you to provide your colleagues the dispassionate and constructive guidance so characteristic of this Committee.

We thank you for the opportunity to present our views on this matter and stand ready to provide any additional information or assistance that may be requested.

**STATEMENT OF FRANK T. STEGBAUER, CHAIRMAN OF THE BOARD OF DIRECTORS
THE AMERICAN WATERWAYS OPERATORS, INC.**

The American Waterways Operators, Inc. is the national membership trade association representing the inland and coastal barge, towing industry and supporting shipyard industries. A majority of AWO members are carriers engaged in the transportation of commodities by water.

The barge and towing industry is the safest, most energy-efficient, and lowest-cost mode of commodity distribution in the United States. Barges hauled more than 610 million tons of freight during 1975, transporting over 65 percent of all U.S. waterborne traffic. The industry's importance to the Nation's transportation system and economic health is very significant.

Approximately 1,800 companies operate 4,240 towboats and tugboats. The fleet also includes 26,787 non-self-propelled vessels with a cargo capacity of 35,645,352 net tons. This fleet operates on a system of 25,543 miles of inland and coastal waterway channels.

Sixty percent of the commodities moved on the inland and coastal waterways consists of fuels for others, including coal, crude petroleum, gasoline, jet fuel, distillate and residual fuel oils, coke, petroleum coke and other petroleum and coal products. In addition, large quantities of grain, grain products and soybeans and fertilizers required for their production are transported by water.

The inland waterways are vital to the movement of grain products for domestic consumption and export and for the movement of products needed by farmers to grow their crops. In 1975, a stream of 28.3 million tons of corn, soybeans and wheat and other grains flowed down the Mississippi River to the New Orleans area for export. Over 19 million tons of fertilizer, coal and petroleum products moved back up that river to serve the agricultural community and provide power plants with enough energy to provide light and heat to the homes of over 5 million people in the Midwest, many of them farmers. The grain export also is a significant factor in helping hold down the U.S. Balance of Payments deficit.

Much of the grain products moved on the waterway could not move by rail, even if the higher rail rates could be absorbed. On the Upper Mississippi River, 6 of the 38 grain elevators lack rail facilities. On the Illinois Waterway, 37 of the 51 grain elevators, almost three-quarters, cannot accommodate railroad movements.

Barge transportation accounts for approximately 8.5 billion ton-miles in the movement of soybeans each year, out of a total of slightly over 19 billion ton-miles by all modes. Barge movements therefore account for almost one half of all soybean movements. In the case of feed grains, the waterways move over 7.7 billion ton-miles annually out of 30.9 billion ton-miles in total, about 25 percent. For food grains, waterborne transportation accounts for 43 percent of total ton-miles generated.

An A. T. Kearney report in February 1976 prepared for the U.S. Army Corps of Engineers had this to say about grain movements on the waterways:

"Grain and grain mill products are important commodities on the inland waterways system. They are well-suited to marine transport. Their geographical pattern of source and destination make water transportation feasible. They typically flow in unit volumes and annual volumes sufficiently large to use barge service. Finally, grain is relatively low valued so that while transit time is not usually critical, the low cost barge service is very important".

In addition to fuels and grains, the waterways move large quantities of chemicals and fertilizers. In 1975, over 38 million tons of chemical products were moved by barge, representing nearly six percent of all barge traffic. Barge transportation accounts for 82 percent of the total domestic waterborne movement of basic chemical products.

Barge service is the biggest transportation bargain in the United States. Costs to the shipper average only about four to five mills per ton-mile of cargo. Rail, the next lowest cost mode, averages 18.48 mills per ton-mile. However, railroad freight which moves in routes parallel to the waterways is transported at lower (water-compelled) rates to compete with barge traffic.

Not only does barge transportation reduce shipping costs for those who utilize it, but by its very presence, results in reductions in the overall rate structure of the rail mode.

Barge transportation leads to the location and expansion of major private industrial plants adjacent to navigable waterways. Since 1962, when AWO began compiling statistics, over 10,200 plants have been expanded or located along commercially navigable waterways in the United States, representing capital expenditures of \$177 billion.

In addition, the location of major industries along river sites creates countless thousands of employment opportunities, both in plant construction and in permanent industry jobs. These bank-side locations help alleviate population congestion in highly-concentrated urban areas and bolster the economy in regions of the country especially needing such development.

River transportation is the most energy-efficient method of freight distribution. Barge service requires 500 BTU's to move one ton-mile of freight. The next best mode is rail, requiring 750 BTU's for the same movement, a full 50 percent more. In other terms, the same gallon of fuel that moves a ton of freight under 200 miles by rail, can move it over 300 miles by water. Thus, barging is economical both in terms of saving money and conserving our Nation's vital energy resources.

Barge transportation is the safest mode for the movement of hazardous cargoes. An Arthur D. Little, Inc. study dated July 1974, analyzed typical movements of ten hazardous commodities by barge, rail and truck. The results show that, in almost every instance, barge transportation provides the cheapest movement, the least urban exposure, the least short-term environmental impact due to a spill, the least relative human exposure, the lowest expected value of property loss and the longest interval between spills.

The barge and towing industry is a service industry, responding to the demands and needs of the shipping public which utilizes the water mode. This industry has met the needs of shippers in the past and, according to all indications, will continue to do so in the future. The industry is healthy, competitive, and technologically innovative.

The imposition of a waterway user tax above the proposed four cents per gallon fuel tax could jeopardize both the health of the industry and its ability to meet shippers' and consumers' needs.

Since fuel is the largest single cost item in the operation of a towboat, the fuel tax will have a significant impact upon river operating costs. A six cents per gallon fuel tax will increase operating costs by approximately 6.5 percent. A fuel tax higher than that will have disastrous effects. We, therefore, strongly urge that the waterway fuel tax be held to the currently proposed four and six cents per gallon level at the most.

The imposition of a segment toll on the waterways would have the effect of increasing operating costs to the point that major segments of the waterway system could be permanently closed. The Arkansas River, the Kentucky River, the Alabama-Coosa River, the Missouri River, the Apalachicola-Chattahoochee-Flint River System, the Ouachita and Black Rivers, and the Atlantic Intracoastal Waterway would, in all probability, be shut down. These rivers represent 3,500 miles of waterways, about 14 percent of the entire system, which includes the Great Lakes and the Atlantic, Gulf, and Pacific Coasts.

The impact on the remainder of the waterway system would be disastrous. Even with an upper limit of one percent of the value of the cargo, the segment toll could force substantial quantities of commerce off the river, to the detriment of mid-American industry.

The harmful effects on our industrial economy brought on by a user tax would also be repeated for our agricultural economy.

The ultimate 6¢ per gallon fuel tax would have the effect of 30¢ per ton on grain or ½ of a cent per bushel. The "Domenici" proposal would be much higher—so

much so as to significantly deny the farmer a just return on his labor and investment.

The Domenici tax could have disastrous effects on the economy of the Midwest.

Mr. Chairman we urge the Committee to support the tax levels contained in Title II of H.R. 8309 as passed by the other body, and appreciate the opportunity to have our views presented to the Committee.

COMPARING RAIL AND INLAND WATERWAY SUBSIDIES: THE MORE ACCURATE PICTURE

The Federal subsidy for inland waterways is reported to be 13 to 47 times the Federal subsidy for railroads. Those figures come from a Congressional Budget Office (C.B.O.) study. It should be pointed out that the C.B.O. determined the astounding "inequity" by comparing the Federal expenditures on one mode as a percentage of "expenditures by users." That means freight rates. In other words, the subsidy is a much greater portion of the revenue for the mode that charged the lowest freight rates and had the lowest income.

The C.B.O. claims that in 1974 the inland waterway subsidy amounted to 47 percent of the barge and towing industry's total revenues, while the railroad subsidy totalled only 1 percent of railroad revenues. By 1976 the inland waterway subsidy was supposedly 41 percent of total revenues while the railroad subsidy amounted to only 3 percent of railroad revenues—or still 13 times lower than the water subsidy.

These figures are distorted in at least three respects.

1. Hundreds of millions of dollars in annual subsidies and tax incentives to railroads were left out of the study. These range from \$73.4 million spent on rail-highway crossings in 1975 to \$285 million a year to bail out the Railroad Retirement Fund. Nor did the C.B.O. include hundreds of millions in ConRail loans that even the C.B.O. admitted may never be repaid. Tax incentives are subsidy-effect aids, but were not included. And many economists feel that present-day earnings on 19th Century Federal land grants that are in the hundreds of millions of dollars should be taken into account. The C.B.O. did not.

Railroads benefit from Federal expenditures in other ways, even from navigation expenditures. Numerous Great Lakes and ocean ports and harbors rely exclusively on railroads for access to the hinterlands. These are "railroad ports." Through extensive reaches of inland river valleys, Army Corps of Engineers flood control programs protect railroad roadbeds. The Federal Railroad Administration has some 800 employees engaged in promotional efforts to benefit railroads. None of these expenditures, programs or activities were included in the C.B.O. analysis.

2. With respect to the second part of the equation, the C.B.O. greatly inflated the subsidy estimate for shallow-draft navigation by including all of the Corps of Engineers expenditures on shallow-draft inland rivers. The C.B.O. included some expenditures for Great Lakes and deep draft channels and ocean harbors. As a result, the subsidy figures have minimal relation to shallow-draft navigation outlays.

3. The scheme of comparing revenues in an effort to determine the importance of subsidies is itself meaningless. If each of two modes receives \$1 in subsidy, the mode charging a freight rate of \$10 a ton will show a subsidy of 10 percent. The mode charging \$1 a ton will show a subsidy of 100 percent.

The average barge freight rate is around 5 miles per ton, while the average railroad rate is slightly more than 2 cents. So of course the subsidy to inland waterway transportation, with annual revenues from intercity freight amounting to less than \$1 billion, seems relatively greater than the subsidy to railroads, with annual revenues exceeding \$15 billion. On a ton-mile basis, which is a far more accurate comparison, the subsidy to each mode is remarkably close.

It is difficult to know what subsidies and subsidy-effect aids the railroads actually get. There has never been a thorough accounting. However, for 1976 alone, a partial listing of non-reimbursable railroad subsidies totals about \$1.3 billion. That does not include another \$540 million that is supposed to be repaid. The C.B.O. did not say what figure it used for railroads, but it was obviously much lower than \$1.3 billion.

Total Army Corps of Engineers expenditures for shallow-draft navigation in 1976 was \$422 million. That does not include expenditures on Great Lakes or deep-draft navigation projects, which are neither competitive with railroads nor affected by pending legislation. But obviously the actual \$422 million figure is much lower than the figure for inland waterways that C.B.O. used. But \$422 million is the relevant figure. And on a dollar-for-dollar basis, it is about one-third as much as the railroad subsidy for that same year.

STATEMENT OF FRED MCKIM

My name is Fred McKim. I manage the West Bend Elevator Company at West Bend, Iowa. The elevator is owned and operated on behalf of approximately 2500 farmers in our area. I am also president of the United Purchasers Association, a group of nine cooperative elevators in central and western Iowa.

I am testifying in support of the user charge provisions of H.R. 5885 as passed by the Senate. My organization is very concerned about unjustified expansion of barge navigation on the Mississippi River, starting with Locks and Dam 26 at Alton, Illinois. I do not want to see the Iowa grain farmers tied down to a transportation system that only allows marketing of their grain through the elevators at the mouth of the Mississippi River.

Right now our farmers are able to sell their corn and soybeans to a variety of markets which compete with each other. Soybeans are sold to domestic processors as well as for export. Corn is sold to domestic processors, as well as to beef feeders in the Southwest and to the poultry industry in the South and Southeast, including Arkansas, Louisiana, Alabama and Georgia. Almost all of this traffic moves by rail.

Both soybeans and corn move from our elevator to the export markets through the Texas Gulf Ports of Houston and Galveston and the East Gulf Ports of Pascagoula and Mobile as well as the grain exporting points near New Orleans and Baton Rouge. We have shipped over one-hundred cars of corn for export through the Port of Norfolk, Virginia. One of our associated elevators shipped a full trainload of soybeans to Los Angeles for export to Japan. Others have shipped through the North Pacific Coast Ports. We expect West Coast movements to Japan to increase as the Japanese continue to construct ships of such size and draft that they cannot be handled by the Panama Canal and the Gulf Ports.

Adequate rail service from our Iowa elevator and others in our state makes it possible for us to sell our grain in whatever market offers the best price. The farmers in my cooperative have invested over \$2.2 million in grain loading facilities at West Bend alone, in the last four years.

In my part of Iowa the shippers have taken steps to make sure they have adequate rail service by joining together to raise money for interest-free loans to the Rock Island Railroad to upgrade its track. Some 30 shippers formed the Iowa Falls Gateway Shippers Association of which I have been chairman. The Association included not only grain elevators, but a large fertilizer retailer, a farm equipment manufacturer, and Winnebago Industries, a manufacturer of recreational vehicles. To date this group has raised \$2.5 million for these interest-free loans. For 1978 we have committed ourselves to provide \$1,750,000 in loans to the Rock Island to upgrade its facilities.

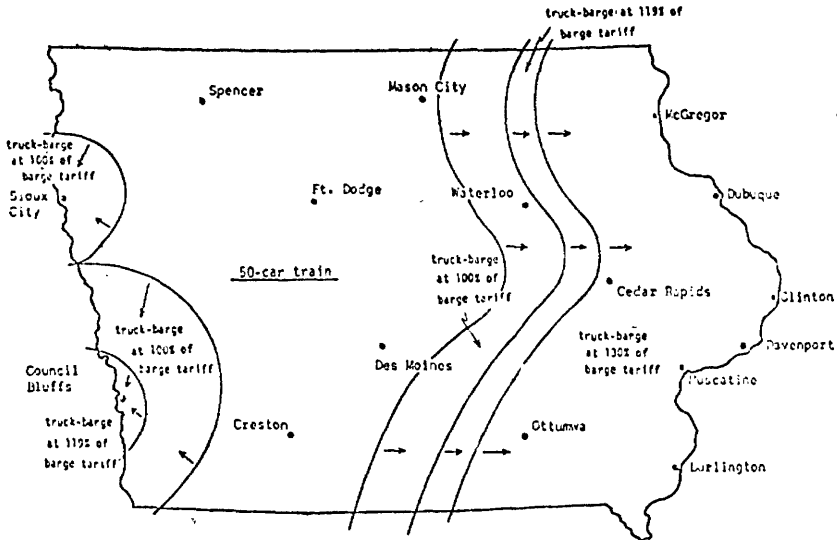
We have worked to maintain a system of rail transportation and have invested substantial sums of money in the belief that system will continue to operate at reasonable rates. That rail system cannot continue to provide service at rates we can afford if substantial volumes of traffic are taken away by the barge lines as a result of government subsidy. It does not seem right that government money is used to foster barge transportation which in turn will hurt or even destroy the railroads on which we depend. We know what it means to face the loss of rail transportation as a result of our experience since the Rock Island Railroad bankruptcy and the near collapse of that service. Even the threat of curtailed rail service put us in the position where we could not adequately sell our grain. It is not just economic theory as to possible impact; we have been through it. We did everything we could to keep the Rock Island going through the crisis. We cannot afford to have that service or the service of its connecting roads cut back or curtailed.

A combination of truck and barge cannot satisfy the transportation needs of Iowa's grain shippers. We must have rail service. The river operations only benefit a few farmers in the eastern part of the State and, for that matter, a few shippers. The railroads serve all shippers large and small throughout the State.

Studies by Dr. Baumel and his associates at Iowa State University, sponsored and published by the United States Department of Transportation, have shown that central and western Iowa can move their grain to market by rail more cheaply than by a combination of truck and barge, and, of course, enjoy a greater choice of markets with better prices for their crops. See attached maps. If railroads are deprived of a portion of their volume shipments on a regular basis by subsidized barge competition, we will not have the rail service we now depend upon.

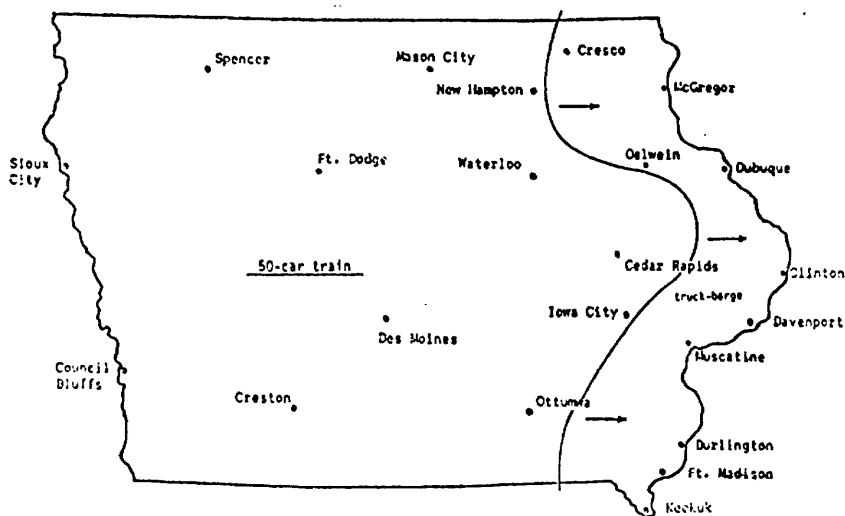
One step toward establishing some sort of equity between the barge operators and the railroads would be to establish a system of commercial navigation charges. This would not cure the situation where the railroads pay over \$7,000,000 in State and local taxes in Iowa while the 14 largest barge lines only paid \$80 in 1975. Barge charges would not cure the problem of the Corps making inaccurate projections of transportation needs in the Midwest and then building barge facilities to meet them, regardless of the consequences to the rail shippers. A barge user charge is no substitute for adequate economic analysis. However, 100 percent recovery of the cost of maintaining and operating the river navigation system and 100 percent recovery of the cost of new capital construction, with a portion of that collected before construction begins, would be an important step toward a balanced transportation system. The system is unbalanced now, and that should be corrected. The barge shippers and barge operators should raise money privately to build bigger locks if they really want them, the same way we raised money privately to improve the Rock Island Railroad.

FIGURE 20. Approximate Regions of Competitive Advantage Between Truck-Barge and 50-Car Shipments of Grain from Iowa to New Orleans at Selected Percentages of Barge Tariff and X-Parte 305-A Rail Rate Levels and Estimated 1974 Trucking Costs.



* Source: *An Economic Analysis of Upgrading Branch Rail Lines: A Study of 71 Lines in Iowa*, C. Phillip Baumel, John J. Miller and Thomas P. Drinka (February 1976).

FIGURE 22. Approximate Regions of Competitive Advantage Between Truck-Barge and 50-Car Train Shipments of Grain from Iowa to New Orleans Based on Estimated 1974 Rail and Barge Costs.



*Source: *An Economic Analysis of Upgrading Branch Rail Lines: A Study of 71 Lines in Iowa*, C. Phillip Baumel, John J. Miller and Thomas P. Drinka (February 1976). According to the authors, the area of competitive advantage that may be more probable for the future is shown above; this area is determined on the basis of estimated 1974 costs—not published rates—for truck, rail and barge. It assumes in the future rates would approximate costs.

STATEMENT BY CAPTAIN ED HANSEN, HARBORMASTER FOR THE CITY OF FT. MYERS

As the representative for a large segment of the Intracoastal Waterways of Florida, I wish to express my strong opposition to the imposition of user charges on the Inland Waterways.

This so-called "user charge"—in fact a tax—would endanger the economy of Florida, one of the leading tourist states in the country.

To illustrate my point, please consider the following. There are currently 16,000 pleasure boats in Lee County and 450,000 pleasure boats in the state of Florida. Boat registration fees on these boats raised \$129,000 in revenues of Lee County and \$4 million in revenues for the entire state of Florida in 1976. Revenues from the sales taxes for boats and accessories in 1976 amounted to \$307,000 for Lee County and \$443 million for the state.

The implementation of the waterway users charge would severely jeopardize the pleasure boat business in Florida, thereby impairing a vital segment of the state's economy.

This user charge would also increase the electricity costs to Florida residents. Presently, 26,000 barrels of oil per day are transported through the West Coast Inland Navigation and Okeechobee Waterways to power plants. The increased transportation costs attributable to a user charge would certainly be passed on to the consumers, thru higher electric bills.

A waterway user charge would also play havoc with the shrimp industry in Florida. There are approximately 500 shrimp boats in Lee County with an average market value of \$100,000 and a replacement value of \$175,000. If these boats have to pay a user charge to unload their catch, it can only cause the price of shrimp to rise nationwide.

I also urge you to consider the administrative burden of a waterway users tax on fuel. Of the fuel used by shrimp boats, 99 9/10 per cent is used in international or foreign waters. Some shrimpers fish totally in Mexican waters while others fish exclusively in Lee County. How will the decision be made as to which shrimpers will pay the fuel tax and how will the tax be administered?

The Okeechobee Waterway and the Kissimmee River were natural streams. They have been modified for flood control and water conservation. The locks, dams and increased channel dimensions were for flood control. While navigation has been maintained, it is incidental to the main purpose of these modifications. Boatmen do not need or benefit from all the locks on these waterways. The people who are benefitting from the flood control projects are paying for these benefits through taxes levied by the flood control districts in our state. I feel any further tax would be an injustice.

I appreciate the opportunity to present my concerns, and those of the people I represent, regarding the impact of the ill-conceived waterway users tax in Florida. I am hopeful you will keep these concerns in mind during consideration of this legislation.

PATTON, BOOGS & BLOW,
Washington, D.C., October 25, 1977.

Re Waterway user charges.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee,
Russell Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is submitted on behalf of the two trade associations representing the recreational boating industry: the Boating Industry Associations of Chicago, Illinois, and the National Association of Engine and Boat Manufacturers of New York City.

We are writing to urge that the Finance Committee make no change in the exclusion of recreational vessels from the imposition of waterway user charges or taxes. This exclusion was contained in S. 790, previously passed by the Senate, which imposed a user charge, and is contained in Title II of H.R. 8309, presently before this Committee, which imposes a tax on fuel used in commercial transportation on inland waterways. Both the House and Senate bills, and the legislative history, make clear that any fees or taxes imposed as a waterway user charge will not be collected from recreational vessels.

The system of waterway user charges contained in S. 790, and the fuel tax provisions of H.R. 8309, are designed primarily to eliminate distortions in the use of differing modes of commercial transportation caused by variations in the level of federal support. It is inappropriate to include recreational vessels in the coverage of legislation designed for this purpose. In addition, it also unnecessarily confuses the already complex issues of federal transportation policy that are involved.

Furthermore, the issues of fairness and equity that would be raised by legislation purporting to require recreational boaters and others who benefit from federal navigational improvement programs to assist in paying for those programs were not considered by the Congressional committees that drafted these two bills. For example, at the present time recreational boaters already pay many taxes and other charges for the use of inland waterways. In contrast, those who benefit from flood control, pollution abatement, hydroelectric power, fish and wildlife enhancement, water supply and other public benefits of federal programs involving multi-purpose development of a river basin generally do not pay for the benefits received. The complex problems of apportioning any waterway user charges in relation to the benefits received have never been resolved. It would be inappropriate to attempt to resolve these issues in legislation principally based on commercial transportation policy.

For these reasons, and for others more fully set forth in our testimony before the Water Resources Subcommittee of the Senate Environment and Public Works Committee regarding S. 790, a copy of which is attached, we strongly support the exclusion of recreational vessels from the imposition of any waterway user charge or fuel tax.

Sincerely,

E. BRUCE BUTLER.

Enclosure.

STATEMENT OF E. BRUCE BUTLER, ON BEHALF OF THE BOATING INDUSTRY ASSOCIATIONS AND THE NATIONAL ASSOCIATION OF ENGINE AND BOAT MANUFACTURERS

This statement is submitted on behalf of the Boating Industry Associations* (BIA) and the National Association of Engine and Boat Manufacturers** (NAEBM), the two associations which represent virtually all major U.S. manufacturers of recreational boats, motors and associated equipment.

These associations are concerned about H.R. 5016 and urge this Subcommittee not to adopt this legislation in its present form for a number of reasons. First, the assumptions upon which H.R. 5016 is based are not applicable to the marine recreational industry. Second, the maintenance of a high quality distribution and service system in this industry could be harmed by H.R. 5016. Third, because a marine dealer has the capacity to create substantial liability for a manufacturer, it is unfair to reduce the manufacturer's leverage in controlling its franchisees. Fourth, this proposed legislation will increase the cost of the nation's distribution systems. Because of these reasons, BIA and NAEBM suggest an amendment to H.R. 5016 to clarify the types of franchise relationships covered under the Act.

I. BASIS FOR CHANGING FRANCHISE CONTRACTUAL RELATIONSHIPS

It must be recognized that H.R. 5016 is intended to make significant changes in existing or future contractual relationships of parties loosely referred to as "franchisors" and "franchisees." Because of the variety of types of franchising relationships, H.R. 5016 will have dramatic, wideranging, and often unintended implications for certain types of franchising relationships.

Despite all the hearings on problems related to franchisees before this Subcommittee and other committees of the House, there has been no showing of a pervasive pattern of conduct relating to all types of franchising relationships which would justify such a broad bill as that before the Committee today. It is inappropriate to regulate all types of franchising relationships because of abuses with respect to a few.

More importantly, the dramatic change in contractual relationships contemplated by H.R. 5016 is based on a number of assumptions which are not valid for all types of franchises and clearly are not valid for the recreational boat industry. First, it is alleged that the change in relationships required by H.R. 5016 is necessary because of the inequitable bargaining power of the franchisee. There are approximately 16,000 exclusively marine retailers in the United States. In addition, the Coast Guard estimates that there are approximately 2,200 boat manufacturers. From the manufacturers' point of view, a good marine dealer is difficult to find and the competition for these dealers is intense. Dealers and distributors of marine products in some instances will substitute the lines of merchandise carried based upon their own comparative shopping at boat shows. The bargaining power of the manufacturer is limited since a dealer can shop among dozens of manufacturers of a given type of boat. Moreover, a small boat builder may be selling his product to a major retailer such as Sears or Montgomery Ward.

Second, § 2(a)(3) of H.R. 5016 states that "the franchise relationship in its present form is a relatively new one." As noted above, there are numerous different types of franchising relationships. The present form of franchise relationship in the marine industry is one that has existed at least 50 years.

Third, Representative Mikva indicated in his testimony before this Subcommittee on September 16 that:

"... the franchise is totally dependent on the products, services or trade names applied by the franchisor. Loss of the right to use the franchisor's trade name or distribute the franchisor's product or service results in economic ruin for the franchisee."

In a highly competitive industry such as the recreational boat industry, where dealers generally carry more than one line of products and can easily pick up another line of products if they have a viable operation, it is clear that the type of dependence to which Congressman Mikva refers simply does not exist.

Fourth, it is suggested that the only protection afforded to the franchisee is the antitrust laws and that these laws afford inadequate relief. In franchise relationships where the predominant transaction is one of the sale of manufactured

*A general partnership of associations including the Outboard Motor Manufacturers Association, Boat Manufacturers Association, Trailer Manufacturers Association and Marine Accessories and Services Associations.

**A national trade association representing manufacturers of boats, engines and related products.

goods, the Uniform Commercial Code offers substantial protection to a franchisee. In the majority of cases cited as evidencing improper franchisor practices by proponents of H.R. 5016, these practices were brought to light and prosecuted under the antitrust laws. These laws obviously do offer some protection to the franchisee.

Finally, it is assumed that a franchise has an intrinsic value of its own. Thus, Representative Mikva indicated in his testimony that franchisors often will terminate a franchisee merely to reap the benefit of reselling such a franchise and § 6(1) of H.R. 5016 speaks in terms of affording the right of a franchisee who has not been renewed for other than good cause to have the right to sell the franchise. With respect to manufactured products, such as motorboats and boat engines, the intrinsic value of the franchise is the right to sell a given line of products. Such franchisees are not sold and have little value, rather they are dependent on the quality of goods sold.

In summary, the assumptions upon which H.R. 5016 is based do not apply to the recreational boating industry. There appears to be no public policy need for including such types of relationships in any proposed franchising legislation.

II. BENEFITS DERIVED BY FRANCHISEES IN THE MARINE INDUSTRY

The benefits granted by a franchisor to a franchisee in the marine industry are significant. The franchisor often provides training to the franchisee and to his personnel, including sales and finance clinics and schools where dealer personnel learn to service the manufacturers' product. Obviously, the franchisee retains this education even if the franchise relationship is terminated and can use it when he takes on a new line of marine products.

Manufacturers in the marine industry also provide significant assistance to local dealers and distributors at boat shows, where the manufacturers provide boats, engines, displays or assistance in purchasing show space.

Manufacturers of marine products also enter into numerous cooperative advertising ventures with local dealers and distributors where the advertisement is primarily that of the dealer or distributor and only incidentally that of the manufacturer.

In addition, the manufacturer provides the dealer with assured service work by authorizing dealers to perform warranty work for the manufacturer and by paying the dealer for this work at the dealer's prevailing rate. Many manufacturers also will take back parts or equipment if a particular dealer is overstocked or if the franchise relationship is terminated.

Naturally, the greatest contribution made by the manufacturer to the franchise is the safety and quality of the product sold, and it is on these characteristics that the success of the franchise rests.

III. MANUFACTURERS ARE DEPENDENT ON DEALERS AND DISTRIBUTORS AND WILL NOT TERMINATE A SUCCESSFUL FRANCHISE

The dependence of the manufacturer on its dealer's efforts nevertheless is significant. With hundreds of brands of similar products in the boating industry, the dealers provide the bridge between manufacturer and consumer. Unless a contractual arrangement calls for more than minimal efforts on the part of the dealer in selling and servicing a product, the manufacturer may have a difficult time retaining its market share.

As noted above, the dealers provide most warranty work on behalf of the manufacturer and are compensated for this work by the manufacturer. Problems with respect to performance by the dealer of this manufacturer obligation reflect in part on the dealer involved but generally reflect more detrimentally on the manufacturer of the product involved.

Because dealers in the marine industry very often modify or assemble parts of new boats or repair old boats, the potential product liability exposure to the manufacturer from such dealer work is great. Accordingly, the manufacturer must exercise control over dealers to assure that a product is properly serviced and repaired.

This need is reinforced by the obligations which a manufacturer has under the Federal Boat Safety Act to comply with Federal safety requirements. The Federal Boat Safety Act requires consumer notification and product recall where a hazardous product defect, or noncompliance with a Coast Guard standard, exists. The vehicle for this defect notification/recall program is a product purchase registration card which the dealer fills out or secures from the consumer at the

point of sale. Without the dealer cooperation in filling out the card and returning it to the manufacturer and subsequently in effecting a product repair at the manufacturer's expense, the requirements of the Boat Safety Act and prudent manufacturer responsibility are violated. For the manufacturer to do his part, he must have the retail dealer's cooperation.

In summary, it clearly is the concern of the manufacturer and of the Congress to assure the maintenance of a high quality distribution and servicing system for products such as recreational boats. Such a high quality system can only be maintained if the manufacturer has the leverage of the threat of termination. This leverage would be diminished by H.R. 5016 because of the threat of increased litigation which this bill encourages. Because of the substantial potential liability which a dealer can create for a manufacturer, the manufacturer should not be forced to rely on a court's ultimate judgment as to whether "good cause" existed for a termination.

IV. BURDENS IMPOSED ON FRANCHISORS UNDER H.R. 5016 ARE SUBSTANTIAL

Apart from the limitations on the right of the franchisor to choose those with whom they will do business or continue to do business (a significant limitation itself), H.R. 5016 increases the cost of doing business and reduces the ability of manufacturers to eliminate marginal dealers.

It is not clear whether a franchisor has a right under the bill to refuse to renew a franchise at the conclusion of a franchise term. Section 5 prohibits a franchisor from cancelling, failing to renew or otherwise terminating a franchise unless one of two conditions are met: (1) if the franchisor is effecting a market area withdrawal; or (2) if the franchisor has good cause for such cancellation, failure to renew or termination. If good cause exists, the manufacturer apparently does not have to compensate the franchisee. If the franchisor is effecting a market withdrawal (the only condition other than good cause set forth in § 5), the franchisor has an obligation to permit the franchisee to sell the franchise or to make reasonable compensation to the franchisee for the loss of value of the franchisee's business. If these are the only two situations under which a franchise can be terminated, this bill creates a virtual "franchise in perpetuity," with all the inefficiencies which such a right is bound to encourage. A franchisee who knows that the franchisor's right to terminate him for lack of good performance has been rendered extremely difficult is less likely to be responsive to the legitimate concerns of franchisors in the conduct of the franchise.

It is clear that H.R. 5016 will increase dramatically litigation concerning franchise termination. Provision for easier access to federal courts, for attorneys' fees for franchisees, and for inclusion of a term such as "good cause" in these relationships (essentially a rule of reason test) are an open invitation to increased litigation concerning franchise terminations. Such an increase inevitably must be reflected in the cost of the consumer products involved.

Because of the threat of such litigation, the manufacturer will be reluctant to terminate the marginal dealer or distributor. Here again, the consumer will end up bearing the burden of the increase in costs created by an inefficient distribution system.

In the event that a franchise is terminated, H.R. 5016 assume that the franchisee should be compensated for the investment which he has made in the franchise operation. Such investment presumably would include any payment made for the right to the franchise; the goodwill of the business enterprise, the advertising expenses and sales and service efforts of the enterprise; as well as any investment in physical property in the expectation that the franchise relationship would continue.

The need for compensation is not great, however, in instances where a marine franchise has been terminated. First, the franchisee's advertising, sales and servicing efforts have been adequately compensated in the profit made on the sale of the items involved. Second, in the marine industry, franchises are not sold and therefore, there has been no out-of-pocket loss of any franchise purchase price to a terminated dealer. Third, since the marine dealer will continue in business, servicing other products and manufacturers, he will retain any goodwill which he has developed through his own efforts.

V. PROPOSED AMENDMENT

In weighing all of the factors discussed above, it would appear that the type of regulation of franchising contemplated in H.R. 5016 is neither necessary, nor

appropriate, for the type of franchise relationships found in industries such as the recreational boating industry. The sponsors and proponents of the legislation apparently also have recognized that the breadth of coverage is too wide. Both Representative Mikva and the National Beer Wholesalers' Association of America have recommended the deletion of Subsection (2) (A) (ii) (I) of § 3 of the bill, thus making the definition of whether one is a franchisee under the bill rest on whether the operation of the franchisee's business is substantially associated with the franchisor's trademark.

The language "substantially associated with the franchisor's trademark" is ambiguous and should be clarified. We would suggest that this clarification can be accomplished by providing that franchises are covered under the bill only if:

(a) The franchisee has been required either

(1) to purchase the franchise, or

(ii) to make an investment of at least \$10,000 to acquire real or personal property solely for the use by the franchisee pursuant to the franchising arrangement and such property cannot be used by the franchisee in the continuation of his business after termination of the relationship; [and/or]

(b) Sales under a franchise agreement to the franchisee account for more than 75 percent of all goods purchased by the franchisee; [and/or]

(c) The products involved are ones where the franchisee cannot seek other franchisors because substantially equivalent products do not exist in the market.

Obviously, the exemption is substantially greater if the test is stated in the alternative but BIA and NAEBM also would support a concept such as the one set forth if a franchisor had to meet all three tests set forth in this proposal to be exempt from the requirements of franchising legislation.

Regardless of the merits of H.R. 5016 to deal with proven abuses, the amendment proposed herein would reduce much of the controversy surrounding the bill and permit the Congress to focus on any abuses which are in fact shown.

These comments have been directed solely to H.R. 5016 because the associations have not had sufficient time to review H.R. 9144 in detail. A cursory reading of this legislation, however, indicates that it has similar definitional problems to those in H.R. 5016.

STATEMENT OF THE IZAAK WALTON LEAGUE OF AMERICA BY MAITLAND SHARPE,
ENVIRONMENTAL AFFAIRS DIRECTOR

Mr. Chairman: I am Maitland Sharpe, Environmental Affairs Director of the Izaak Walton League of America. The League is a national conservation organization of approximately 50,000 members, dedicated to the conservation and wise use of this nation's natural resources. Our national headquarters are located at 1800 North Kent Street, Arlington, Virginia.

We appreciate this opportunity to express our long-standing support for a system of user charges that will recover from the commercial users of the inland waterways system the full federal costs of construction, operation and maintenance.

The Izaak Walton League agrees with President Carter that a system of commercial navigation charges is long overdue. By absorbing virtually the entire cost of constructing, operating, and maintaining the inland navigation system, the federal government has, for many years, conveyed a hidden subsidy to the large grain, chemical, oil, and coal corporations that are the principal users of the waterway system. A recent report by the Congressional Budget Office has shown the federal contribution to be over 40 percent of the barge industry's revenues. But the veiled transfer of public funds to private corporations is not the only—or even the most—pernicious consequence of the navigation subsidy. The existence of the subsidy distorts both transportation and water policy, leads to an economically irrational allocation of capital, and fosters unnecessary conflicts between environmental and transportation goals.

Because the federal government absorbs a portion of the cost of waterways transport, barge rates can be set lower than would be possible if they had to cover all of the costs involved. These artificially low freight rates attract traffic to the waterways, creating artificially high levels of demand. These inflated levels of demand, in turn, are used to justify additional federal subsidies for new waterways improvements. As Senator Domenici has pointed out "capacity projects for a free navigation system will be self fulfilling . . . as long as new capacity is provided free, the demand for it will be infinite."

The winners in this cycle are primarily the large, corporate bulk shippers; the loser are more numerous. Competing modes of transportation, primarily

railroads, lose traffic and hence revenues to the subsidized mode. Loss of earnings causes investment that would have flowed to the railroad industry to gravitate elsewhere instead, hastening the decline of railroad efficiency and ability to compete. Other unrelated industries and public programs suffer because the resources that are attracted to waterway construction and maintenance are not available for alternative investment.

The environment suffers from an economically unjustified over commitment of our limited water resources to navigation at the expense of alternative uses. Waterway projects that could never have been justified in the absence of the federal subsidy contribute to water pollution, loss of wildlife habitat, declining biological productivity and erosion of recreational opportunities. Finally, of course, the long suffering American taxpayer is the ultimate loser.

We believe that a systematic cost-sharing policy should be instituted to recover, from the direct beneficiaries, the full costs of construction (for new projects), operation, and maintenance. This approach, which is consistent with the recommendations of the National Water Commission, would promote a rational allocation of capital, efficient use and conservation of natural resources, and protection of the environment.

Numerous suggestions have been advanced for cost recovery through fuel taxes, lockage fees, ton mile charges and advance repayment agreements. As this Committee undertakes to select the optimal mechanism or combination of mechanisms we urge you to keep in mind the following six principles:

(1) Any system of commercial navigation charges should recover all of the relevant costs of construction, operation and maintenance, including realistic interest charges that reflect the private cost of capital;

(2) Allocation and recovery of costs should be on a segmented basis, to avoid inequities among the various waterway segments and promote a more rational allocation of new investment;

(3) An adequate navigation charge system must test the ability of proposed new construction to attract private capital. Private sector willingness to invest is ultimately the most reliable test of the economic viability of a proposed project and the best available check on the accuracy of the benefit/cost analysis;

(4) Small recreational craft should not be forced to pay for the use of facilities constructed for commercial users and which constitute an obstruction to the recreational boater.

(5) A system of post-construction recovery of capital costs through user charges will not provide a prior test of project worthiness and hence will fail to discourage economically unjustified projects.

(6) All fees collected should be returned to the general treasury rather than being channeled into an earmarked trust fund.

Adoption of a comprehensive cost-sharing system consistent with these criteria would subject proposed investments in the waterway system to the discipline of the market and constitute a major step towards a transportation system that meets the country's transportation needs at least economic, and environmental cost.

The proposal sponsored by Senator Domenici and adopted by the Senate last June approaches the principles outlined above and we believe, constitutes the minimum acceptable cost-sharing system for the inland waterways. Senator Domenici's proposal provides for a system of commercial user charges designed to recover 100 percent of the federal cost of operating and maintaining the waterways and 50 percent of the cost of new construction. The charges would be scaled to recover the federal outlay of the previous year and would be paid into the general treasury. These user charges would be phased in over ten years, starting in October 1979, to provide a period of adjustment within the effected segments of the transportation industry.

The Domenici proposal does not prescribe any particular mechanism for assessing and collecting the commercial user fees. Instead it directs the Secretary of Transportation to prepare preliminary regulations on cost recovery within ten months and final regulations by January 1, 1979. Congress would then have 60 days to amend or disapprove the proposed regulations if it found them unacceptable.

The American people urgently need a system of user charges or taxes that is in keeping with the principles outlined above, one that will foster equity among competing modes, reduce the burden on the federal taxpayer, produce a more efficient allocation of scarce capital resources, encourage least-cost solutions to the nation's transportation needs, and prevent additional losses of natural riverine

environments to waterway projects that are economically attractive only if the federal government foots the bill.

Representatives of the commercial users of the inland waterways have recently urged this Committee to establish a fuel tax on the gasoline and diesel fuel used by barge towboats, to be assessed at a flat rate of four cents per gallon. A four cent fuel tax would recover only about \$32 million per year, less than 10 percent of the current annual federal expenditures on the waterway system. Such a nominal fuel tax would be nothing more than a token charge—a cosmetic that covers over, but does not correct, the distortions, diseconomies, and inherent in the present system of subsidies. Such a proposal is wholly unacceptable, both from our perspective and from that of the Administration.

The need to reform our methods of financing waterway projects is obvious. Every President since Franklin Roosevelt has advocated establishing a system of user charges. Since 1939, there have been no fewer than 18 studies of the issue by federal agencies or special committees,* most recently a staff report by the Congressional Budget Office issued last July. Virtually all of these studies recommended user charges; none recommend to the contrary. Today, there are, under active consideration, navigation projects and improvements that would cost the federal treasury approximately \$7 billion. The time to establish a user charge that will fully recover those costs is now, before the pending projects are added to the taxpayer's burden.

Thank you.

STUDIES AND POSITIONS ON WATERWAY USER CHARGES

(1) 1939: Report of War Department and Treasury Department. Report favored adoption of user charges.

(2) 1939: Report of the Federal Coordinator for Transportation. Report favored reduction in federal investment in waterways.

"Gathering together all of the preceding discussion, it may be concluded that the assessment of tolls would remove an unstabilizing influence from the field of transportation, lessen or eliminate the rancor and the lack of willingness to cooperate which mark the relations of rail and water carriers, and make for more successful planning of future waterway improvements and of transportation policies generally."

(3) 1942: Report of National Resources Planning Board. Favored user charges.

(4) 1944: Report of Board of Investigation and Research. Favored user charges.

(5) 1946: Hearings of the House Committee on Interstate and Foreign Commerce. No formal recommendations.

(6) 1950: Senate Commerce Committee held hearings on inland waterways under Senate Resolution 50.

(7) 1950: Report of President's Water Resources Policy Commission. Recommended user charges.

(8) 1952: Department of Commerce Study: Background Study.

(9) 1960: Department of Commerce Study: Recommended user charges.

"National Transportation is basically out of balance. It is less a national system than a loose grouping of individual induction. We have built a vast network of highways, railways, inland waterways and seaport, airways and airports, and pipelines, with little attention to conflict among these expanding networks."

(10) 1966: Economic Report of the President.

"At the same time, cost should reflect the value of all the resources required to provide the service. Federally provided transportation facilities have continually expanded. Users should pay their fair share of the cost and maintenance of the highways, waterways, and airway facilities. As it is, there are uneven payments from different classes of users—some making substantial payments and others none at all. Adequate user charges should be instituted in the interest of both equity and overall transportation efficiency."

(11) 1970: Charles River Associated Study for DOT. Recommends user charges.

(12) 1971: DOT study. Recommends user charges.

"The argument for some user charge on grounds of equity and efficiency is impeccable . . ."

(13) 1973: National Water Commission. Recommended charge to recover 100 percent of O + M and 100 percent of new capital.

*See attached list of studies.

"There is no longer any rational justification for assumption by the Federal Treasury of the entire cost of construction, operating, and maintaining navigable waterways."

The report also stated:

"First, a major weakness of the present program stems from deficiencies in the procedures by which it is determined whether or not a proposed waterway project would result in a justified addition to the national transportation system.

Second, a major weakness of the legislative policies governing the present program is that they do not require beneficiaries to share in the cost of constructing, operating, and maintaining Federal waterway projects.

Third, the inland waterway system is inescapably an element of the national transportation system. Yet, the waterways are not planned, evaluated, or regulated as a part of the national transportation system."

(14) Sept. 1975: Secretary Coleman, *A Statement of National Transportation Policy*:

"National inland waterway policy should be compatible with national transportation policy. It has become apparent from the increasing criticism of adversely affected carriers that use of the existing public investment criteria for the water mode is inequitable. Some common denominator is required against which public investments in alternative modes of transport can be assessed. Economic efficiency and considerations of equity also lead in the direction of some form of cost sharing. Insofar as it is practicable and administratively feasible, the identifiable beneficiaries of Federally improved and maintained waterways should bear some share of development and operating costs through a system of user charges."

(15) Nov. 1975: GAO Report: *Factors To Be Considered in Setting Future Policy for Use of Inland Waterways*. Found minimal impact and many benefits from imposition of user charges to recover O+M.

(16) 1976: President Ford's FY 77 budget message recommends a system of user charges.

(17) May 1976: Department of Interior contracted for Study.

"Under the most severe cost conditions, only 3 percent of the total traffic would move from the system."

