



**Midwestern Governors Association
Upper Mississippi River Basin Association**



October 17, 2013

The Honorable John Boehner
Speaker of the House
United States House of Representatives
H-232, U.S. Capitol
Washington, DC 20515

The Honorable Nancy Pelosi
Democratic Leader
United States House of Representatives
H-204, U.S. Capitol
Washington, DC 20515

Dear Speaker Boehner and Congresswoman Pelosi:

As the U.S. House of Representatives continues to move towards passing the Water Resources Reform and Development Act (WRRDA), the Midwestern Governors Association (MGA) and the Upper Mississippi River Basin Association (UMRBA) request your support for efforts discussed in the House Transportation and Infrastructure Committee markup. We are looking to resolve an impediment to our states' participation in necessary and important water resources projects by revising problematic indemnification language. We, like you, are optimistic that this critically needed authorization bill will be enacted in the near future and we greatly appreciate your efforts to get this accomplished

The U.S. Army Corps of Engineers (Corps) interprets current law as requiring states to grant overly broad indemnification to the Corps in order to enter into a standard project partnership agreement. As a result, some of our member states cannot participate as a non-federal sponsor on the Corps' water resource projects as such an agreement violates those states' laws and constitutions. This is the case for both design and construction agreements, and is required across a range of water resources project types, such as flood risk management and aquatic ecosystem restoration. Many of our states disagree with the Corps' interpretation and believe the agency possesses the legal discretion to take a more equitable, shared approach to liability. Attempts at rectifying this discrepancy have been unsuccessful.

Instead of the states serving as cost share sponsors, the Corps has suggested substituting non-profit entities or local units of government as the non-federal sponsor for projects. This is an untenable and inefficient way to address this problem. Many projects have substantial ongoing operations and maintenance obligations, thereby making states the only logical non-federal sponsors. Therefore, we ask that you amend the WRRDA to support efforts to direct the Corps to take a more shared approach to liability when entering into agreements with states on important water resources development projects.

Thank you for your assistance in this matter. Our states truly value our partnership with the Corps, and we look forward to continuing to work with the agency as we collectively seek to implement these vitally needed water resource development projects. Should you have any questions, please contact Emily Marthaler with the MGA or Dru Buntin with the UMRBA. Ms. Marthaler can be reached at emarthaler@midwesterngovernors.org or 202-367-2414. Mr. Buntin can be reached at dbuntin@umrba.org or 651-224-2880.

Sincerely,

Jesse Heier
Executive Director
Midwestern Governors Association

Dru Buntin
Executive Director
Upper Mississippi River Basin Association

cc: The Honorable Bill Shuster, Chairman, House Committee on Transportation & Infrastructure
The Honorable Nick Rahall, Ranking Member, House Committee on Transportation & Infrastructure
The Honorable Bob Gibbs, Chairman, House Water Resources & Environment Subcommittee
The Honorable Tim Bishop, Ranking Member, House Water Resources & Environment Subcommittee
The Honorable Rick Nolan, Member, House Committee on Transportation and Infrastructure