



January 12, 2026

The Honorable Sam Graves, Chair
The Honorable Rick Larsen, Ranking Member
U.S. House of Representatives
Transportation and Infrastructure Committee
2165 Rayburn House Office Building
Washington, D.C. 20515-6256

The Honorable Mike Collins, Chair
The Honorable Frederica Wilson, Ranking Member
U.S. House of Representatives
Transportation and Infrastructure Committee
Water Resources and Environment Subcommittee
2165 Rayburn House Office Building
Washington, D.C. 20515-6256

The Honorable Shelley Moore Capito, Chair
The Honorable Sheldon Whitehouse, Ranking Member
U.S. Senate
Environment and Public Works Committee
410 Dirksen Senate Office Building
Washington, D.C. 20510-6175

The Honorable Kevin Cramer, Chair
The Honorable Angela Alsobrooks, Ranking Member
U.S. Senate
Environment and Public Works Committee
Transportation and Infrastructure Subcommittee
410 Dirksen Senate Office Building
Washington, D.C. 20510-6175

Dear Representatives Graves, Larsen, Collins, and Wilson and Senators Moore Capito, Whitehouse, Cramer, and Alsobrooks:

We are very pleased to understand that you are beginning to formulate the 2026 Water Resources Development Act (WRDA). As Congress develops its priorities for the authorizing legislation, I am writing to respectfully request the inclusion of a provision to reform the U.S. Army Corps of Engineers' (USACE) project partnership agreements (PPAs).

UMRBA is the Governor-established forum for interstate water resource planning and management on the Upper Mississippi River System, representing its member states of Illinois, Iowa, Minnesota, Missouri, and Wisconsin. Formed in 1981, UMRBA represents its member states' common water resource interests and works collaboratively with Upper Mississippi federal and state agencies as well as other non-federal partners. In advancing our shared commitment to multi-use management, the states and USACE work collaboratively to develop solutions through sound water resource projects. In addition, local communities and nonprofit organizations also serve as key partners in sponsoring water resource solutions constructed by USACE. However, implementing the solutions that involve the states or other non-federal entities serving as cost-share sponsors is impeded, or is dramatically slowed, by the terms required in the cost-share project partnership agreements (PPAs).

The key impediments include the terms requiring the non-federal sponsor to assume complete liability for constructed projects (except for when fault or negligence is proven) and operations, maintenance, repair, replacement, and rehabilitation (OMRR&R) in perpetuity. These terms are simply not reasonable and are not acceptable to many states, local communities, and nonprofit organizations. At a fundamental level, the current PPA terms conflict with many states' constitutions and tort law.

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Specifically, UMRBA respectfully requests the following provisions be included in WRDA 2026:

- 1) *Indemnification* – Replace the hold and save clause with a more equitable, shared approach to liability that does not extend beyond the liabilities that already exist under applicable constitutions and laws.

USACE requires that non-federal sponsors indemnify the federal government for all damages except for fault or negligence. Indemnifying a third party (including the federal government) is in direct conflict with many states' constitutions and laws. It requires the non-federal party to promise financial resources for an indeterminate liability that might occur at an unknown time, at an unknown cost, and for an unknown reason. Many state constitutions preclude agencies from obligating funds without an encumbrance against an appropriation and do not allow for incurring any indebtedness of any nature on behalf of the state until an appropriation for it has been made by the legislature. In addition, indemnification requires a state to assume liability beyond the extent to which many states' tort law permits. Non-federal sponsors are required to execute the PPAs with the liability clause early in the planning stage and before the designs are complete. USACE takes full control of the land, design of the project, and agreements with the construction contractors. USACE is also the only point-of-contact to the construction contractors. This results in a completely one-sided approach to project design, implementation, and assumption of risk that favors the federal government.

- 2) *Operations, Maintenance, Repair, Replacement, and Rehabilitation* – Establish a defined cap on operations, maintenance, repair, replacement, and rehabilitation (OMRR&R) obligations.

Currently, USACE legally obligates non-federal sponsors to undefined and unbounded operations, maintenance, repair, replacement, and rehabilitation (OMRR&R) obligations for the water resource project. This policy essentially creates a permanent federal hold on non-federal property. USACE requires the non-federal sponsor to *forever* maintain the project features as prescribed in the project O&M manuals. That is unreasonable, particularly in dynamic coastal and riverine systems.

Historically, USACE has required OMRR&R obligations for 50 years to match the expected life of a constructed project. USACE changed this policy in 2012 and now requires non-federal sponsors to perform OMRR&R obligations in perpetuity. This shift has resulted in the loss of interested cost-share partners and unnecessarily stymies non-federal investments in national water interests.

Thank you for your consideration of this request. Please do not hesitate to contact me at 651-224-2880 or kwallace@umrba.org if you have questions or would like to discuss UMRBA's position in further detail.

Sincerely,

Kirsten Wallace
Executive Director
Upper Mississippi River Basin Association

cc: Upper Mississippi River Delegation