

**Minutes of the
96th Quarterly Meeting
of the
Upper Mississippi River Basin Association**

**November 15, 2005
St. Paul, Minnesota**

The meeting was called to order at 9:05 a.m. by UMRBA Vice-Chair Mark Holsten.
The following were present:

UMRBA Representatives and Alternates:

Gary Clark	Illinois (DNR)
Rick Mollahan	Illinois (DNR)
Mike McGhee	Iowa (DNR)
Mark Holsten	Minnesota (DNR)
Rebecca Wooden	Minnesota (DNR)
Dick Lambert	Minnesota (DOT)
Dru Buntin	Missouri (DNR)
Gretchen Benjamin	Wisconsin (DNR)

Federal Liaisons:

Charles Barton	U.S. Army Corps of Engineers (MVD)
Bill Franz	U.S. Environmental Protection Agency (Region 5)
Don Hultman	U.S. Fish and Wildlife Service (Region 3)
Linda Leake	U.S. Geological Survey
Michael Jawson	U.S. Geological Survey

Others in attendance:

Joe Martin	Minnesota Department of Agriculture
Tim Schlagenhaft	Minnesota Department of Natural Resources
Janet Sternburg	Missouri Department of Conservation
Jim Fischer	Wisconsin Department of Natural Resources
COL Duane Gapinski	U.S. Army Corps of Engineers (MVR)
Rich Worthington	U.S. Army Corps of Engineers (HQ)
Susan Smith	U.S. Army Corps of Engineers (MVD)
Maryetta Smith	U.S. Army Corps of Engineers (MVD)
Jeff DeZellar	U.S. Army Corps of Engineers (MVP)
Rebecca Soileau	U.S. Army Corps of Engineers (MVP)
Kevin Bluhm	U.S. Army Corps of Engineers (MVP)
Don Powell	U.S. Army Corps of Engineers (MVP)
Chuck Spitzack	U.S. Army Corps of Engineers (MVP)

Gary Loss	U.S. Army Corps of Engineers (MVR)
Marv Hubbell	U.S. Army Corps of Engineers (MVR)
Ken Barr	U.S. Army Corps of Engineers (MVR)
Scott Whitney	U.S. Army Corps of Engineers (MVR)
Roger Perk	U.S. Army Corps of Engineers (MVR)
Brian Johnson	U.S. Army Corps of Engineers (MVS)
Teri Heyer	U.S.D.A. Forest Service
Mike Prouty	U.S.D.A. Forest Service
Al Fenedick	U.S. Environmental Protection Agency (Region 5)
Larry Shepard	U.S. Environmental Protection Agency (Region 7)
David Bolgrien	U.S. Environmental Protection Agency (ORD)
Tim Yager	U.S. Fish and Wildlife Service
Bob Clevenstine	U.S. Fish and Wildlife Service (RIFO)
Jon Duyvejonck	U.S. Fish and Wildlife Service (RIFO)
Dan McGuiness	Audubon
Linda Prail	Consultant
Stoney Cox	HNTB Federal Services
Gretchen Bonfert	The McKnight Foundation
Ron Kruese	The McKnight Foundation
Cynthia Pansing	Mississippi River Basin Alliance
Mark Beorkrem	Mississippi River Basin Alliance
Robin Grawe	Mississippi River Citizen Commission
Catherine McCalvin	The Nature Conservancy
Holly Stoerker	Upper Mississippi River Basin Association
Dave Hokanson	Upper Mississippi River Basin Association
Margie Daniels	Upper Mississippi River Basin Association

Meeting Minutes

Gary Clark moved and Gretchen Benjamin seconded a motion to approve the minutes of the August 16, 2005 meeting, as drafted. The motion was approved unanimously.

Executive Director's Report

Holly Stoerker highlighted the following from the written report provided in the agenda packet:

- EPA and UMRBA have signed a new cooperative agreement for FY 2007 to continue mapping and planning work under the Oil Pollution Act (OPA). The agreement provides \$175,000 in federal funds, to be matched with a 5 percent UMRBA cost share.
- On October 31, Derek Martin joined the UMRBA OPA project staff as a GIS project technician.
- Planning efforts for the 2007 Spill of National Significance (SONS) exercise continue. UMRBA staff made the arrangements for the first major interagency planning meeting held on November 9 in St. Louis.
- The UMRBA Spills Group held its semi-annual meeting by conference call on October 19. Topics of continuing discussion include implementing an early warning monitoring system, spill notification drills, updates to the UMR Spills Plan, and development of a UMR Emergency Action Field Guide.

- The Interstate Council on Water Policy (ICWP) held its annual meeting in San Antonio, Texas on October 18-19. Gary Clark and Holly Stoerker were elected to the 12-member Board of Directors for 2006-2007.
- ICWP will be hosting its 2nd annual Stakeholder Roundtable for the USGS Cooperative Water Program on January 30-February 1, 2006 in Austin, Texas. All 1400 USGS cooperators across the country will be invited. There are 163 cooperators in the five UMRBA states.
- John Olson of Iowa DNR was invited to give a presentation at EPA's National Forum on Contaminants in Fish, describing UMRBA's report and ongoing efforts related to fish consumption advisories on the Upper Mississippi River. The Forum was held on September 18 in Baltimore, Maryland.
- Iowa will be changing its approach to issuing fish consumption advisories from FDA action levels to a risk-based approach. In part, this change may be attributable to UMRBA's ongoing efforts to coordinate UMR fish consumption advisory protocols.

Navigation and Ecosystem Sustainability Program (NESP)

Congressional Update

Holly Stoerker reported that it is unlikely that WRDA will be passed before Congress adjourns this year. The House passed its bill in July. The Senate Committee approved its version in April, but the full Senate has yet to act. Among the issues delaying Senate action are Corps Reform and Coastal Louisiana restoration in the wake of Hurricane Katrina. Concerned about the fate of WRDA, UMRBA joined with MARC 2000 and Audubon in issuing a press release and joint letter to Congress, urging passage of the Senate bill. In addition, the UMRBA Executive Director was part of a delegation of Upper River interests that visited Senate offices on September 27-28. Others in the delegation included Lee Nelson (Upper River Services), Kent Pehler (Brennan Marine), Gretchen Benjamin (Wisconsin DNR), and Dan McGuinness (Audubon). The group visited the 10 Senate offices from the 5 basin states, Senate Majority and Minority Leaders' offices, and the Senate Committee staff. On September 28, 44 Senators released a joint letter urging that WRDA be brought to the Senate floor for consideration. Eight of the ten Upper River Senators signed the letter, the exceptions being Senators Feingold and Kohl.

Stoerker also reported that the House passed the FY 06 Energy and Water Appropriations conference report on November 9. The conference report includes \$10 million in PED funds for NESP. The House bill had included nothing for NESP and the Senate had included \$20 million.

Program Update

Scott Whitney explained that the NESP implementation strategy is based on balance, collaborative teamwork, integrated management, and science-based adaptive implementation. FY 05 accomplishments included:

- development of a Program Management Plan (PgMP), which is an umbrella document to complement the feasibility study,
- progress on 32 individual projects,

- formation of the multidisciplinary Science Panel, and
- Congressional support for NESP, as witnessed by inclusion of NESP authorization in both House and Senate WRDA bills.

Whitney reported that FY 05 NESP funding included \$10.4 million in PED funds and \$837,000 to close out the feasibility study. Program Management accounted for 9.3 percent of the funding, while 39.4 percent was for Ecosystem Restoration projects and 43.9 percent for Navigation Efficiency projects. The Navigation Efficiency funding included approximately \$300,00-\$400,000 for systemic mitigation.

Whitney reported that the Science Panel has been working hard on developing a “report card” framework and refining ecosystem goals and objectives. In the future, the Science Panel will also be involved at the project level.

With regard to FY 06 funding, Whitney explained that, in the absence of passage of a regular appropriations bill, the Corps has been operating under a Continuing Resolution since October 1. While it had initially been anticipated that NESP may receive \$12 million in FY 06, it now appears that it will actually be \$10 million. According to Whitney, the preliminary budget estimates will thus need to be reduced by approximately \$500,000 for program management and \$750,000 for both ecosystem restoration and navigation. There will be no “savings and slippage” applied to Corps projects in FY 06.

In response to a question regarding the basis of the FY 06 NESP budget allocation, Whitney explained that the FY 06 budget was guided by the fact that there are to be no new starts, the need to carry FY 05 work forward, the desire to maintain diversity, and consideration of the complexity and risk vs. consequences of investments.

Whitney explained that NESP funding can be transferred to other agencies for work items, in accordance with “determinations and findings” based on the “Economy Act.” Such a determination was necessary in the absence of specific provisions in NESP authorizing legislation. In response to a question about limits on outside contracting, Whitney explained that approximately 30 percent of NESP funding will be targeted for private sector contracting.

In response to a question from Gretchen Benjamin, regarding the process for review and approval of the Science Panel report, Ken Barr said the report will be distributed at the end of the year, followed by a few months allocated for review.

Institutional Arrangements

Rebecca Soileau provided an overview of the draft River Council Operational Model, prepared following the October 20-21 workshop in St. Louis. She also explained the evolution of the Institutional Arrangements framework since July. In particular, Soileau noted that in the revised institutional diagram:

- the Regional Federal Principals group has been dropped,
- the Navigation Science Panel has been dropped,
- an additional River Team for the Illinois River is shown,
- the Communications Panel has been changed to a Communications Network, and
- explicit recognition of role of PDTs has been added.

Soileau also described the changes to the River Council Model, including:

- increased Council membership to 26, by including 2 USDA representatives (NRCS and Ag economics) rather than one,
- more detail on the NGO selection process,
- linking River Council meetings to UMRBA meetings,
- description of River Council outputs,
- sample agendas, and
- description of Council's role in adaptive management.

Soileau called particular attention to the description in the Operational Model of the relationship between UMRBA and the River Council. The role of UMRBA is described as:

- including regular agenda items at UMRBA meetings on Corps and FWS programs;
- evaluating implementation from an interstate perspective, particularly with regard to goals and objectives and state statutory responsibilities; and
- possible administrative support for the River Council.

Soileau said that comments on the draft Operational Model are due by the end of January. Next steps will include additional fine-tuning of the Operational Model and development of MOUs. In the meantime, ongoing communication will occur through NECC-ECC.

With regard to River Council membership, Dru Buntin said that Governors should appoint the representatives from the state or, at a minimum, designate the agencies to be represented on the Council.

In response to a question from Mark Holsten about what level of representation the Corps expects on the River Council, Soileau said they would like to have people who are responsible for making decisions, such as allocating FTEs. Senior managers from the Corps and FWS will chair the Council, so it is hoped that other agencies will also be represented by senior managers.

Mark Holsten inquired about the order of the meetings, inviting comment on whether UMRBA meetings should precede or follow River Council meetings. He asked if the River Council would be making final decisions or just starting the collaboration process and whether its role is to coordinate or prioritize. He also noted that the states, through UMRBA, need time to caucus. Soileau indicated that the Council's responsibilities would likely be a mixture of resolving issues and coordinating. According to Soileau, the vision is to integrate navigation and ecosystem management.

Janet Sternburg suggested that the Governors be afforded flexibility in their appointments. Rather than specifying agencies or types of individuals to be appointed to the Council, the functions of the Council and its members should be described.

Gretchen Benjamin expressed concern about the undefined and potentially redundant roles of the River Council and the Advisory Panel mandated in WRDA authorization of NESP. She said that the River Council should be considered to fulfill the requirement for an Advisory Panel.

Gretchen Benjamin said the language describing UMRBA's role as "administrative support" is misleading. She explained that UMRBA staff provides institutional knowledge and help in framing issues for discussion, both of which are more than administrative functions. Gary Clark suggested that UMRBA submit comments on the draft Operational Model for the River Council, focusing on the proposed role for UMRBA in particular. It was agreed that UMRBA state representatives will forward their comments to Holly Stoerker by December 2. Stoerker will then develop draft UMRBA comments, on behalf of all the states by December 16. A conference call will be scheduled for January 12 at 9:00 to discuss and finalize the draft.

Public Involvement and Communications

Kevin Bluhm reported on the public outreach efforts for the Comprehensive Everglades Restoration program (CERP), led by the Corps' Jacksonville District. The CERP outreach program has been funded at \$3 million to \$4 million annually, since the program was authorized 6 years ago. The work includes:

- Program identification and branding, with the crane as a logo used by all program partners. The program name (CERP) is not the focus.
- A website devoted exclusively to CERP, with information for a variety of interest levels
- Newsletters and mailings that have evolved from simple straightforward publications during the study phase to more sophisticated and creative publications to describe implementation
- Eye-catching fliers and publications to simplify and easily communicate more technical reports
- Interactive kiosks in non-traditional locations such as airports
- Educational materials for children
- Promotional items such as bookmarks, stickers, stress balls, etc.
- Visually graphic and creative 5-year Report to Congress

Bluhm explained that the NESP budget for outreach and public involvement will likely be approximately \$300,000 in FY 06. Specific tasks will include developing "branding" for the Upper Mississippi River, including a slogan, logo, and image items. This will be done with help from a contractor and/or the Communications Network. In addition, a study will be initiated to revamp the website, which currently has information that is outdated and not particularly helpful. There will also be one newsletter scheduled for publication in FY 06.

Gretchen Benjamin expressed support for the "branding" initiatives. Holly Stoerker emphasized the need to improve the website. Linda Leake said it's important to have information provided in a variety of different forms to appeal to a wide range of interests.

Upper Mississippi River Forestry Partnership

Mike Prouty explained that the midwest State Foresters and USDA Forest Service's Northeastern Area have formed an Upper Mississippi River Watershed Forestry Partnership to focus on the role forests and trees can play in solving ecological problems in the basin. The group has developed an Action Plan and hired a coordinator, Sam Osinde, in the

Wisconsin DNR La Crosse office. Priority issues include water pollution, loss of migratory bird habitat, and forest loss and fragmentation.

A Stakeholders Meeting is scheduled for February 28 – March 1, 2006 in Dubuque, Iowa. Topics will include neotropical birds, bottomland forests, riparian buffers, and sustainability.

Mississippi River National Heritage Area Legislation

In Teri Goodman's absence, Holly Stoerker briefly described the proposed legislation (S. 1721) establishing a Mississippi River National Heritage Area, including all counties along the river. The National Mississippi River Museum and Aquarium in Dubuque would be designated as the management entity, charged with developing a management plan for the area and establishing interpretive activities and heritage-based recreational and educational opportunities. The bill authorizes \$20 million.

Stoerker explained that the proposal for establishing a Heritage Area was an outgrowth of the 1996 report of the Mississippi River Corridor Study Commission. That Study Commission was established in 1990 by federal law and was required to consult with UMRBA. UMRBA provided comments to the Study Commission on its draft report in 1994, but has not taken any action on the proposal since that time.

ICWP Report on Interstate Organizations

Holly Stoerker reported that the Interstate Council on Water Policy (ICWP) is in the final stages of developing a report on the history and future role of interstate water management organizations. ICWP received funding for the project from EPA, USGS, and the Corps of Engineers. Mike Donahue, former Executive Director of the Great Lakes Commission, is the primary author.

Stoerker explained that the report outlines a variety of functions that interstate organizations serve, including advocacy for collective interests, pooling of expertise and resources, regional priority setting, monitoring, communication and collaboration, and development of uniform and consistent regulations. The report also includes a history of U.S. interstate water organizations over the past 230 years and an inventory of 15 different institutional forms, ranging from highly formalized compact commissions to more informal councils and committees. In addition, the report includes a series of case studies, lessons learned from past experience, and factors that influence institutional design.

Stoerker explained that ICWP's Interstate Committee, of which she is a member, is in the process of developing findings and recommendations to be included in the report. Recommendations will likely focus on opportunities for enhancing the role of interstate water organizations, the role of the federal government in interstate waters, and preferred operational characteristics of interstate water organizations. Stoerker noted that the ICWP report has particular relevance to UMRBA's study of organizational capacity for interstate water quality management and to the Corps' proposal for institutional arrangements, including a River Council.

Stoerker invited comments on ICWP's draft report from UMRBA representatives by December 16. Gary Clark commented that interstate organizations offer alternative mechanisms for delivery of federal programs, particularly in times of tight budgets.

In response to a question from Gretchen Benjamin, Stoerker explained that ICWP was created in 1958. Among other things, it is an advocate for a national water policy and creation of better coordinating mechanisms at the national level, such as the role that the Water Resources Council used to play.

EMP and NESP Strategic Planning

Holly Stoerker provided an overview of the strategic planning efforts related to the potential merger of EMP and NESP, an effort which UMRBA agreed to help lead in August. The planning is based on the assumption that maintaining two Corps of Engineers ecosystem restoration programs on the Upper Mississippi River will not be sustainable and will ultimately result in inefficiency and competition for funding. The planning effort, being led by UMRBA, does not address detailed implementation issues, but rather issues related to the legislative authorities for the two programs. In particular, Stoerker explained that 10 issues will be addressed, with an "issue paper" prepared for each. Those issues include:

- Future of LTRMP and its relationship to NESP adaptive management
- Ecosystem restoration program authority
- Cost sharing of ecosystem restoration, including O&M
- Total price tag for ecosystem restoration (EMP & NESP combined)
- Annual funding authority with no total cost ceiling (EMP) vs. total funding authority with no time frame (NESP)
- The role of "advisors" (Independent Technical Review in EMP, Advisory Panel in NESP)
- Reports to Congress (timing, purpose, and scope)
- Comparable progress provisions in NESP
- Goals and performance measures in NESP
- Cooperative agreement language (UMRBA and Interior) in EMP

Gretchen Benjamin noted that the EMP legislation has strong "partnership" language. In particular, the EMP authority says that the Corps is to implement the program in consultation with the Department of the Interior and the states. The NESP authorizing language does not include similar language. Benjamin suggested that the issue of "partnership" be included as one of the issues addressed in the merger planning. Stoerker agreed and noted that it may be possible to deal with the "partnership" and "cooperative agreement" issues at the same time. It was agreed that those issues would be among the ones discussed at the February 2006 meeting.

Stoerker then provided an overview of Issue Paper #1 related to the future of the Long Term Resource Monitoring Program (LTRMP). She explained that the NESP legislation does not include explicit authority for system wide monitoring, similar to the LTRMP authority in EMP. Thus, in order to ensure that systemwide monitoring continues in the future, three options have been identified:

- Revise NESP legislation to incorporate LTRMP authority

- Revise NESP legislation by adding explicit adaptive management and monitoring authority (not specific to LTRMP)
- Transfer LTRMP authority directly to USGS

Gretchen Benjamin commented that the first option allows for the current LTRMP to continue and would thus be the “cleanest” option. In addition, funding LTRMP through the USGS may be problematic and would thus make the third option unattractive. Linda Leake agreed that transferring the LTRMP to USGS may be difficult and that the partnership aspect of the program needs to be maintained. Mike Jawson said that budgeting within the Corps is different than USGS.

Gary Clark also expressed a preference for the first option, noting that it is the easiest option to understand and explain to others. Robin Grawe agreed, noting that pursuing the second option may introduce undesirable changes as well.

Jim Fischer asked if incorporating the LTRMP into NESP meant that it would not be around as long because NESP only has a 15-year life span. Stoerker explained that neither the NESP nor EMP authorizing language constrain the programs to a particular time frame. Whether or not either program continues to exist is dependent on whether it receives appropriated funding in any given year.

Don Hultman suggested that there may be a fourth option that would simply involve interpreting the existing NESP authorizing language to include a monitoring authority to support continuation of LTRMP. In particular, since the NESP authority is to be based on adaptive management, one could argue that monitoring is included because it is an essential part of adaptive management. Stoerker noted that such an interpretation may technically be possible, but could be a bit risky if that interpretation is not supported by the Administration or recognized by Congressional appropriators. Gretchen Benjamin noted that even if monitoring were to be interpreted to be in the NESP authority, funding was not included in NESP for monitoring. Dan McGuinness suggested that the NESP funding authority could be increased to cover the costs of LTRMP. Ken Barr commented that monitoring was not originally included in NESP because it was assumed that EMP, and thus LTRMP, would continue.

Rich Worthington noted that Hultman’s fourth option may be the easiest. However, it will still be important that the NESP legislative language include authority for the Corps to transfer funds to the Department of the Interior. Gary Loss commented that metrics to measure the value of monitoring will be important, given the increasing emphasis on performance-based budgeting.

Stoerker also provided a brief overview of Issue Paper #2 related to the differences in the language used to authorize ecosystem restoration activities in EMP and NESP. In particular, the EMP legislation authorizes a “program,” while the NESP legislation authorizes “projects.” Rather than offering alternative options for change, Issue Paper #2 simply provides the basis for the conclusion that the NESP authorizing language is sufficiently broad to cover all projects done under EMP. However, the reverse may not be true. The EMP language is not sufficient for some of the activities to be pursued under NESP.

Stoerker asked that those who have comments on either of the two first issue papers forward those comments to her or to one of the UMRBA representatives. She also explained that the issue papers would be presented for comment at both the NECC and EMP-CC meetings over the next two days.

Unwatering and Restoring the New Orleans Levees

Colonel Duane Gapinski provided a report, including many photos of the time he spent in New Orleans, following Hurricane Katrina, when he was in command of the Corps of Engineers team responsible for unwatering and restoring the levees. The affected area included 284 miles of levees and 48 pumps. Approximately 80 percent of downtown New Orleans was flooded.

Water Quality Issues

Organizational Capacity Study — Holly Stoerker reported that on August 31, UMRBA submitted a grant request to the McKnight Foundation to help support a study evaluating the feasibility of establishing an interstate structure on the UMR with the capacity to coordinate and/or administer water quality programs under the Clean Water Act. The project's aim is to help the states identify what type of functions they would like an interstate water quality organization to serve and then to explore options for achieving that goal. Section 106 of the Clean Water Act will be evaluated in detail, but will not be the only focus. A decision by McKnight is expected in December.

National Research Council Study — Dave Hokanson reported that the National Research Council panel on the "Mississippi River and the Clean Water Act" had its first meeting in Minneapolis on October 18. Hokanson said that several speakers who addressed the panel mentioned the need for greater interstate coordination. In addition, sedimentation was frequently cited as a prominent issue facing the river. The panel has been given the UMRBA's January 2004 report on Clean Water Act assessments and listings on the Upper Mississippi River as "required reading." In addition, it is anticipated that the panel's work will dovetail with UMRBA's proposed evaluation of organizational capacity for interstate water quality management on the UMR. The panel's next meeting is scheduled for January 30-31 in St. Louis. Holly Stoerker has been invited to address the panel at that meeting.

Sediment-Related Water Quality Criteria — Dave Hokanson reported that the UMRBA Water Quality Task Force has been working on two issues: fish consumption advisories and sediment-related impairment criteria. The goal of the sediment criteria project is to identify approaches that all five states can use to determine whether the river is "impaired," by sediment, under the Clean Water Act. The contractor, FTN Associates, prepared a background report that was completed in October. On November 2-3, the Water Quality Task Force held a workshop, at which there were presentations related to sediment rates and budgets, effects on biota, criteria based on protection of submersed aquatic vegetation, and EPA's draft strategy for suspended and bedded sediments. These presentations served as the basis to begin discussion among the states. Hokanson explained that it appears, with regard to sediment, that there is certainly a water quality problem, but the question is whether there's a water quality standards issue.

The next meeting of the Task Force has been scheduled for February 8-9, 2006.

State Activity Reports

Missouri — Dru Buntin reported that the Missouri General Assembly will convene in January, although it is not a budget session. In addition, the DNR has been dealing with a variety of reorganization issues. Mike Wells is head of a newly created Water Resources Center within DNR.

Wisconsin — Gretchen Benjamin reported that the draft 303(d) list from the La Crosse DNR office was recently forwarded to DNR headquarters in Madison. Wisconsin DNR is hoping to be able to honor the work done by Minnesota PCA under the auspices of the Lake Pepin TMDL, but Wisconsin may end up having different listings for Pool 5-9. Wisconsin's 303(d) list is scheduled for completion by April 1, 2006.

Illinois — Gary Clark reported that Illinois has a million dollar bonding issue for flood control in Chicago. In addition, low flows are still creating significant water supply problems, particularly in the northeast portion of the state. The water supply problems have created increased interest in possibly revising state water laws.

Rick Mollahan reported that 110,000 acres have been enrolled in the Conservation Reservation Enhancement Program (CREP). The state has issued \$10 million in bonds to match the \$40 million in federal funds.

Iowa — Mike McGhee reported that DNR is dealing with endangered species on the Missouri River and is engaged in discussions about the role and future of the Missouri River Basin Association and the Missouri River Natural Resources Group.

Future Meetings

The next meetings of the UMRBA, EMP Coordinating Committee, and Navigation Environmental Coordination Committee are scheduled for February 21-23 in St. Louis. The order of meetings over those three days has not yet been determined.

With no further business, the meeting was adjourned at 3:20 pm.