

# UMRBA Water Quality Executive Committee Meeting

November 17, 2010  
Rock Island, Illinois

## Meeting Summary

### Participants

Marcia Willhite	Illinois EPA
Pat Boddy (2)	Iowa DNR
Chuck Corell	Iowa DNR
Gaylen Reetz (1)	Minnesota PCA
John Madras	Missouri DNR
Robert Stout(2)	Missouri DNR
Mike Wells	Missouri DNR
Todd Ambs	Wisconsin DNR/River Network
Bruce Baker (1)	Wisconsin DNR
Tim Henry	US EPA Region 5
Art Spratlin	US EPA Region 7
Albert Ettinger(2)	Mississippi River Collaborative
Susan Heathcote (2)	Iowa Environmental Council/Mississippi River Collaborative
Kim Wright (2)	Midwest Environmental Advocates/Mississippi River Collaborative
Peg Donnelly	UMRBA/US EPA Region 5
Dave Hokanson	UMRBA
Nat Kale	UMRBA
Barb Naramore	UMRBA

(1) Joined the meeting via phone.

(2) Participated in a portion of the meeting.

### Call to Order and Introductions

The meeting was called to order by Chair Marcia Willhite at 8:03 a.m. Introductions of all in attendance followed.

### UMR Water Quality Efforts/Reflection on Discussion with UMRBA Board

#### *US EPA Regional Administrators' Conversations Regarding the Mississippi River*

Art Spratlin expanded on the comments he had made during the previous day's discussion with the UMRBA Board regarding US EPA Region 7 Administrator Brooks' attempts to engage other Regional Administrators in enhancing EPA's leadership and focus on the Mississippi River. Spratlin said he has assembled thoughts from the regional water division administrators and Ephraim King of US EPA's Office of Water, and is now seeking state input for the Regional Administrators' consideration. Spratlin said Brooks wants to determine what the four Regional Administrators are willing to do together in regard to the River and Basin, and then share that message with US EPA Administrator Jackson.

Spratlin said it is important to define an accountability framework. He reviewed the components of the accountability framework for reducing nitrogen and phosphorus pollution presented at the recent water directors' meeting:

- numeric water quality standards developed under a workplan and with a schedule,
- identification of priority watersheds via statewide assessments,
- load reduction targets for priority watersheds,
- numeric nitrogen and phosphorus permit limits for point source dischargers in priority watersheds,
- agriculture BMP and source reduction measures for priority watersheds,
- accountability and verification measures, and
- annual public reporting on implementation and monitoring of load reductions.

Spratlin said that the regional water directors met with NRCS State Conservationists in July 2010 and developed some initial thoughts regarding potential actions for the Regional Administrators to consider. These include:

- an outreach campaign to raise the profile of the Mississippi River and communicate its value;
- working with federal agency counterparts;
- holding stakeholder meeting(s);
- developing an “ask” for the Administration; and
- working with USDA to identify methods to enhance participation in nutrient reduction programs, particularly by reluctant landowners.

Spratlin said that he is now looking for input from the Water Quality Executive Committee (WQEC) regarding the messages to be shared with the Regional Administrators. Todd Ambs said that the role of the Regional Administrators is very important, as they can provide the backbone of an approach for the Mississippi River and help maintain a vision for the River, particularly when there may be pushback against such an effort.

Chuck Corell asked if there is a timeframe for the development of a strategy among the Regional Administrators. Spratlin responded that Regional Administrator Brooks wants to discuss ideas with the other Regional Administrators in December and then take these messages to Administrator Jackson after the first of the year. Tim Henry added that the December discussion will focus on the Regional Administrators’ strategy for the River, and that work on a broader agency strategy for the River will follow.

Corell said he is encouraged by this conversation, including the effort to get a handle on nonpoint source pollution. However, he said he is quite concerned with the emphasis in US EPA’s proposed strategy and accountability framework on numeric criteria. Corell cautioned that the focus on numeric criteria will result in large expenditures on point source reductions with minimal gains, while failing to effectively address nonpoint sources.

Willhite emphasized that her interest is in a collaborative process, with shared accountability. This is not just accountability for the states, as has happened in the Chesapeake Bay. She agreed that accountability is important, but that it needs to include more parties and more mechanisms. Willhite said US EPA also needs to be clear on the timeframe for a Basin/River strategy. She added that she agreed with Ambs on the Regional Administrators’ role as the backbone of any strategy, but said the expectations for states she has heard so far are much too prescriptive and do not reflect the necessary collaboration between the states and US EPA.

Corell said much is known about how nutrient reductions can be achieved (e.g., the HUC-8 hotspots are known, NRCS knows the BMPs to implement, etc.), but significant political challenges remain. He said US EPA could be very helpful in working with NRCS, and in particular supporting and building on the success of the MRBI program. Corell also noted that bringing the agricultural community into discussions is critical.

Spratlin observed that education is a critical part of the process, especially communicating to NGOs what the states are already doing to address water quality. He cited an example in Kansas where communication helped an environmental agency and NGOs work together without advancing a lawsuit. Corell concurred with the value of communication, but still expressed the concern that numeric criteria will place an unnecessary burden on point sources.

Ambs offered the following observations regarding Wisconsin's experience developing its new phosphorus rules:

- A fairly strong nonpoint source rule was in place to begin with.
- The rulemaking addressed both point and nonpoint sources simultaneously and sought to get improvements from both sectors.
- Ultimately, there were very few challenges to the standards themselves and most questions focused on implementation.
- The approach includes an option for point sources to buy reductions from nonpoint sources, which creates an incentive for point sources to get involved with on the ground reductions.
- Monitoring results continues to be a challenge.

Following up on Willhite's point regarding shared accountability, Henry said specific suggestions for how to achieve this would be very valuable.

Gaylen Reetz suggested that the documentary film "Troubled Waters" produced by the University of Minnesota's Bell Museum might be a good educational piece for the Regional Administrators' consideration. He said that the film emphasizes the Farm Bill's importance in supporting effective solutions to nutrient reduction. Reetz said an important role for the Regional Administrators is meeting with agricultural production representatives and emphasizing the importance of their assuming a leadership role in nutrient reduction efforts.

Reetz said an accountability framework built from a UMR perspective would be very valuable. He suggested that the states could work through UMRBA to develop such a framework, rather than having it handed to them by US EPA. Reetz said that he saw a strong leadership role for UMRBA in making this happen.

### **Aquatic Life Designated Use Project Update**

Peg Donnelly provided the WQEC an update on the status of the aquatic life designated uses (ALDU) project. She reviewed the project timeline, the components of the project report, the data sources used and the data analyses performed in the project. In particular, she highlighted the UMR classification structure that is a primary recommendation emerging from the report.

Willhite asked what the driving force is behind the seasonal variations seen in water quality data. Donnelly responded that flow is a predominant factor in the spring and summer, while ice cover is a strong influence in the winter. Willhite said it will be important to appropriately account for seasonal variation in order to support development of strata-specific criteria.

Ambs observed that, while much data is available from the Long Term Resource Monitoring Program (LTRMP), other data is very limited. This is particularly problematic for portions of the River that LTRMP does not sample. Ambs said this underscores the need for enhanced monitoring on the UMR. Willhite and Mike Wells concurred with the need for more UMR monitoring, particularly for the purpose of establishing a baseline condition.

Spratlin asked whether this monitoring need might be addressed by US EPA's Office of Research and Development (ORD), and thus is something Region 7 should communicate in its role as lead region for science. Willhite suggested having the Water Quality Task Force (WQTF) discuss monitoring needs at its January meeting.

Naramore said ORD could help explore the extent to which LTRMP data can be extrapolated to non-study pools. Henry and Donnelly said that actually extending LTRMP monitoring to other pools could be a potential step. Corell suggested that the need for additional monitoring could be one of the messages communicated to the Regional Administrators, and that this might be a good place for the Regional Administrators to start in developing their strategy for the Mississippi River.

Naramore suggested that, once the WQTF has revised the ALDU report, it should be sent to UMR natural resource managers for their review and input. Donnelly agreed that this would be valuable, particularly for input related to the development of criteria and indicators.

Willhite thanked Donnelly for her work on the project and said that she was pleased with the progress that has been made.

### **604(b)-Funded Water Quality Projects**

Hokanson referenced his summary of UMRBA's ongoing water quality projects from yesterday's joint Board/WQEC session. He gave a brief overview of the status of these projects, specifically focusing on those funded through states' CWA Section 604(b) Water Quality Management Planning Grants. Hokanson noted that the 604(b) grants had provided the ability for UMRBA to expand its staff and technical capacity, at least on temporary basis, to deal with important issues including nutrients and biological assessment.

#### *Nutrient Project*

Nat Kale gave a presentation on the status of the nutrient-focused project being completed with 604(b) funding. He described how the project has responded to input from participants and is now focusing more heavily on nutrient impacts to CWA designated uses. These impacts include algal blooms, fish kills, and impacts on public water suppliers. Kale said he is also working with Dale Robertson of USGS to gather information for the monitoring and concentrations/trends sections of the report. Willhite said that, in this particular part of the project, it would be beneficial to determine whether Robertson's data set includes discharger data and to explore the issue of effluent data use generally. She also recommended talking to staff at ORSANCO regarding their work on nutrients, as they have looked into similar questions. Hokanson said that, in addition, UMRBA staff will contact ASDWA regarding its survey of water suppliers, as had been suggested at the preceding day's meeting.

#### *Cross-Programmatic Workshops*

Hokanson said the 604(b)-funded effort also includes two cross-programmatic workshops to be completed by September 30, 2011. He added that work session reports will be completed for each of these workshops. Hokanson distributed a list of potential workshop topics, including ideas previously put

forward by the WQTF and WQEC. He asked WQEC members for their feedback on the selection of topics.

Corell commented that nutrients present many opportunities for discussion. Willhite agreed that nutrients/nonpoint source pollution is the leading candidate for a workshop topic. Reetz agreed, adding that a nutrient/nonpoint source pollution focused workshop could provide important opportunities for stakeholder conversations. John Madras concurred with nutrients/nonpoint source pollution as the best topic for the workshops.

Reetz suggested focusing both workshops on nutrients/nonpoint source pollution, with one held further north and one further south on the River. Willhite asked the other WQEC members whether they were in agreement with this approach. All agreed, with Corell stressing the importance of including stakeholders in the discussion. Willhite added that perhaps a southern workshop could be held in the St. Louis area and bring in consideration of issues important to the lower Mississippi River states.

### **Administrative Items**

#### *Funding of UMR Water Quality Work*

Willhite asked other WQEC members if 604(b) grants appear to be a source of future funding for UMR water quality activities. She said Illinois has typically passed through 40% of its 604(b) funds for area-wide planning efforts and expects this to continue into the future. Corell said Iowa is paying its \$17,000 water quality assessment in FY 11 using 604(b) funds.

Madras said Missouri is hoping to pay its \$17,000 assessment and that additional 604(b) funds might be a possibility in the future. But he added that there are currently many unknowns surrounding funding (e.g., loss of DNR's fee revenue) that may affect Missouri's ability to pay. Reetz said that Minnesota is holding on to its 604(b) money this year. Bruce Baker indicated that 604(b) funding from Wisconsin might be a possibility.

Corell noted that the President's FY 11 budget request, if enacted, would increase 604(b) funding. This, coupled with state restrictions in hiring of new staff, might make 604(b) an appealing option for funding UMR water quality activities in the future. Baker said similar staffing restrictions affect Wisconsin.

Naramore said it would be beneficial to have project ideas in place if funding opportunities arise. Willhite added that Illinois is planning to make its \$17,000 water quality assessment payment.

#### *WQEC Chair*

Willhite said that she is completing her two-year term as WQEC Chair, and asked if any state is interested in taking over in the Chair position. Reetz said that Rebecca Flood will likely be replacing him on the WQEC and as such it would not be particularly timely for Minnesota to chair. Baker and Madras indicated that their agencies were also in transition, which would make chairing challenging.

In light of the comments made, Willhite offered to serve an additional year, with reconsideration of the Chair transition to take place in November 2011. All agreed with this course of action.

#### *Next WQEC Call*

The WQEC agreed to hold a conference call at 2 p.m. on December 3, 2010.

## Discussion with Mississippi River Collaborative Members

Willhite welcomed members of the Mississippi River Collaborative and thanked them for meeting with the WQEC. She gave an overview of UMRBA's role in UMR water quality work and emphasized that the WQEC has pursued a "building block" approach designed to establish a CWA framework for the UMR. But she emphasized that the WQEC is also prepared to deal with key issues (such as nutrients).

Kim Wright asked whether an interstate compact has been considered as a possible mechanism. Willhite responded that UMRBA's 2006 report, *Organizational Options for Interstate Water Quality Management on the Upper Mississippi River*, discussed creation of a compact as a possible future avenue if other collaborative approaches did not successfully achieve CWA goals. Albert Ettinger commented that creation of a compact can be huge effort, and can take a long period of time to put in place. Ambs said formation of a compact on the UMR would not necessarily yield CWA section 106 funding, as this funding is currently only provided to interstate compacts in existence when the CWA was enacted in 1972. Naramore said much can be learned and adapted from the approaches of other interstates without necessarily having to create a compact.

Susan Heathcote presented an overview of the Mississippi River Collaborative. She described the Collaborative as a partnership of environmental NGOs and legal centers created in 2005, supported by the McKnight Foundation, and focused on reducing pollution entering the Mississippi River and the Gulf of Mexico. Heathcote noted that the Collaborative has recently moved toward a focus on nutrient and nonpoint source pollution issues. She said the Collaborative is interested in engaging with the agricultural sector and seeks to have both point and nonpoint sources working to address nutrients. Heathcote said the Collaborative sees value in working with UMRBA and the WQEC.

Corell asked if it has been easier for the NGOs to create momentum by taking a regional, rather than single-state, approach. Wright replied that this is the case, particularly in appealing to potential funders. Corell observed that regional work can be more complex, but also can offer opportunities, such as potentially greater success in engaging agriculture groups. Willhite concurred, saying that a regional effort can better engage agriculture across multiple states. Heathcote said the Collaborative has a number of workgroups, including one focused on agriculture. She commented that today's project updates indicate some commonality of interests between the Collaborative and UMRBA.

Ettinger said numeric nutrient standards will be a focal point of any discussions. While numeric standards are only one part of addressing nutrients, he said they remain the one component most likely to bring agricultural interests to the table. Willhite emphasized the importance of engaging USDA, saying it is important that USDA make reducing nutrient impacts a priority. She said conservation compliance could be a potential tool and added that there are steps that can be taken at the state level, such as the phosphorus rule package that Wisconsin recently adopted. Willhite emphasized that an approach based solely on CWA requirements will not be successful.

Ettinger said environmental NGOs have sought to use the CWA as a mechanism to motivate action in other programs, recognizing that the CWA alone does not have much ability to compel action regarding nonpoint source pollution. Ambs said he would like to see a joint plan addressing water quality for the River including both CWA building blocks and methods of addressing nonpoint source pollution. Corell agreed, emphasizing that any such strategy needs to work effectively at the local level, adding that success is most likely to be found at the local, rather than state, level. Heathcote and Ettinger acknowledged the value of local work, but added that state-level action is also important. Wright said NGOs can also provide a local connection point for action. Corell said Iowa has seen success with its lakes program when there is strong local involvement.

Ettinger said one challenge on the Mississippi River is that the pollution sources (e.g., in the upper basin) can be far removed from where impacts occur (e.g., the Gulf of Mexico). Heathcote said this is one reason why it is important to look at local impacts on the UMR. She said there is also a role for leadership from US EPA and USDA in working on nutrient reduction. Heathcote continued by saying that the establishment of numeric criteria might open up possibilities for collaboration with point and nonpoint sources of pollution. Corell suggested that point sources might be more open to technology-based, rather than numeric, water quality standards.

Willhite said she would like to take a collaborative approach as far as it can go as a first strategy, saying that an adversarial, legalistic approach is not likely to succeed. She said some potential avenues of collaboration emerged from Illinois' recent nutrient summit, specifically regarding prioritizing watersheds and selecting BMPs.

Heathcote said local advocates can be very helpful, particularly in addressing concerns regarding the impacts of regulations, adding that change is also needed at the level of the Farm Bill. Willhite agreed with Heathcote's observation regarding local supporters. Madras commented that Missouri has seen success in working with agricultural producers and NRCS to address atrazine levels in drinking water reservoirs. Heathcote said it is important to convey the multiple benefits of nutrient reduction to the public and to invest public funds where the greatest benefit will result. Corell said a primary driver is the impact on profitability from any decision made. Baker said a critical element is engaging landowners whose land is contributing the most to the problem. He emphasized that success in reducing nutrients often hinges on these landowners and that, in some cases, this is where a regulatory tool is needed.

Ettinger observed that there appear to be at least two shared interests between the Collaborative and the WQEC: 1) examining local impacts from nutrients and 2) developing planning and projects at a local level. Willhite said she sees promise in the Kansas example that Spratlin had mentioned earlier. Spratlin observed that this effort hinged on bringing down point source contributions to a level where it was clear the focus needed to shift to nonpoint sources. Ambs said this has also been true in Wisconsin's phosphorus efforts.

Willhite asked about opportunities for the WQEC and Collaborative to continue to work together. All agreed that the cross-programmatic workshops addressing nutrients would provide a good opportunity for engagement. Willhite asked whether the Farm Bill might offer any opportunities for joint efforts. Corell and Henry commented that there is certainly a role for the Farm Bill in pursuing nutrient reduction. Heathcote agreed, but added that the Farm Bill is a big stage, requiring a broad constituency to affect change.

Ambs suggested, at minimum, having an annual conversation between the WQEC and the Collaborative. He added that development of some strategies may be helpful. Willhite suggested that a followup conversation take place within the next few months. Heathcote thanked the WQEC for the opportunity to have the discussion.

*With no further business, the meeting adjourned at noon.*