

# Waterways

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UMWA addresses pressing river issues

## Illinois group told improvements will wait till 2090

[UMWA](#) member Upper River Services was called in to clear a log jam near the Wabasha Street bridge last week - just one more complication from a soggy navigation season that has halted traffic flow on the Upper Mississippi several times since a delayed season open.

### No long-term plan

This after a 2012 season which threatened to halt traffic because of low water in critical stretches of the river. But river people are used to persevering no matter what is thrown at them, but at the same time

UMWA members and others continue to worry about the

lack of long-term planning and funding for critical river infrastructure.

For example, members of the [Great River Economic](#)



*Above: This leaky lock somewhere on the nation's river system is just one symptom of the need for infrastructure maintenance and replacements*

[Development Foundation](#) (GREDF) in Quincy, Ill, say

they're being told to expect needed improvements to the locks and dams in that area about 2090. GREDF Director Marcel Wager says that's especially troubling because of the continued cuts in the Army Corps of Engineers budget for repairs and upgrades.

### 87 years from now

Adams County Board Member Lyle Nichols, who has seen [the GREDF memo](#), says, "I was expecting something like 15 or 20 years. But, 87 years, none of us are going to live at that time and I don't think our economy here in the

Midwest can survive that

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## GPS is no help in determining these old boundary lines

The Minnesota Department of Transportation will soon send some of its researchers to Des Moines, Iowa, to look through original survey records in an attempt to discover the original mid-river boundary between

Southeast Minnesota and Western Wisconsin. [There's been confusion](#) because the locks and dams and shifting river channels have created confusion in some areas.

MNDOT says, for instance, that Latsch Island,

which is now in Minnesota, was traded for another island which went to Wisconsin. Speaking to the Winona Post newspaper recently, County Recorder Bob Bambenek says the boundaries are

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## From the Executive Director...

### WRDA and North Dakota Fracking

Several bloggers have raised compelling issues relating to the Senate WRDA bill (S. 601) passed on May 15 which is now being considered by the House of Representatives.

Sandra Zellmer, a Scholar with the Center For Progressive Reform calls attention to a section which restricts charges for certain so-called surplus water taken from the Missouri River: The States' Water Rights Act.

This act started life as WRDA Amendment 909 with bi-partisan support by Senators from North Dakota, South Dakota and Montana and is now titled Section 2064 of S. 601.

### States' Water Rights Act

Essentially a one-liner, Section 2064 blocks the U.S. Army Corps of Engineers from charging residents and businesses a 'surplus water fee' for access to Missouri River reservoirs. Zellmer goes on to state that for purposes of Section 6 of the 1944 Flood Control Act which governs Missouri River operations, 'surplus water' is defined as water stored in a Corps reservoir that is no longer required if the congressionally authorized need for that water never developed. In the Dakotas, the water in question was initially set aside for regional irrigated agriculture which did not develop to the extent anticipated in 1944.

Zellmer muses if, in the face of continued drought despite wetter than normal conditions in the Missouri River basin during May, and with the Corps estimating a 2013 runoff at only 84 percent of normal, can there ever be such a thing as "surplus" water.

### Reservoir Water is Corps Water

A blog by Dakota Broadcasting offers background on this issue: Since 2010, the Corps has restricted access to Missouri River reservoirs. For their part, Upper Basin states feel they have a claim to reservoir waters as they relinquished prime lands to create dams and reservoirs from Fort Peck in Montana, through Garrison Dam in North Dakota, to Gavins Point in South Dakota. In addition, the states never ceded rights to use Missouri River water for municipal or industrial water supplies and the Corps, while it has proposed charging a fee for water taken from its reservoirs, has not charged a fee in more than 60 years.

Nonetheless, according to the Dakota blog, Senator John Hoeven of North Dakota said the steps by the Corps to establish an unprecedented surplus water fees are ill-suited to the upper Missouri River reservoirs and run counter to the historic model of these projects. Basin states have promised to sue the Corps if fees are charged.

Zellmer recalls that in the 1980s South Dakota hatched a scheme to purchase 50 thousand acre-feet of water from the Oahe Reservoir of which about a third would have been used by a coal slurry pipeline from Wyoming to the Gulf States. The deal was expected to return upwards to \$1.4 billion to South Dakota. While then-Secretary of Interior James Watt applauded this as a "brilliant and creative suggestion", not everyone agreed. A coalition of states and other interests successfully sued to prevent the sale. In its decision the U.S. Supreme Court did not resolve the underlying issue of how much water is "surplus" and whether or how much it might be sold for, but it did find that the Corps has exclusive authority to contract to remove water for industrial purposes.

According to Senator Hoeven, if the Corps were [now] to charge a fee for the water, the Corps would, in effect, penalize the state by essentially taxing water that would be freely available in the absence of the Corps' dams and reservoirs. Judicial decisions don't support that theory [325 U.S. 589 (1945)] however, as an equitable allotment between states of the Basin requires a fair division of the resource, with upstream states getting no more than their fair share.

### North Dakota Oil

Understandably, continues Zellmer, North Dakota has a different set of interests than the downstream states of South Dakota, Nebraska, Missouri and Kansas – its newly developed oil patch needs copious amounts of water for hydro-fracking. But to transfer the water free of charge to one Basin state raises more concerns. Can North Dakota sell its so-called surplus water for a tidy profit? What rights would other Basin states have to protest the sale? And would other Basin states be entitled to share in the profits from the sale? If Section 2064 is enacted into law, it would most likely be a windfall for North Dakota, the energy

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*"...There can never be such a thing as 'surplus' water..."*

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companies, or both.

Zellmer concludes that the Corps is in the process of developing standards that will impact municipal and industrial water supply; one of which involves a notice and comment rulemaking to establish a nationwide standard for pricing surplus water use and policy. Leadership of the House Committee on Transportation and Infrastructure has indicated they are not in a rush to take up the Senate WRDA bill. Congress, suggests Zellmer, should let the Corps' administrative process work to its end, rather than continue to advance piecemeal complex and interrelated issues at the behest of one state or one industry

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'ambiguous' in some cases. In addition to law enforcement jurisdictions, the boundaries are also critical to getting help to the right location in emergencies.

One of the areas of confusion is in the area at Lock and Dam 7, where some records show the line running through the lock, but others say it's unlikely that the Corps would have positioned the lock on the line.

Bambenek says uncertain boundaries can affect construction and maintenance on bridges. Everyone involved hopes the Iowa record search can settle the matter.

## UMWA will address pressing issues

UMWA is submitting a statement to the Mississippi River Commission which will make its low-water tour on the Upper Mississippi River in mid-August.

Two of the Commission's stops on this end of the river are scheduled for Dubuque, Iowa and LaCrosse, Wis.

Issues addressed in the UMWA statement include the organizations position on a proposed closure of the Upper Harbor lock in Minneapolis, Channel alignment in Pool 2, issues on the Minnesota River and agricultural issues of concern to producers and shippers.

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*"...They are not in a rush to take up the Senate WRDA bill..."*

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### Other items of interest:

- The St. Paul District of the Corps of Engineers is hosting an [open house at Lock and Dam 1](#), in Minneapolis this Friday July 19, from 9 a.m to 4 p.m., in conjunction with the Highland Fest 2013. There will be tours and an appearance by a "Water safety serpent."
- The Quincy, Ill., City Council has resubmitted permit [applications for hydropower generators in Locks 24 and 25](#), after the previous preliminary permits held by the city expired. The Council recently heard from a Canadian company – Coastal Hydropower Corporation – about its proposal.
- It's been years since an excursion steamboat has visited the Upper Mississippi River and the owners of The American Queen say it's going to be awhile longer. The Queen had been scheduled to stop in LaCrosse, Wis., July 10 and Winona, Minn., July 11, but the trip was cancelled because of high water. Shore Excursions of America says the boat's second trip starting August 22, is still planned.
- Twin Cities weatherman Paul Douglas says there may be something to the theory that rains always seem to hit on the weekends in Minnesota. He explained the theory on [his weather blog](#) a few days ago, saying that perhaps pollutants built up during the week, influence weekend weather patterns. He admits there's no scientific verification.

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many years without an upgrade to the locks and dams.”

It’s been five years since a Water Resources Development Act (WRDA) was passed and the current version is awaiting an uncertain future in the U.S. House. But the inaction is bringing some new organizations into the effort to break the funding log jam.

Last month the Mississippi River Cities & Town Initiative met in [St. Cloud, Minn.](#), and picked [Memphis Mayor A.C. Wharton](#) and Mayor Roy Buol of Dubuque, Iowa as co-chairs of the organization formed to work for increased infrastructure funding on the river.

Wharton says the country and Congress need to realize that the Mississippi River system is more than, “a stream with barges.”

There are now at least 56 river city mayors who have joined the group and say they want the organization to be their voice on navigation infrastructure and other issues affecting commerce as well as the environment.

The group says more than 3 million people live in the 124 cities and towns along the main stem of the Mississippi, and 18 million people depend on it for their water supply.

The closing statement from the group’s St. Cloud meted pointed out that the Mississippi and its watershed drains 37 states and transports 62 percent of the nation’s agricultural output while directly supporting a million jobs.

In the U.S. House an [Ohio Representative Bob Gibbs](#) says he and other farmer-members are working vigorously to get WRDA

passed and also to streamline the Corps of Engineers study and approval process.

“A one-size-fits-all policy from Washington, D.C., is just not workable,” he says.

Gibbs says WRDA is important, but just part of a bigger picture. He says a bridge collapse generates major headlines, but a lock failure gets less attention even though tons of cargo and millions of dollars may be involved.

He points to delays at the Olmsted Locks and Dam Project as a textbook example of results from the current project planning and funding methods.

“It takes seven years to get a chief’s report, and it takes another 10 years before the first backhoe starts. Hopefully, we can change that culture,” he says.

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