

LEGISLATIVE PROPOSAL

1. SUBJECT: Implementation of the Upper Mississippi River Comprehensive Plan
2. PURPOSE OF LEGISLATION: Proposal for new legislation is to authorize the implementation of a comprehensive plan for Flood Risk Management in the Upper Mississippi River Basins. The comprehensive plan is a product from a study completed by the U.S. Army Corps of Engineers in 2008 as authorized by Water Resources Development Act of 1999, Section 459, Upper Mississippi River Comprehensive Plan.
3. BACKGROUND: Recent floods have demonstrated the toll that catastrophic flooding can take on our communities. They highlight the need for our nation to remain vigilant and prepared to further reduce such disasters. Floods, coupled with aging levees, are pushing local, State, and Federal interests into re-evaluating their flood risk protection systems. As multiple entities are individually reassessing their systems, it is evident the Upper Mississippi River needs an established comprehensive plan to provide 1) an agreed upon framework for flood protection within the basin, 2) a regional approach to permitting efficiencies, and 3) an entity to oversee the management of the comprehensive approach. In support of a holistic plan for the Upper Mississippi River Basin, the comprehensive plan as endorsed by the Mississippi River Commission serves as a basis for a systems approach to implement regional flood risk management for the Upper Mississippi River.
4. CITATION OF SUPPORTING LAW(S): Water Resources Development Act of 1999, Section 459, Upper Mississippi River Comprehensive Plan
5. LEGISLATIVE OBJECTIVE: The legislative objective is to implement the Upper Mississippi River Comprehensive Plan, as endorsed in a letter prepared by the Mississippi River Commission (MRC) on August 14, 2008. The implementation of the plan should be that any community, drainage or levee district can identify a recognizable framework for flood protection. The plan will outline clear zones for reconstruction or betterment, while including reasonable and alternative options for landowners to accept a higher level of flood risk. Implementation of projects within the Comprehensive Plan should not increase water surface levels above the Federal Emergency Management Agency's one (1) foot standard for the base flood. Additionally, implementation of the plan should not induce increases on the U.S. Army Corps of Engineers' (USACE) Mississippi River & Tributaries project.

Federal and State guidelines and permitting processes often delay and sometimes increase projected costs during the implementation of individual projects. This is true even in a situation where local and private funding is available to implement. Implementing a systemic approach would provide an opportunity for regulators to determine orderly approaches to permitting and potentially develop regional permit programs. The comprehensive plan needs recognition to encourage Federal and State Agencies to establish this coordinated and expedited process for permitting.

Lastly, this plan must have oversight from a single entity, spanning the entire Upper Mississippi River watershed. The oversight group would provide a regular review of the water resources problems,

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needs and opportunities in a collaborative structure working with other Federal, state and local agencies and non-governmental organizations, stakeholders, and the interested public. USACE could assist the oversight group with its leadership and expertise in technical areas (e.g., hydrology and hydraulics, economic and environmental analysis, and engineering) while addressing the changing problems, needs, and opportunities of the region.

6. **LOCATION:** The study area of the Upper Mississippi River Comprehensive Plan is the Upper Mississippi River Basin drainage area above Cairo, IL, at the confluence of the Mississippi and Ohio Rivers exclusive of the Missouri River Basin, and encompasses approximately 185,000 square miles.
7. **OTHER FACTS AND DISCUSSION:** In 2008, USACE completed a study for a comprehensive flood management approach and identified a best performing plan for the Upper Mississippi River. The best performing plan did not meet the goal of having a positive benefit to cost ratio. This is a requirement of having a positive benefit to cost ratio (BCR) , is in regulation and USACE must meet it as established in the agency's Principles and Guidelines (ER 1105-2-100) for Federal assistance in implementation. The use of the BCR does negate the fact that there are individual entities that can perform work independently from the USACE and make the decision to implement portions of a Comprehensive plan solely based on flood risk potential and the health and safety of their communities. Since the implementation of the plan should be more than a Federal responsibility, the BCR should not be the sole factor for implementation. Overall, the plan must be a collaborative effort by states and landowners to decide the best use of land and flood control structures that fits within a regional assessment of the river's hydrology and the health and safety of the communities that exist along the river. It is believed that the MRC recommendations should serve as the basis for the comprehensive plan
8. **BUDGETARY IMPACT:** There should be no budgetary impact.
9. **CONGRESSIONAL INTEREST:** Sen. Durbin (IL), Sen. Kirk (IL), Sen. Harkin (IA), Sen. Grassley (IA), Sen. Blunt (MO), Sen. McCaskill (MO), Sen. Franken (MN), Sen. Klobuchar (MN), Sen. Johnson (WI), Sen. Kohl (WI), Rep. Costello (IL), Rep. Shimkus (IL), Rep. Schilling (IL), Rep. Manzullo (IL), Rep. Emerson (MO), Rep. Carnahan (MO), Rep. Clay (MO), Rep. Akin (MO), Rep. Leutkemeyer (MO), Rep. Braley (IA), Rep. Loebsack (IA), Rep. Latham (IA), Rep. Kind (WI), Rep. Walz (MN), Rep. Kline (MN), Rep. Paulsen (MN), Rep. McCollum (MN), Rep. Ellison (MN), and Rep. Bachmann (MN)

10. SUGGESTED DRAFT LEGISLATIVE LANGUAGE:

SEC. xxx. UPPER MISSISSIPPI RIVER COMPREHENSIVE PLAN.

- (a) **IMPLEMENTATION.** —*The Secretary shall work collaboratively with state and local governments to implement the Upper Mississippi River Comprehensive Plan as recommended by the Mississippi River Commission, modified such that there will be no induced increases in the water surface levels on the Mississippi River below Thebes, Illinois.*

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- (b) *COMPONENTS. —Implementation of the plan under subsection (a) shall—*
- (1) *Enhance system-wide flood control without creating adverse impacts on existing levees, levee districts, rural communities, and metropolitan areas.*
 - (2) *Contain a framework for flood protection to include equitable compensation for landowners accepting a higher level of flood risk;*
 - (3) *Develop a Federally coordinated and expedited process for permitting the implementation of the plan by local sponsors through measures such as regional permit programs;*
 - (4) *Contain provisions that include additional and more durable river gages on the Mississippi River and tributaries to better forecast events and to inform the public of potential flood risks;*
 - (5) *Establish an organization to oversee and monitor the implementation of the plan with U.S. Army Corps of Engineers facilitation and technical expertise; and*
 - (6) *Address the need for the comprehensive plan to be adaptively managed as updates to data and flood protection systems are put in to place.*
- (c) *CONSULTATION AND REVISION OF EXISTING DATA. —In carrying out this section, the Secretary shall—*
- (1) *Consult with appropriate Federal and State agencies, as well as County and Local Levee District representatives; and*
 - (2) *Revise engineering and economic preliminary data used in the Upper Mississippi River Comprehensive Plan and ongoing programs and efforts of Federal agencies and States in implementing the plan under subsection (a).*