

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
U.S. ARMY CORPS OF ENGINEERS, ST. LOUIS DISTRICT
U.S. FISH AND WILDLIFE SERVICE,
ILLINOIS DEPARTMENT OF NATURAL RESOURCES
MISSOURI DEPARTMENT OF CONSERVATION
REGARDING THE ESTABLISHMENT AND OPERATION
OF THE
RIVER RESOURCES ACTION TEAM

MAY, 2002

I. Purpose

The purpose of this Memorandum of Understanding (MOU) is to (1) establish the River Resources Action Team, and (2) detail the operational procedures for the team.

This MOU is intended to accomplish the following:

- Enhance and formalize a coordination process for meeting the various regulatory, statutory and procedural requirements of each agency as they relate to sustainable management of the Mississippi River within the U.S. Army Corps of Engineers, St. Louis District;
- Foster a cooperative partnership for issue identification; and project planning, information exchange, and operational functions among the signatory agencies;
- Ensure a consistent interagency coordination process within the navigable reaches of the Upper Mississippi River (including the Middle Mississippi River) within the Corps' Mississippi Valley Division;
- Identify a collaborative mechanism for planning, prioritizing, and operating future Upper Mississippi River System projects/actions and for resolving any potential conflicts and disagreements regarding river management plans of the signatory agencies;
- To provide a means for effective implementation of the reasonable and prudent alternatives (RPA) and reasonable and prudent measures (RPM) for the pallid sturgeon and least tern contained within the Biological Opinion covering Operation and Maintenance of the 9-Foot Channel Project and to provide a forum for coordination of 1) the Regulating Works and Channel Maintenance Programs; 2) the Environmental Management Program and 3) other river management programs;
- Use a team approach to restore and protect watersheds and ecosystems while fulfilling designated agency responsibilities.

II. Guiding Principles

The primary principle of this MOU is one of cooperative partnership. As a result of this MOU, the signatory agencies will better coordinate their efforts and will make it easier for each agency to carry out their respective missions, as determined by statutory regulations and authorizations, and make more efficient use of fiscal resources.

III. Provisions and Understandings

In order to carry out its various programs and projects on the Upper Mississippi River System, the U.S. Army Corps of Engineers, St. Louis District calls upon the signatory agencies in matters dealing with fish and wildlife resources. This includes operation and maintenance of the 9-foot channel project (regulating works construction, O&M dike and revetment, dredging/disposal), implementation of the Avoid and Minimize Program, implementation of the Environmental Management Program and other related programs. Historically, such coordination has occurred through various ad hoc or informal teams and avenues, depending upon the topic of discussion.

These included the Avoid and Minimize Team, Middle Mississippi River Coordination Team, various teams under the Environmental Management Program, Pool 25 Ecosystem Team, Open River Ecosystem Team, Integrated Resource Management Team, etc. The establishment of a single team to carry out coordination responsibilities will provide for the more efficient transfer of information and use of fiscal resources by the signatory agencies and provide a better historical record of activities.

The team will be called the "River Resources Action Team" (RRAT) and will operate at two administrative levels; the RRAT Technical Team and the RRAT Executive Team. The RRAT Technical Team will be composed of individual representatives from each agency that lend special expertise and knowledge regarding particular programs and projects. Each agency may have as many members on the Technical Team as it deems appropriate. It is anticipated that the makeup of the Technical Team at each meeting will likely be dependent on the topics to be addressed. Workgroups may be formed from the Technical Team to work on specific planning efforts. The RRAT Technical Team will be kept abreast of each workgroup's activities and will be given opportunity for review and input at critical stages of the effort.

The RRAT Executive Team will be composed of representatives of each agency with knowledge of their respective agency's policies, authorities, and budgetary processes. Further, they will have the ability to represent the interests of their agency in advancing operational decisions. The purpose of this Team will be to make agency operational decisions on particular projects and programs depending upon each agency's administration, budget, and policies. Each agency has an equal voice within the Team. It will be the responsibility of each Executive Team member to discuss controversial issues within their respective agency and to represent their agency's position.

All technical and operational coordination decisions among the signatory agencies are non-binding. However, should any signatory agency decide not to implement or carry out the decisions advanced by the RRAT, the rationale should be documented in the administrative records of the Team.

The RRAT will be co-Chaired by the U.S. Army Corps of Engineers, St. Louis District and the U.S. Fish and Wildlife Service. The Chairs will be responsible for calling meetings, developing agenda items, preparing read ahead materials when necessary and distributing meeting minutes for the record. The Technical Team will meet at least twice yearly, however, special meetings may be called as necessary. Depending upon the topic of discussion, full Technical Team meetings may be waived in favor of Executive Team meetings as deemed appropriate for the efficient conduct of business. Draft meeting minutes will be provided to members of the Technical Team for comments and/or corrections. Comments must be provided within 30 days. Meeting minutes will be finalized on RRAT letterhead and provided to all members. Minutes may be provided via either email or regular mail.

Each agency will identify members of the Executive Team (up to two per agency). Each Chair is a member of the RRAT Executive Team by default. Each Chair will maintain a complete mailing list of all members of the RRAT. The Executive Team members for each agency will provide the

co-Chairs a complete list of representatives for the Technical Team including name, address, phone/fax numbers and email addresses. The RRAT Executive Team will meet at least annually, usually in the fourth quarter of the calendar year. Draft meeting minutes will be provided to members of the Executive Team for comments and/or corrections. Comments must be provided within 30 days. Meeting minutes will be finalized on RRAT letterhead and provided to all Executive Team members. Minutes may be provided via either email or regular mail. Additional meetings can be requested by any member of the RRAT Executive Team by contacting either of the Chairs, supplying them with details of the issues which need to be discussed and a target time frame for the meeting. The Chairs will arrange the meeting per the request.

IV. Revisions to the MOU

The signatory agencies, acting through the RRAT Executive Team, may jointly revise this document upon mutual consent. Major revisions will be subject to resigning of the M.O.U.

V. Reservation of Agency Positions

No party to this MOU waives any administrative claims, positions, or interpretations their agency may have with respect to the applicability or the enforceability of their respective statutory obligations.

VI. Obligation of Funds, Commitment of Resources

Nothing in this MOU shall be construed as obligating any of the parties to the expenditure of funds or appropriations by law or otherwise commit any of the agencies to actions for which it lacks statutory or fiscal authority. It is understood that the level of resources to be expended under this agreement will be consistent with the level of resources available to the agencies to support such efforts.

VII. Nature of the MOU

This MOU is intended only to improve the interagency management of the signatory agencies and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

VIII. Effective Date; Termination

This MOU will become effective upon signature by each of the parties hereto. Any of the parties may withdraw from this MOU upon 60 days written notice to the other parties.

IX. Appendices

Appendix A is a list of authorities for each of the signatory agencies for establishing and operating this MOU.

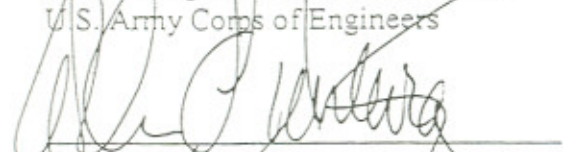
Memorandum of Understanding Between the U.S. Army Corps of Engineers, St. Louis District, U.S. Fish and Wildlife Service, Illinois Department of Natural Resources and Missouri Department of Conservation Regarding the Establishment and Operation of the St. Louis District, River Resources Action Team

XI. Signatures



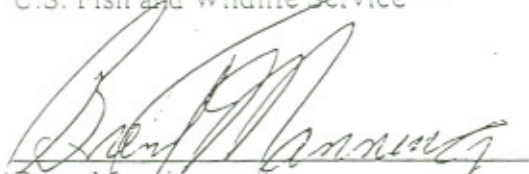
Colonel Michael R. Morrow
District Engineer, St. Louis District
U.S. Army Corps of Engineers

26 Apr 2002
Date



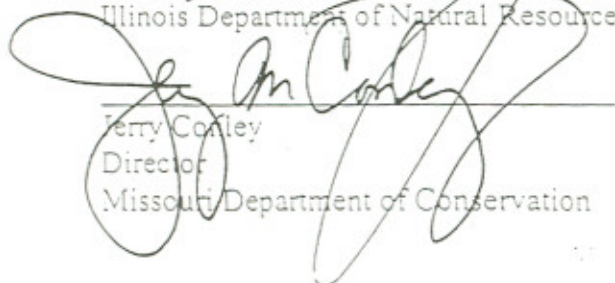
William F. Harwig
Regional Director, Region 3
U.S. Fish and Wildlife Service

2 July 02
Date



Brent Manning
Director
Illinois Department of Natural Resources

3 June 02
Date



Jerry Coxley
Director
Missouri Department of Conservation

5/13/02
Date

APPENDIX A AUTHORITIES

A. U.S. Army Corps of Engineers Authorities:

This MOU relates to the following authorities of the Army Corps of Engineers:

- Rivers and Harbors Acts of 21 January 1927
- Rivers and Harbors Commission Document No. 9, 69th Congress, Second Session, 3 July 1930
- Rivers and Harbors Commission Document 12, 70th Congress, First Session
Regulating Works Project, Mississippi River, Between the Ohio and Missouri Rivers
- Rivers and Harbors Act of 3 July 1930
9-Foot Channel Navigation Project, Between the Mouth of the Missouri River and
Minneapolis, Minnesota
Illinois River Navigation Project
- Rivers and Harbors Act of 1962
Kaskaskia River Navigation Project
- Fish and Wildlife Coordination Act of 1958, as amended
Fish and wildlife given equal and full consideration in water resource development projects
- Forest Conservation Act (PL-717)
Vegetative Management for Corps Projects
- Endangered Species Act of 1973, as amended
Carry out programs for the recovery of listed species
Shall not jeopardize the continued existence of listed species
- Fish and Wildlife Conservation Act of 1980 (PL 96-336)
Non-game fish and wildlife management
- Water Resources Development Act of 1986 (PL 99-662)
Establishment of the Environmental Management Program (UMRS Management Act)
Modification of existing projects or operations for environmental improvement (Section
1135)
Authorizes development projects for environmental purposes (Section 704)
Mitigation of fish and wildlife losses associated with authorized water resources projects,
including the acquisition of lands or interest in lands
- Water Resources Development Act of 1990
Authorizes the protection of the environment as a major mission of the Army Corps of
Engineers (Section 306)
- Water Resources Development Act of 1996
Restoration of Environmental Quality, Ecosystem Restoration, Beneficial Use of Dredge
Material, and Cost Sharing for Environmental Projects (amends Section 103 of WRDA
86)
- Water Resources Development Act of 1999 (PL 106-53)
Reauthorization of EMP and establishment of the Missouri and Middle Mississippi Rivers

Enhancement Project

- Water Resources Development Act of 2000
Illinois River Ecosystem Restoration
- Nonindigenous Aquatic Nuisance Species Prevention and Control Act
Prevent the introduction and control the spread of introduced aquatic nuisance species

B. U.S. Fish and Wildlife Service Authorities:

This MOU relates to the following authorities of the U.S. Fish and Wildlife Service:

- Fish and Wildlife Coordination Act of 1958, as amended
Coordination for federal water resource development projects for protection and enhancement of fish and wildlife resources
- Endangered Species Act of 1973, as amended
Federal agency consultation required under Section 7
- National Environmental Policy Act
Expertise related to fish and wildlife resources
- Migratory Bird Conservation Act (PL 87-812)
Acquisition of areas for management and protection of migratory birds
- National Wildlife Refuge System Administration Act (PL 91-135)
Resource management programs for fish and wildlife habitat; acquire lands and waters for purposes of fish and wildlife conservation
- Nonindigenous and Aquatic Nuisance Species Prevention and Control Act
Prevent introduction and control the spread of introduced aquatic nuisance species
- Water Resources Development Acts of 1986 and 1999
Partnership in administering the Environmental Management Program
- National Wildlife Refuge System Improvement Act of 1997

C. Illinois Department of Natural Resources Authorities:

This MOU relates to the following authorities of the Illinois Department of Natural Resources:

- Act 805. Civil Administrative Code of Illinois
Transfer or acquisition of realty
Expend money from the Park and Conservation Fund for Conservation
Enter into agreements with federal agencies to effect cooperative undertakings in conservation of wildlife
- Act 5. Fish and Aquatic Life Code
Cooperate with other departments and agencies in conducting surveys, experiments, or work of joint interest or benefit
- Fish and Wildlife Coordination Act of 1958
Coordination for federal water resource development projects for protection and enhancement of fish and wildlife resources
- Water Resources Development Acts of 1986 and 1999
Partnership in administering the Environmental Management Program

D. Missouri Department of Conservation Authorities:

This MOU relates to the following authorities of the Missouri Department of Conservation:

- Water Resources Development Acts of 1986 and 1999
Partnership in administering the Environmental Management Program
- Fish and Wildlife Coordination Act of 1958, as amended
Coordination for federal water resource development projects for protection and enhancement of fish and wildlife resources
- MOU between the Missouri Department of Conservation and the United State Geological Survey to establish and operate the open river field station
Enact collaborative research on Middle Mississippi River species of concern
- Missouri State Constitution
Authority to acquire and manage public lands for forestry, fisheries and wildlife enhancement

NOTE: All other authorities not specifically cited above, including authorities yet to be promulgated, will apply as appropriate in accordance with the enabling legislation and agency policy and directives.