

UPPER MISSISSIPPI RIVER BASIN PROTECTION ACT

JULY 13, 2006.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 5340]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 5340) to promote Department of the Interior efforts to provide a scientific basis for the management of sediment and nutrient loss in the Upper Mississippi River Basin, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Upper Mississippi River Basin Protection Act”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Reliance on sound science.

TITLE I—SEDIMENT AND NUTRIENT MONITORING NETWORK

- Sec. 101. Establishment of monitoring network.
- Sec. 102. Data collection and storage responsibilities.
- Sec. 103. Relationship to existing sediment and nutrient monitoring.
- Sec. 104. Collaboration with other public and private monitoring efforts.
- Sec. 105. Reporting requirements.
- Sec. 106. National Research Council assessment.

TITLE II—COMPUTER MODELING AND RESEARCH

- Sec. 201. Computer modeling and research of sediment and nutrient sources.
- Sec. 202. Use of electronic means to distribute information.
- Sec. 203. Reporting requirements.

TITLE III—AUTHORIZATION OF APPROPRIATIONS AND RELATED MATTERS

Sec. 301. Authorization of appropriations.
 Sec. 302. Cost-sharing requirements.
 Sec. 303. Sunset.

SEC. 2. DEFINITIONS.

In this Act:

(1) The terms “Upper Mississippi River Basin” and “Basin” mean the watershed portion of the Upper Mississippi River and Illinois River basins, from Cairo, Illinois, to the headwaters of the Mississippi River, in the States of Minnesota, Wisconsin, Illinois, Iowa, and Missouri. The designation includes the Kaskaskia watershed along the Illinois River and the Meramec watershed along the Missouri River.

(2) The terms “Upper Mississippi River Stewardship Initiative” and “Initiative” mean the activities authorized or required by this Act to monitor nutrient and sediment loss in the Upper Mississippi River Basin.

(3) The term “sound science” refers to the use of accepted and documented scientific methods to identify and quantify the sources, transport, and fate of nutrients and sediment and to quantify the effect of various treatment methods or conservation measures on nutrient and sediment loss. Sound science requires the use of documented protocols for data collection and data analysis, and peer review of the data, results, and findings.

SEC. 3. RELIANCE ON SOUND SCIENCE.

It is the policy of Congress that Federal investments in the Upper Mississippi River Basin must be guided by sound science.

TITLE I—SEDIMENT AND NUTRIENT MONITORING NETWORK

SEC. 101. ESTABLISHMENT OF MONITORING NETWORK.

(a) **ESTABLISHMENT.**—As part of the Upper Mississippi River Stewardship Initiative, the Secretary of the Interior shall establish a sediment and nutrient monitoring network for the Upper Mississippi River Basin for the purposes of—

(1) identifying and evaluating significant sources of sediment and nutrients in the Upper Mississippi River Basin;

(2) quantifying the processes affecting mobilization, transport, and fate of those sediments and nutrients on land and in water;

(3) quantifying the transport of those sediments and nutrients to and through the Upper Mississippi River Basin;

(4) recording changes to sediment and nutrient loss over time;

(5) providing coordinated data to be used in computer modeling of the Basin, pursuant to section 201; and

(6) identifying major sources of sediment and nutrients within the Basin for the purpose of targeting resources to reduce sediment and nutrient loss.

(b) **ROLE OF UNITED STATES GEOLOGICAL SURVEY.**—The Secretary of the Interior shall carry out this title acting through the office of the Director of the United States Geological Survey.

SEC. 102. DATA COLLECTION AND STORAGE RESPONSIBILITIES.

(a) **GUIDELINES FOR DATA COLLECTION AND STORAGE.**—The Secretary of the Interior shall establish guidelines for the effective design of data collection activities regarding sediment and nutrient monitoring, for the use of suitable and consistent methods for data collection, and for consistent reporting, data storage, and archiving practices.

(b) **RELEASE OF DATA.**—Data resulting from sediment and nutrient monitoring in the Upper Mississippi River Basin shall be released to the public using generic station identifiers and hydrologic unit codes. In the case of a monitoring station located on private lands, information regarding the location of the station shall not be disseminated without the landowner’s permission.

(c) **PROTECTION OF PRIVACY.**—Data resulting from sediment and nutrient monitoring in the Upper Mississippi River Basin is not subject to the mandatory disclosure provisions of section 552 of title 5, United States Code, but may be released only as provided in subsection (b).

SEC. 103. RELATIONSHIP TO EXISTING SEDIMENT AND NUTRIENT MONITORING.

(a) **INVENTORY.**—To the maximum extent practicable, the Secretary of the Interior shall inventory the sediment and nutrient monitoring efforts, in existence as of the date of the enactment of this Act, of Federal, State, local, and nongovernmental en-

tities for the purpose of creating a baseline understanding of overlap, data gaps and redundancies.

(b) **INTEGRATION.**—On the basis of the inventory, the Secretary of the Interior shall integrate the existing sediment and nutrient monitoring efforts, to the maximum extent practicable, into the sediment and nutrient monitoring network required by section 101.

(c) **CONSULTATION AND USE OF EXISTING DATA.**—In carrying out this section, the Secretary of the Interior shall make maximum use of data in existence as of the date of the enactment of this Act and of ongoing programs and efforts of Federal, State, tribal, local, and nongovernmental entities in developing the sediment and nutrient monitoring network required by section 101.

(d) **COORDINATION WITH LONG-TERM ESTUARY ASSESSMENT PROJECT.**—The Secretary of the Interior shall carry out this section in coordination with the long-term estuary assessment project authorized by section 902 of the Estuaries and Clean Waters Act of 2000 (Public Law 106–457; 33 U.S.C. 2901 note).

SEC. 104. COLLABORATION WITH OTHER PUBLIC AND PRIVATE MONITORING EFFORTS.

To establish the sediment and nutrient monitoring network, the Secretary of the Interior shall collaborate, to the maximum extent practicable, with other Federal, State, tribal, local and private sediment and nutrient monitoring programs that meet guidelines prescribed under section 102(a), as determined by the Secretary.

SEC. 105. REPORTING REQUIREMENTS.

The Secretary of the Interior shall report to Congress not later than 180 days after the date of the enactment of this Act on the development of the sediment and nutrient monitoring network.

SEC. 106. NATIONAL RESEARCH COUNCIL ASSESSMENT.

The National Research Council of the National Academy of Sciences shall conduct a comprehensive water resources assessment of the Upper Mississippi River Basin.

TITLE II—COMPUTER MODELING AND RESEARCH

SEC. 201. COMPUTER MODELING AND RESEARCH OF SEDIMENT AND NUTRIENT SOURCES.

(a) **MODELING PROGRAM REQUIRED.**—As part of the Upper Mississippi River Stewardship Initiative, the Director of the United States Geological Survey shall establish a modeling program to identify significant sources of sediment and nutrients in the Upper Mississippi River Basin.

(b) **ROLE.**—Computer modeling shall be used to identify subwatersheds which are significant sources of sediment and nutrient loss and shall be made available for the purposes of targeting public and private sediment and nutrient reduction efforts.

(c) **COMPONENTS.**—Sediment and nutrient models for the Upper Mississippi River Basin shall include the following:

(1) Models to relate nutrient loss to landscape, land use, and land management practices.

(2) Models to relate sediment loss to landscape, land use, and land management practices.

(3) Models to define river channel nutrient transformation processes.

(d) **COLLECTION OF ANCILLARY INFORMATION.**—Ancillary information shall be collected in a GIS format to support modeling and management use of modeling results, including the following:

(1) Land use data.

(2) Soils data.

(3) Elevation data.

(4) Information on sediment and nutrient reduction improvement actions.

(5) Remotely sense data.

SEC. 202. USE OF ELECTRONIC MEANS TO DISTRIBUTE INFORMATION.

Not later than 90 days after the date of the enactment of this Act, the Director of the United States Geological Survey shall establish a system that uses the telecommunications medium known as the Internet to provide information regarding the following:

(1) Public and private programs designed to reduce sediment and nutrient loss in the Upper Mississippi River Basin.

(2) Information on sediment and nutrient levels in the Upper Mississippi River and its tributaries.

(3) Successful sediment and nutrient reduction projects.

SEC. 203. REPORTING REQUIREMENTS.

(a) **MONITORING ACTIVITIES.**—Commencing one year after the date of the enactment of this Act, the Director of the United States Geological Survey shall provide to Congress and make available to the public an annual report regarding monitoring activities conducted in the Upper Mississippi River Basin.

(b) **MODELING ACTIVITIES.**—Every three years, the Director of the United States Geological Survey shall provide to Congress and make available to the public a progress report regarding modeling activities.

TITLE III—AUTHORIZATION OF APPROPRIATIONS AND RELATED MATTERS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

(a) **UNITED STATES GEOLOGICAL SURVEY ACTIVITIES.**—There is authorized to be appropriated to the United States Geological Survey \$6,250,000 each fiscal year to carry out this Act (other than section 106). Of the amounts appropriated for a fiscal year pursuant to this authorization of appropriations, one-third shall be made available for the United States Geological Survey Cooperative Water Program and the remainder shall be made available for the United States Geological Survey Hydrologic Networks and Analysis Program.

(b) **WATER RESOURCE AND WATER QUALITY MANAGEMENT ASSESSMENT.**—There is authorized to be appropriated \$650,000 to allow the National Research Council to perform the assessment required by section 106.

SEC. 302. COST-SHARING REQUIREMENTS.

Funds made available for the United States Geological Survey Cooperative Water Program under section 301(a) shall be subject to the same cost sharing requirements as specified in the last proviso under the heading “**UNITED STATES GEOLOGICAL SURVEY—SURVEYS, INVESTIGATIONS, AND RESEARCH**” of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Public Law 109–54; 119 Stat. 510; 43 U.S.C. 50).

SEC. 303. SUNSET.

The authority of the Secretary of the Interior to carry out any provisions of this Act shall terminate 10 years after the date of the enactment of this Act.

PURPOSE OF THE BILL

The purpose of H.R. 5340 is to promote Department of the Interior efforts to provide a scientific basis for the management of sediment and nutrient loss in the Upper Mississippi River Basin, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

Relying on existing federal, state and local programs, the bill establishes a sediment and nutrient monitoring network and an integrated computer-modeling program for the Upper Mississippi River Basin. These monitoring and modeling efforts will help provide the baseline data needed to make scientifically-sound and cost-effective decisions aimed at improving water quality, restoring fish and wildlife habitat, and improving voluntary management practices by landowners. The bill also contains a provision requiring landowner permission prior to disseminating information from monitoring stations located on private lands to protect the privacy of the individual landowners.

The U.S. Geological Survey (USGS) will be responsible for establishing the sediment and nutrient monitoring network, utilizing existing and newly established gauges and monitoring stations. USGS will develop guidelines and an electronic system for data collection and storage. Using this data, USGS will also create computer models to assess sediment and nutrient sources, mobilization, and transport. The findings of the monitoring network and the

modeling system would be used as a basis to assist public and private sediment and nutrient reduction efforts.

This bill also provides for the National Research Council of the National Academy of Sciences to conduct a comprehensive water resources assessment of the Upper Mississippi River Basin.

COMMITTEE ACTION

H.R. 5340 was introduced on May 10, 2006, by Congressman Ron Kind (D–WI). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Water and Power. On June 21, 2006, the Full Resources Committee met to consider the bill. The Subcommittee on Water and Power was discharged from further consideration of the bill by unanimous consent. Congressman George Radanovich (R–CA) offered an amendment in the nature of a substitute to place a 10-year sunset on the bill’s authorization. The amendment was adopted by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title; table of contents

This section cites the short title of this bill as the “Upper Mississippi River Basin Protection Act.” It also gives the table of contents.

Section 2. Definitions

This section defines various terms in the bill.

Section 3. Reliance on sound science

This section states that federal investments in the Upper Mississippi River Basin must be guided by sound science.

Title I—Sediment and Nutrient Monitoring Network

Section 101. Establishment of monitoring network

This section states that the Secretary of the Interior shall establish a sediment and nutrient monitoring network for the Upper Mississippi River Basin for the purposes of: identifying and evaluating significant sources of sediments and nutrients; quantifying transport; recording changes over time; providing coordinated data; and identifying major sources of sediments and nutrients. It also states that the USGS will carry out this title.

Section 102. Data collection and storage responsibilities

This section outlines the processes for data collection, release of data, and protection of privacy.

Section 103. Relationship to existing sediment and nutrient monitoring

This section outlines the processes for the inventory and integration of existing monitoring efforts, and consultation and use of existing data.

Section 104. Collaboration with other public and private monitoring efforts

This section states that the Secretary of the Interior shall collaborate with other federal, State, tribal, local, and private monitoring programs that meet Section 102(a) guidelines.

Section 105. Reporting requirements

This section states that the Secretary of the Interior shall report to Congress no later than 180 days after the enactment of this Act on the development of the monitoring network.

Section 106. National Research Council assessment

This section directs the National Research Council of the National Academy of Sciences to conduct an assessment of the Upper Mississippi River Basin.

Title II—Computer Modeling and Research

Section 201. Computer modeling and research of sediment and nutrient sources

This section requires a modeling program to identify significant sources of sediment and nutrients. It also states the role of the computer modeling and the components of the model. It dictates that the collection of ancillary information of specified types shall be used to support modeling and management use of modeling results.

Section 202. Use of electronic means to distribute information

This section requires that USGS establish a system that uses the Internet to provide information regarding public and private programs, sediment and nutrient levels in the Upper Mississippi River, and successful reduction projects.

Section 203. Reporting requirements

This section requires the Director of the USGS to provide to Congress and make available to the public an annual report regarding monitoring and modeling activities.

Title III—Authorization of Appropriations and Related Matters

Section 301. Authorization of appropriations

This section authorizes appropriations of \$6.25 million each fiscal year for USGS activities to carry out this Act and for a Water Resource and Water Quality Management Assessment. It also authorizes appropriations of \$625,000 to allow the National Research Council to perform the assessment required by Section 106.

Section 302. Cost-sharing requirements

This section requires that funds made available for the USGS Cooperative Water Program shall be subject to the same cost-sharing requirements as other USGS surveys, investigations and research.

Section 303. Sunset

As amended, this section limits the federal authorization for this project to ten years.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8, clause 3 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to promote Department of the Interior efforts to provide a scientific basis for the management of sediment and nutrient loss in the Upper Mississippi River Basin, and for other purposes.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 5340—Upper Mississippi River Basin Protection Act

Summary: H.R. 5340 would direct the United States Geological Survey (USGS) to establish a network to monitor sediments and nutrients in the upper Mississippi River Basin. The bill also would require the agency to create an inventory of existing monitoring efforts at federal, state, and local levels. For these purposes, the bill would authorize the appropriation of \$6.25 million a year. The authority of the agency to carry out the monitoring program would terminate 10 years after the bill's enactment. Finally H.R. 5340 would authorize the appropriation of \$650,000 to the National Research Council of the National Academy of Sciences to conduct a comprehensive assessment of water resources in the Mississippi River Basin.

Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 5340 would cost \$31 million over the

2007–2011 period and about \$6 million annually thereafter through 2016. We estimate that enacting this legislation would have no effect on revenues or direct spending.

H.R. 5340 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would benefit state, local, or tribal governments, and any cost to those governments would be incurred voluntarily.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5340 is shown in the following table. The costs of this legislation fall within budget function 300 (national resources and environment).

| | By fiscal year, in millions of dollars— | | | | |
|--|---|------|------|------|------|
| | 2007 | 2008 | 2009 | 2010 | 2011 |
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION | | | | | |
| Authorization Level | 7 | 6 | 6 | 6 | 6 |
| Estimated Outlays | 7 | 6 | 6 | 6 | 6 |

Based on information provided by the USGS and assuming appropriation of the authorized amounts for each fiscal year, CBO estimates that to implement H.R. 5340 would cost about \$7 million in fiscal year 2007 and about \$6 million annually thereafter through 2016, when the monitoring program would terminate. Estimated spending for 2007 includes the \$650,000 authorized for the water resources assessment to be carried out by the National Research Council. Estimated outlays for the assessment and for the monitoring network are based on historical patterns for similar activities.

Intergovernmental and private-sector impact: H.R. 5340 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would benefit state, local, and tribal governments along the Upper Mississippi River Basin by authorizing funds for the development of a network to monitor sediments and nutrients in the river basin. Any costs incurred by governmental entities would result from complying with conditions for receiving federal assistance.

Estimate prepared by: Federal Costs: Deborah Reis; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Patrice Gordon and Carla-Marie Ulerie.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

ADDITIONAL VIEW

This legislation is vital to the future of, not only the Upper Mississippi River Basin, but the entire Mississippi River from its source to the Gulf of Mexico. Through the coordination of a comprehensive monitoring program, this bill will develop the long-needed scientific foundation necessary for making effective decisions to curb the costly problems associated with excess sediment and nutrients in our country's premier river system.

The House of Representatives has previously spoken overwhelmingly on the value of the Upper Mississippi River Basin Protection Act (H.R. 5340) by passing an identical bill (H.R. 518) in the 108th Congress. A similar version of the bill (H.R. 3480) also passed the House in the 107th Congress. The Senate Committee on Environment and Public Works has also spoken on the importance of this legislation and reported that previous version out of committee without amendment. The problem this bill addresses has only grown in the intervening years and the time has come to go the final step and pass this essential and cost-saving legislation into law.

This bill has received such broad support because it is a straight forward answer to a long-standing problem in our Nation's interior. For decades, the Upper Mississippi Basin has been bleeding soil and excess fertilizer into the Mississippi River Basin at tremendous cost to the navigation industry, farmers, and wildlife. Fertilizer running off fields cost farmers an estimated \$300 million annually and sediment fills the main shipping channels of the Illinois and Mississippi Rivers, costing \$100 million annually to dredge. The excess sediment also clogs wetlands, reducing their ability to filter water and provide habitat, while the excess nutrients from fertilizer contribute to a "dead zone" in the Gulf of Mexico.

In an October 23, 2001 letter to Bush Administration officials, six Governors of States bordering the Mississippi River wrote that "* * * a monitoring effort conducted jointly by the U.S. Geological Survey and the States is required within the basin to determine the water quality effects of the actions taken and to measure the success of efforts on a sub-basin and project level." This bill answers that call by coordinating an effort to monitor and understand the connection between rapidly degrading agricultural land and the build-up of excess sediment and nutrients in the Mississippi River. By learning when, where, and how sediment and fertilizers are entering the Upper Mississippi Basin, we can focus our Nation's limited financial resources where they will have the greatest cost-savings impact for farmers, navigation, and habitat.

It is essential that all stakeholders are brought into the process of addressing the problems of the Upper Mississippi River Basin. This legislation was crafted using input from farmers, the navigation industry, sporting groups, environmental organizations, and

government agencies throughout the region. The bill calls for communication and coordination between government agencies at the Federal, State, and local levels as well as private stakeholders. By utilizing existing public and private monitoring networks to the maximum extent possible, H.R. 5340 builds on existing efforts by authorizing the U.S. Geological Survey to integrate these efforts and expand where necessary, develop guidelines for data collection, and establish an electronic database to store and disseminate information.

The Upper Mississippi River Basin Protection Act represents a common-sense approach to addressing the excess sediment and nutrient problem in the Upper Mississippi by building the scientific foundation today that will allow managers to make the most cost-effective decisions in the future. The Mississippi River is one of the nation's great multi-use natural resources and Congress has an opportunity with this legislation to be good stewards of this resource for future generations. I urge my colleague's support.

RON KIND.

