



Upper
Mississippi River
Basin Association

ILLINOIS, IOWA, MINNESOTA, MISSOURI, WISCONSIN

August 13, 1999

Gulf of Mexico Hypoxia Working Group
National Centers for Coastal Ocean Science
WS 13446 SSMC4
1305 East-West Highway
Silver Spring, Maryland 20910

Dear Members of the Hypoxia Working Group:

Pursuant to the "Notice of Availability of Topical Scientific Reports for an Integrated Assessment of the Causes and Consequences of Hypoxia in the Gulf of Mexico" published in the May 4, 1999 *Federal Register*, please accept these comments conveying the consensus perspectives of the Upper Mississippi River states' members on the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force and the Governors' representatives to the Upper Mississippi River Basin Association. These comments are supplementary to, but are in no way a substitute for, the five states' individual comments. By way of background, the Governors of Illinois, Iowa, Minnesota, Missouri, and Wisconsin established the Upper Mississippi River Basin Association in 1981 to coordinate the state agencies' river-related programs and policies and to work with federal agencies on regional issues.

Because of the relatively short comment period and the complexity of the issues at hand, we would note that the states have not had an opportunity to fully coordinate review of these scientific reports both among the state agencies and with potentially affected stakeholder groups. Thus we urge the Committee on Environment and Natural Resources' (CENR) Gulf of Mexico Hypoxia Working Group to review and carefully consider the comments offered by the individual states and agencies, as well as concerned stakeholders within our states.

First, we would like to acknowledge that the six scientific report teams have made significant contributions to our collective understanding of hypoxia in the Gulf of Mexico and related issues. Moreover, we certainly recognize, as do the report authors themselves, that the teams labored under substantial constraints in terms of time, resources, and available data. That being said, however, the states have a number of perspectives and concerns to share regarding the reports themselves as well as the future of the process that has been established to address the problem of Gulf hypoxia.

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The Scientific Reports

The states' individual comments will address the specifics of the six scientific reports in greater detail. However, as a group of five states, we would like to affirm that the reports include significant findings relative to the nature, causes, and potential remedies for Gulf hypoxia. At the same time, it is also important to recognize that there are significant uncertainties acknowledged by the report authors themselves. Among these uncertainties are the following:

- The ability to link changes in Gulf water quality to specific changes in nutrient loading is limited "due to lack of information on controlling physical, chemical and biological processes, and to natural variability in hydrometeorological conditions in the northern Gulf of Mexico."
- We do not know "whether hypoxia leads to higher productivity during productive periods, or simply a reduction of productivity during the oxygen-stressed period."
- The lag time between reductions in nitrogen inputs in the basin and reductions in nitrate loading to the Gulf is "unknown, but may be several years, or longer."
- It is difficult to estimate the cumulative effects of implementing various land management practices on a large watershed scale, and "experiences at selected sites and small watersheds should not be linearly extrapolated to estimate changes in nutrient deliveries and transport over large areas."
- Several of the scientific reports describe hypoxia as a nitrogen-driven phenomenon in the Gulf, yet modeling done for Topic Paper 4 indicates that the differences in water quality responses to "nitrogen and phosphorus loading reductions were generally not large."
- The administrative, monitoring, verification, and regulatory costs of the various nutrient reduction strategies discussed in Topic Papers 5 and 6 have not been estimated, but are acknowledged to be important factors. Similarly, information about economic and social impacts is presented only in aggregate form for the region and nation, while the Topic Paper 6 authors concede that the local and individual impacts would be highly variable.

We are not highlighting these uncertainties as a criticism of the scientific reports *per se*. Indeed, it is to the authors' credit that they explicitly acknowledge these and many other significant uncertainties. All of the reports frequently identify limitations in the available data and models, and five of the reports include specific sections identifying extensive additional research needs.

However, particularly in light of these many uncertainties, it is critical to articulate what is known, and not known, about Gulf hypoxia, its impacts and causes, and potential ways of addressing those causes. Scientific judgments and analysis of future scenarios, including response options, should include uncertainty assessments. While it is important to understand the social, economic, and ecological feasibility of a range of policy options as well, the scientific reports and subsequent Integrated Assessment should not convey the mistaken impression that policy makers are predisposed to specific solutions before the public has had an opportunity to help shape policy recommendations. Recommendations that go beyond the scope of the charge to the report teams should not be included in the Integrated Assessment. The reports clearly show the potential for environmental impact resulting from low dissolved oxygen in the Gulf of Mexico. At the same time, the analysis of Gulf fisheries data does not presently show a demonstrable economic effect attributable to hypoxia.

While we believe that some form of action will ultimately be needed, we also believe that time should be provided for the public to review the scientific information, provide supplemental information critical to an adequate Integrated Assessment, and participate in crafting an action plan in response. Public policy makers will need such citizen and stakeholder input as they consider what actions may be warranted and the timing of those actions. Given the lack of public involvement and the remaining scientific uncertainties, it is, quite simply, far too early for responsible public policy makers to be reaching conclusions regarding whether to pursue specific actions for the purpose of addressing Gulf hypoxia. Development of a hypoxia action strategy rightfully belongs in the public sphere, where alternatives can be openly debated and carefully considered.

The Process

Looking forward, we believe it is imperative that the states and others be more involved in development of the Integrated Assessment and Action Plan. More specifically, with respect to the Integrated Assessment, we recommend the following:

- The CENR should direct its Hypoxia Working Group to establish an open process for the Integrated Assessment. This should include acknowledging and carefully considering all comments received on the scientific reports. All written comments on the six reports should be made publicly available on the Internet and in hardcopy form. In addition, we respectfully request a written response to our joint comments and to the other comments that the states submit on an individual basis.
- CENR should provide ample opportunity for the states and others to submit relevant data that are not reflected in the scientific reports. The findings and conclusions of the six reports should be evaluated in light of this additional information. A balanced and comprehensive consideration of differing scientific perspectives is vital to the ultimate credibility of the Integrated Assessment.

- The Integrated Assessment should clearly set forth what is known and what is not known scientifically regarding Gulf hypoxia. It should not include conjecture and most definitely should not draw policy conclusions. To go beyond the identification of policy alternatives and related analysis of the social, economic, and ecological impacts of those alternatives would undermine the collaborative, consensus-based process for developing the Action Plan that the Environmental Protection Agency (EPA) outlined at the June 30-July 1, 1999 meeting of the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force (Task Force).
- Given the need to consider additional information and consult with the Task Force, the current Integrated Assessment schedule, which calls for initiating the 60-day public comment period on September 20, 1999, should be revised. There simply is not sufficient time between now and September 20 for the Hypoxia Working Group to review the comments on the scientific reports, solicit additional data, subject that data to credible scientific review, draft the assessment itself, and provide Task Force members with a review opportunity. While we acknowledge that such a revision would further delay the process, we would repeat what we have said on several previous occasions — i.e., it is essential to take the time to establish an open and credible process. Failure to do so will, in the states' opinion, ultimately result in longer delays.

A sound Integrated Assessment that clearly describes what we know and do not know about Gulf hypoxia, its causes, and the technical and economic feasibility of potential solutions, will be a critical building block for the Action Plan. Indeed, we envision the Action Plan as essentially the policy reaction to the science that is presented in the Integrated Assessment. With that in mind, the five states would like to offer the following observations regarding that Action Plan:

- We were heartened to hear EPA Assistant Administrator Fox's remarks regarding the Action Plan at the Task Force's recent meeting in Memphis. The states believe quite strongly that, to be viable, any Action Plan must be the product of a true partnership and represent the partners' consensus perspectives. We also believe that the process would benefit greatly from a clear and formal articulation of this commitment to a collaborative, consensus-based process. Under P.L. 105-383, responsibility for submitting the Gulf hypoxia Action Plan ultimately rests with the President, who is charged with developing the plan in conjunction with the Governors of the affected states. But it is not clear precisely what role the Administration envisions for the Task Force in this process. Assistant Administrator Fox's April 15, 1999 letter to Task Force members asks them "to assume responsibility for preparation of the plan," while Assistant to the President Lane's December 22, 1998 letter to EPA Administrator Browner suggests that the Task Force develop a proposed plan that would be subject to subsequent

federal interagency review. We request a clear written explanation of the Administration's proposed process, including a discussion of the roles and responsibilities of the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force, comprised of federal, state, and tribal representatives, and the Inter-Agency Task Force on Harmful Algal Blooms and Hypoxia, established under P.L. 105-383 and comprised exclusively of federal agency representatives.

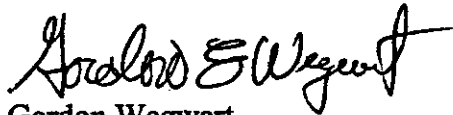
- A successful process to develop a consensus Action Plan will need to draw on far more than the members of the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force. It will be essential to meaningfully engage potentially effected stakeholders. In addition, the basin states that do not border the Mississippi River will need to become involved. Given the vast geographic scale and the wide range of interests involved, this will be a tremendous challenge and is one of the reasons that we believe a sound process will likely extend beyond the current schedule, which calls for submitting the Action Plan to Congress on August 29, 2000.
- In developing the Action Plan, we would urge consideration of Gulf hypoxia in the context of other water resource and land management issues and activities. Given the complexity of hypoxia and the enormous spatial scale in question, there are important interrelationships with other water resource and land management issues and initiatives. For example, the Army Corps of Engineers is in the process of revising the Missouri River Master Manual, which governs operation of the Missouri River reservoir system and thus has the potential to alter the Missouri's contributions to the Mississippi River. As another example, Illinois and Minnesota are working with the U.S. Department of Agriculture and local landowners through the Conservation Reserve Enhancement Program on major initiatives for the Illinois and Minnesota Rivers. These efforts hold the promise of substantially reducing sediment, pesticide, and nutrient loadings from basin tributaries. The Action Plan must not be developed in isolation from such considerations.
- The Action Plan should consider multiple spatial scales and preserve the flexibility to pursue locally appropriate measures. Quite simply, there will be no one-size-fits-all solution. The problem is too complex and the conditions throughout the basin are too varied. However, there are many successful local partnerships already in existence and we should look for opportunities to foster and build upon these. In addition, we should pay particular attention to those measures that hold promise for improving water quality within the Mississippi River Basin as well as in the Gulf of Mexico.

Again, we sincerely appreciate the scientific report teams' considerable efforts and the fine work of many federal agency staff in coordinating the six reports. We thank you for the opportunity to comment on the reports and look forward to being involved in the development of the Integrated Assessment. Illinois, Iowa, Minnesota, Missouri, and Wisconsin also look forward to collaborating with other members of the Mississippi

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River/Gulf of Mexico Watershed Nutrient Task Force and the wide range of potentially affected stakeholders to craft a consensus-based Action Plan that will meet the needs of the Mississippi River Basin and the Gulf of Mexico.

Sincerely,



Gordon Wegwart
Minnesota Pollution Control Agency
On behalf of the UMR State Members
of the Mississippi River/ Gulf of Mexico
Watershed Nutrient Task Force



Kevin Szcodronski
Iowa Department of Natural Resources
Chair, Upper Mississippi River Basin
Association

cc: Representative Bud Shuster, Chairman of the House Committee on Transportation and Infrastructure
Representative James Oberstar, Ranking Minority Member of the House Committee on Transportation and Infrastructure
Senator John McCain, Chairman of the Senate Committee on Commerce, Science, and Transportation
Senator Ernest F. Hollings, Ranking Minority Member of the Senate Committee on Commerce, Science, and Transportation
Senator Olympia J. Snowe, Chair of the Senate Subcommittee on Oceans and Fisheries
Dr. Neal Lane, Assistant to the President for Science and Technology
Dr. D. James Baker, Under Secretary for Oceans and Atmosphere, Department of Commerce
Dr. Rosina Bierbaum, Associate Director for Environment, Office of Science and Technology Policy
Members of the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force
Upper Mississippi River Basin Association Representatives and Alternates