

**Duluth-Superior Metropolitan Interstate Council
HARBOR TECHNICAL ADVISORY COMMITTEE**

Meeting Summary

December 7, 2005

WITC Conference Center, Superior, WI

HTAC Voting Members Present	
Organization	Representative
City of Duluth	Chuck Froseth
City of Superior	Jason Serck (Vice-chair)
Duluth Seaway Port Auth	Jim Sharrow (Chair)
Industry-General Bulk	Mike McCoshen
Industry-Harbor Services	Ed Montgomery
Industry-Ore Sector	Tom Steele
Industry-Recreation	Joel Johnson
Industry-Vessel Operations	Bill Peterson
Isaak Walton League	Gary Glass
MPCA	Cynthia Kahrman
St. Louis River CAC	Ted R. Smith
Save Lake Superior Assoc	John Pegors
USCG Marine Safety Office	Barb McDonald
WI DNR	Duane Lahti
WisDOT	Martin Forbes
WLSSD	Jack Ezell

Others Present (Nonvoting)	
Organization	Representative
Hanft-Fride Law Firm	Bill Burns
Industry-General Bulk	Bill McGiffert
Marine Tech	Ted Smith
MIC	Ron Chicka
MIC	Andy McDonald
MIC	Rondi Watson
MPCA	Brian Fredrickson
Congressman Oberstar	Jackie Morris
Service Engineering	Rick Hoglund
Technical Advisor	Bill Majewski
US Customs Service	Barbara Lambus
JPG Group	Lisa Neitzel
WI Sea Grant	Gene Clark

HTAC Voting Members Absent			
Organization	Representative	Organization	Representative
Douglas County	Bill Eckman	MIC	Nick Baker
Industry-Coal sector	Fred Shusterich	NWRPC	Jason Laumann
Industry-General Cargo	Gary Nicholson	St Louis County	Barbara Hayden
Industry-Grain sector	Doug Christensen	U.S. ACOE	Al Klein
Industry-Pilots	Don Willecke	US EPA	David Cowgill
MN DNR-Waters	Patty Fowler	US Fish & Wildlife Service	Paul Burke
MnDOT	Dick Lambert	USDA-NRCS	Paul Sandstrom

1. Agenda Review / Introductions

HTAC Chair Jim Sharrow called the meeting to order at 9:00 am. All participants introduced themselves. No changes to the agenda were put forward.

2. Committee Business

September 7, 2005 HTAC Meeting Summary

Chair Sharrow called for changes or corrections to the Meeting Summary as presented.

Motion by Jason Serck with a second by Chuck Froseth to approve the September 7, 2005 Meeting Summary with no revisions. Motion carried unanimously.

2006 Officers

Ron Chicka suggested that the group consider changing the terms of service for the HTAC Chair and Vice-Chair from one year to two, since they only preside over four meetings annually. He added that if the HTAC Bylaws were so amended, current chair Jim Sharrow and vice-chair Jason Serck would continue in those offices for 2006. Jim commented that although he did not seek this type of change, he would not object to serving for a second year as chair. Ted Smith suggested that the bylaw change also include a provision that would alternate the chair position between the two states, i.e., a Minnesota-based chair for one term would be followed by a Wisconsin-based chair for the next.

2006 HTAC Meeting Calendar

Rondi Watson distributed the calendar of 2006 HTAC meeting dates and locations. She asked committee members to note these dates on their schedules.

2006 Harbor Planning Work Program and Budget

Andy McDonald distributed copies of the Harbor Planning projects to be funded in 2006 as a part of the MIC Work Program and Budget, which include staffing services to the Harbor Technical Advisory Committee and its subcommittees and implementation activities for the combined Duluth and Superior Port Land Use Plan.

3. Hog Island Inlet Cleanup Update and Great Lakes Legacy Act

Susan Boehme, Ph.D., the Contaminated Sediment Extension Specialist for the Illinois-Indiana Sea Grant Program, presented an overview of the Great Lakes Legacy Act (GLLA). She described it as an important new tool for remediating contaminated sediments in the Great Lakes. The GLLA was signed into law in November 2002 with bipartisan support and input from both industry and environmental interests. It is a five-year authorization (through 2008) and allocates \$50 million per year for contaminated sediment remediation, \$3 million per year for new technology and \$1 million for outreach and education. Three types of projects are eligible for GLLA funding; all must be in U.S. Areas of Concern (AOCs) and either (1) implement a plan to remediate contaminated sediment, (2) monitor or evaluate contaminated sediment or (3) prevent further or renewed sediment contamination.

She noted that priority would be given to projects that are identified in a Remedial Action Plan, use innovative approaches or technology and are ready to be implemented. She stressed that one condition of funding is that the projects move fast—the remediation is to commence no later than one year after the receipt of funds. She added that the non-Federal cost share must be at least 35% of total project costs and 100% of operations and

maintenance costs. She also noted that the GLLA project funding is not a grant or a contract but a negotiated agreement between U.S. EPA Great Lakes National Program Office (GLNPO) and the non-Federal sponsor that outlines roles, responsibilities and cost sharing of each party.

She reported that to date, project applications had been received for 12 AOCs in 6 states. She reviewed the status of three current projects, including the recently-completed Hog Island Inlet project in Superior, WI. This project involved excavation and disposing of 50,000 cubic yards of petroleum-contaminated sediment from Newton Creek and parts of Hog Island Inlet. \$4.1 million of the funds came from the Great Lakes Legacy Act and \$2.2 million from the Wisconsin DNR. She added that the AOC has a habitat restoration plan in place, as the site is an important and rare coastal habitat, and that community, local and state partners are currently working to undertake a larger scale long term restoration plan for the site. She closed with the online contact information for the Great Lakes Legacy Act: <http://www.epa.gov/glnpo/sediment/legacy>.

Jason Serck added that Wisconsin governor Jim Doyle made a visit to the City of Superior in late November to hold a ceremony marking the completion of the Hog Island Inlet cleanup.

4. Duluth Harbor's Northwest Corner: An Intentional Community?

Bill Burns, legal counsel for Max Taubert, owner of Duluth Timber and Duluth Storage, addressed the group to convey Mr. Taubert's concerns about both the recommendations and the process for gathering stakeholder input for the MIC's recently-completed Duluth Port Land Use Plan. He began by explaining that Duluth Timber is located on approximately 14 acres of property with 2,000 feet of dock face across from the Superwood and Cutler-Magner facilities. He stressed Mr. Taubert's background as a former merchant seaman and longtime harbor business owner and noted that his vision for the future of the Duluth-Superior port area differed significantly from the recommendations as set forth in the final Duluth Port Land Use Plan.

Specifically, Mr. Taubert objects to the traditional maritime and industrial uses that the MIC's plan recommends for the section of the harbor that includes his property. Based on his reading of historical maritime transportation trends and waterfront redevelopment projects in other U.S. cities, he believes that the Duluth-Superior port and the region at large would receive a greater benefit from an approach to development that allows a mix of marine, commercial, light industrial, residential and public uses. With the Duluth Comprehensive Planning process currently underway, this discussion about future zoning and allowed land uses takes on added significance.

He also questioned whether the process for gathering stakeholder input, which strongly favored continued maritime and industrial land uses, was conducted in a comprehensive

and fair manner. Mr. Taubert has stated that his business was never contacted in the development of the Duluth Port Land Use Plan. He also challenged the plan's interpretation of the Minnesota Public Trust Doctrine that structures built into navigable waterways are to be used for public purposes, such as the movement of freight and recreation, and might therefore prohibit private development.

In the discussion that followed Mr. Burns' presentation, HTAC members, including some of the members of the plan advisory committee, reiterated the reasons supporting the plan's land use recommendations, first and foremost the issue of compatible land use. Based on the experience of several waterfront business operations, "softer" land uses such as a hotel and marina do not mix well with industrial uses, which often generate noises, smells and dust that are not viewed favorably by nearby residents or tourism-oriented businesses. Additionally, the group felt strongly that lands located adjacent to the federally maintained shipping channel should be regarded as a limited resource and should be reserved for purposes that depend upon proximity to the channel. As for the issue of the Public Trust Doctrine, they agreed that it is unclear whether the state would interpret the Doctrine to restrict uses of filled lands such as those created in the Duluth harbor to allow dock structures to move freight. However, they felt they must rely on the general concept that navigable waterways are to be held in trust for the public. Additionally, it was noted that the presence of Brownfields and contaminated sediments supported the recommendation of industrial rather than residential, commercial and/or recreational uses.

Speaking to the question of the process followed to gather stakeholder input, Andy McDonald explained that a good faith effort had been made to contact all port and harbor businesses and added that some business owners were either not available at the time the surveys were being conducted or simply declined to participate. As for Mr. Taubert's request to re-open the planning process to revise some of the land use recommendations, Ron Chicka noted that it was not unusual for individuals to disagree with recommendations from any plan that attempts, as this one does, to balance public interests with the rights of property owners. He added that since the plan had been more than two years in development and had been approved in its final form only a few months prior, it would not be a good use of staff or committee resources to re-open the planning process at this time. Furthermore, judging by the committee's comments today, the plan recommendations and future land use map would likely remain unchanged. He did add that as a major project of the HTAC, this plan was scheduled for review in two to three years.

Finally, Ron noted that the Duluth Port Land Use Plan was developed with input from a broad range of port and harbor stakeholders, including City Planning Department staff,

and it is hoped that the City and the Comprehensive Plan Committee will take its recommendations into account. He stressed that although the HTAC and the MIC view it the as the best overall plan for the area, the Duluth Port Land Use Plan, like all MIC plans, is strictly advisory in nature, and only the affected jurisdictions have the authority to implement its recommendations.

5. General Mills S & X Elevator Dock Wall Reconstruction Project

Jason Serck, Planning and Port Director for the City of Superior, reported that the City of Superior had received a \$1,078,400 state Harbor Assistance Program grant to complete dredging and reconstruct the dock facility at Dock 6, Elevator "S" at the General Mills grain elevator at Superior port. The original crib dock was constructed in the late 1800's and the design was out of date, plus the pier had sustained damage from having been struck by two vessels. To qualify for the grant, the project had to pass a rigorous cost-benefit analysis and receive favorable recommendations from the state Harbor Advisory Council and the secretary of the Wisconsin Department of Transportation. It required a 20 percent local match for a project total of almost \$1.7 million. He noted that although the grant was awarded in October 2004, it had taken about six months to finalize the project agreement. The contract was awarded to Marine Tech and work was begun the summer of 2005.

Chad Scott, consulting engineer with Krech Ojard and Associates, presented information about the project, which includes partial dock demolition, a 25-foot turning dolphin, eight breasting dolphins to absorb mooring and docking forces into the ground and dock walkway reconstruction. He noted that the project suffered some delays due mainly to problems in getting materials to the site, as steel delivery was running 30 – 90 days behind schedule. He noted that due to the problem of harbor corrosion and no protective coating yet identified, the design for the dolphins was modified to include a concrete column to protect the steel structure. He added that Marine Tech suspended operations in November and is scheduled to begin again in the spring, with an estimated completion date of August 2006.

Jason closed by noting that a Harbor Assistance Program application is currently in process with WisDOT for improvements to Hallett Dock #8.

6. Subcommittee Reports

Dredging Subcommittee

Subcommittee chair Gene Clark announced that he would convene a meeting of the Dredging Subcommittee prior to the March 2006 meeting of the full HTAC to discuss short- and long-term Erie Pier issues – its present use and condition as well as what is needed next to better utilize both the facility and the dredge material, with a focus on

utilization instead of disposal.

Port Advocacy Subcommittee

Ted Smith reported that the subcommittee had made considerable progress in the space of one year. They decided at their first meeting that instead of forming a completely new organization to advocate on behalf of Great Lakes ports, they should look for an existing organization to partner with. The Great Lakes Task Force was contacted and at their annual meeting in November, agreed to take on the Advocacy subcommittee's mission statement, along with their main focus, which is the Jones Act. He added that an important goal is now to increase membership in the group to advocate for keeping the Great Lakes as a sustainable navigation system.

Discussion centered on the need to promote the benefits of waterborne transport. Duane Lahti mentioned the recent negative publicity about the St Lawrence River Seaway, such as a series of articles in the Milwaukee Journal Sentinel, which focused on the problems with a proposed expansion of the Mississippi River locks and invasive species. Jason Serck reported that the Wisconsin Commercial Ports Association had developed a response, which was not published by the paper.

Modeling Subcommittee

Gary Glass reported that workshops on the WARMF model were still planned but not yet scheduled by Minnesota Power. The issue is that a state TMDL needs to be determined.

7. Project Updates / Roundtable Discussion

Accelerated Corrosion Study – Jim Sharrow reported that federal funding was just recently appropriated to study the causes of the abnormally rapid corrosion of the steel infrastructure in the Duluth-Superior harbor. A \$300,000 federal grant was signed into law in November and the state of Minnesota has also pledged \$100,000 to match a portion of the federal funding. He added that this would hopefully be enough to determine some concrete solutions. A meeting is set for next week to discuss the proposed study plan, which should get underway at the beginning of 2006.

St. Louis River AOC Sediment Management Plan – Brian Fredrickson reported that this plan, which includes a decision making tool to evaluate remediation site priorities and determine the steps required to restore several impaired beneficial uses in the SLR-AOC, had been submitted to the EPA. He described it as really good in terms of information but not particularly user-friendly and stated that the goal is now to revise it into a more usable tool. Files will be made available both on the agency website and on CD. He added that a new person will be joining the Duluth MPCA office to focus primarily on St. Louis River issues.

Coast Guard Marine Safety Office – Barb McDonald of the Duluth Coast Guard MSO reported that Duluth-Superior had been one of the ports selected to participate in a 4-step security exercise to test the area’s Maritime Security Committee Plan. She emphasized that it was key to conduct operations that facilitate timely communications between a number of federal, state, local and private sector entities.

Whiteside Island – Jason Serck reported that the City of Superior had been approached by the Urban Planning department at UW-Madison to conduct an economic impact study of the proposed Whiteside Island development. Their findings will be presented on Friday, December 16 at 2:00 p.m. at the UWS Rothwell Auditorium and anyone interested in the topic is welcome to attend.

Environmental Stewardship Awards – Jack Ezell announced that the St. Louis River Citizen Action Committee was still accepting nominations for its annual Environmental Stewardship Awards, which recognize outstanding environmental stewardship efforts in the lower St. Louis River watershed. The deadline for award nominations is December 9, and the awards are presented at the SLRCAC's annual meeting on the fourth Wednesday of January.

8. Adjourn

No other items were brought forward for discussion and the meeting was adjourned at 11:25 a.m.

Respectfully Submitted,

Rondi Watson

MIC Secretary