

We Are Thankful for Monitors!

The 2014 Milwaukee Riverkeeper volunteer stream monitoring season has come to a close, and we want to express our gratitude for all the time, energy and commitment our great volunteers provided this season.

We had another record breaking year with roughly 100 volunteers monitoring 110 sites throughout the Milwaukee River Basin. We monitored sites on 40 different streams, spanning six counties, three major watersheds (Milwaukee, Menomonee and Kinnickinnic Rivers), and all four subwatersheds of the Milwaukee River Watershed (North Branch, East and West Branches, Cedar Creek and Milwaukee River South).

Photo: Volunteers learning to identify macroinvertebrates using a dichotomous key at the annual training.



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The Case for Removing Estabrook Dam - Common Questions and Answers

Brief History & Facts

Estabrook Dam was built in 1937 to elevate water levels for recreation following blasting of bedrock upstream and river straightening to alleviate flooding. The Dam has 3 parts: a gated section (with "sharks teeth", pictured below, that capture woody debris and protect dam gates); the spillover section, which acts like a



waterfall when the dam is closed; and an island that the gated and spillover sections rest upon. When the gates are closed, the Dam creates a small lake/impoundment that was used primarily for motorized boating in the summer. Historically, the Dam was closed during summer months and opened from fall through spring.

Over time, Milwaukee County failed to maintain and repair the Dam per State Dam Safety regulations. Due to hazardous conditions created by the ill-maintained structure, in 2009, the Wisconsin Department of Natural Resources (WDNR) ordered the County to open the Dam gates until repair or abandonment occurred.

Milwaukee Riverkeeper sued Milwaukee County for failure to operate and maintain the Dam in good working condition, and in 2012, the Milwaukee County Circuit Court

declared Estabrook Dam a public nuisance. As a result, the County must abate the nuisance.

Below are some of the most common questions that we receive about the Dam, followed by answers detailing our position in favor of dam removal. See our website for additional questions and full answers.

1) What is the current status of decision-making on the Estabrook Dam?

The Milwaukee County Parks Department prepared an Environmental Assessment (EA), which identifies and analyzes the alternatives available to address the Dam, including repair, several rock ramp alternatives, or removal of the Dam. The Parks Department and the County Executive support removal of the Dam. Recently the County Board

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In addition, 40 of our volunteers collected water samples at 55 locations on 34 different streams to be tested for phosphorus. These sites also spanned six counties, three major watersheds, and the four subwatersheds of the Milwaukee River.

Two hearty volunteers, along with Milwaukee Riverkeeper staff, monitored chloride and conductivity on six different streams. We targeted sites in the four most urban and suburban counties across the three major watersheds.

This year, our team added 28 new Level 1 monitors and 8 new Level 2 monitors. The swollen rivers this spring made training and monitoring a bit challenging for some, but with a little patience and perseverance, most

volunteers were able to begin monitoring by June and kept up their efforts through fall.

Our volunteer stream monitors once again contributed over 90% of the monthly water quality data hosted by the DNR's surface water quality database (SWIMS) for the Milwaukee River Basin. THIS DATA IS CRITICAL! Decision makers at the DNR rely on our volunteer data to make informed decisions regarding stream management, policy, and regulation. We are very grateful for our volunteers' dedication and hard work and we would not have such a unique, significant or important monitoring program without them! Congratulations on another successful monitoring season, and we hope to see you all again next spring!

2014	Entire Monitoring Program	Phosphorus Monitoring	Chloride / Conductivity Monitoring
Counties	6	6	4
Watersheds	3	3	3
Subwatersheds of the Milwaukee	4	4	1
Streams	40	34	6
# Volunteers	100	40	2
# of Sites	110	55	6

Thank You Members!

We are thankful to have wonderful supporters who believe in our mission and take action towards clean drinking water and fishable, swimmable rivers!

Interested in becoming a member? Visit www.milwaukeekeeper.org or call (414) 287-0207. Every dollar you donate to Milwaukee Riverkeeper goes directly to our work of restoring streambanks, identifying pollution, and fighting for strong policies and enforcement of laws to keep our water clean.

Looking for Holiday Gift Ideas?

Why not support Milwaukee Riverkeeper while doing your holiday shopping? Consider giving your friends and family a Milwaukee Riverkeeper gift membership, t-shirt, or Urban Wilderness book. More information available at www.milwaukeekeeper.org.

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The Clean Water Act

A message from Jennifer Bolger Breceda, Executive Director

When the Clean Water Act (“CWA”) was enacted in 1972 it was Congress’s clear intent to protect “the waters of the United States” including the obvious navigable lakes, rivers and larger waters, and all wetlands, streams and “territorial seas,” which are not as easy to define. The CWA has been a major success in cleaning up our national waters, but along the way, various Supreme Court decisions made the process of defining which waters are protected confusing, expensive and time-consuming. As a result, whether certain geographically isolated wetlands or headwater streams are protected is not clear. This current uncertainty in Wisconsin has left nearly 1 million acres of our precious wetlands vulnerable to development, fragmentation and destruction.

To respond to this confusion, the Environmental Protection Agency (“EPA”) and Army Corps of Engineers issued draft regulations in April of 2014, called the “Waters of the US” rule with the goal of clarifying which waters are protected under the CWA. The full spectrum of stakeholders, including Congress, industry, agriculture, businesses, environmental organizations, hunters, and fisherman requested clarification.

However, many received the draft rule with mixed reactions. While many fisherman and brewers support it, a vocal minority has distorted the truth of the rule and built up significant opposition. Opponents claim the rule expands the government’s protection of waters to cover upland ditches and puddles, erases farming exemptions and makes the permitting process too burdensome. The EPA has repeatedly assured that the revised rule does not add any new types of waterways that have not been historically covered under the CWA, nor does it regulate irrigation ditches or eradicate farming exemptions.

As I write, the draft rule is in a public comment period that will end on November 14th, after this goes to print. Many groups are commenting on the draft rule and its scope may change as a result. A broad, clear definition which includes tributaries and adjacent waters is critical to protecting our water ways and safeguarding public health.

Milwaukee Riverkeeper submitted comments with several of our fellow Waterkeepers and we also signed onto the Great Lakes Healing Our Waters Coalition comments (copy on our website). In general, we support the rule, but asked for minor changes that would provide more protection of our waters. For example, the removal of protections for “other waters” could leave formerly covered waters unprotected (e.g., prairie potholes). In addition, destruction and pollution of isolated wetlands and shallow groundwater is likely to impact adjacent waters that are covered. The final rule should allow for a case-by-case argument to protect these resources. We also support reinstating the longstanding “Commerce Clause” factors as a basis for finding CWA coverage. That language would protect a water body if interstate or foreign commerce is impacted, such as waters used for recreational fishing.

Below are some reasons why Waters of the US is an important rule for the Milwaukee River Basin and our Great Lakes area:

- The draft rule reinstates categorical protection of headwaters, intermittent streams, ephemeral streams and adjacent waters, and maintains the historic regulation of activities affecting these waters and tributaries that the CWA provided.
- A confusing definition negatively impacts water quality because it makes it too easy to argue that some waters should not be protected.



- The proposed rule is based on extensive stream and wetland science and will provide consistent protection for streams, wetlands and other waters nationwide.
- The new rule would provide greater long-term regulatory certainty for landowners and enhance conservation for streams, wetlands, and waters in the Great Lakes states and nationwide.

Our Milwaukee River Basin includes over 500 miles of perennial streams and 400 miles of intermittent streams that flow and feed into each other. Wetlands comprise 12% of the land area. We are all impacted by the pollution, waste and habitat destruction that happens upstream and a solid definition of “waters” in the CWA is critical to protecting our pristine waters and restoring our impaired waters. Protection of these waters is the only way we can achieve clean water and our swimmable, drinkable and fishable goals.

To Healthy Rivers!

A handwritten signature in black ink, appearing to read 'J. Bolger Breceda'. The signature is fluid and cursive.

Jennifer Bolger Breceda, J.D.
Executive Director

Estabrook Dam - Common Questions and Answers,

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voted to sustain a veto by the County Executive that put dam removal back into the budget (an amendment was passed during the budget process to shift the costs for removal of the Estabrook Dam to healthcare benefits). Since there were no costs included in the veto, the County Executive has committed to come back to the Board with financing options in early 2015, which will include significant grant funds already committed to the County from the WDNR. It is not clear if the Parks Committee and County Board will consider the issue again during their December cycle.

2) Why is an Environmental Assessment being conducted? Can't it be ignored?

The EA is an important step in the process that should not be ignored. Regardless of the alternative chosen by the County, the WDNR will need to assess the impacts of the County's choice before issuing an operational order, and should not ignore relevant information about the Dam. Furthermore, the EA provides insight on whether a chosen alternative will abate the nuisance or just prolong it. Thus, ignoring the EA would be foolhardy.

3) Why do people want to keep the Dam?

A group of homeowners believe their housing values will be negatively affected by dam removal and motorized boats will be difficult to operate due to lower water levels.

4) What are the ecological benefits of Dam removal versus repair? What harm is the Dam causing?

Ecological Benefits from Dam Removal:

- Recreational opportunities such as paddling and fishing would improve;
- Improved Fish passage, water quality and river life;

- The continued seasonal assault on the flora and fauna from dam gate opening and closing would end, and a stable, normal ecosystem would flourish;
- A free flowing river and the natural and wild aspect of the Milwaukee River would be restored;

Ecological Harms Caused by the Dam:

- Major water quality problems including increased water temperatures, low oxygen, excess nutrients, nuisance algae, fish passage impediments and sediment build up;
- The historical opening and closing of the gates on a seasonal basis (open in the fall and close in the spring) causes large flushes of sediment, which are unnatural. Drastic water level manipulations can cause "dry out" or "freeze out" of amphibians and other aquatic life.

5) How much does Dam removal cost versus Dam repair? And what is the life expectancy of the Dam?

Repairing the Dam will provide about 20 years of use with proper operation and maintenance. The estimates are 3 times higher for repair than removal. Capital costs and annual operation and maintenance costs for 20 years are \$5,134,000 and \$1,674,000 for removal. The operation and maintenance costs for repair do not include administrative costs associated with state and federal permitting, or future dredging costs when sediment builds up in the impoundment.

8) Does the Dam help reduce flooding or cause flooding?

During more severe storm events, like the 100-year storm and greater, the Dam gates are generally underwater and not useful for flood management. A new hydraulic analysis by the Southeast Wisconsin Regional Planning

Commission (SEWRPC) has shown that when the dam gates are closed, flood risk increases upstream, and in a 100-year storm, water elevations would be increased by up to 1.5 feet at the Dam (decreasing as you move upstream).

10) Since the BLM gave up ownership of the dam island, shouldn't the EA be ignored?

Whether the BLM owns the island should not be a reason to ignore relevant, important, and up-to-date scientific data about the impact of the dam. Regardless of the island ownership issue, the WDNR will also need an EA to issue an operational order.

11) What about claims of lost property value from Dam removal?

A published study analyzed various small dam removals and the effect on property values in Wisconsin, and concluded that property values do not decrease with small dam removal. The more believable reasons behind allegedly sluggish home sales are:

1. continued impact from the recession;
2. that the fate of the dam is in limbo; and
3. the high flood insurance premiums due to the dam, and insurance underwriters view that the dam is a flood risk.

12) What about Riverkeeper's lawsuit? What if the County Board decides to repair the Dam?

A temporary fix of the Estabrook Dam will not abate the public nuisance, and Milwaukee Riverkeeper would continue to pursue its lawsuit against the County for a remedy that will satisfy the Court's Order.

To see additional FAQs and extended answers please visit:

www.milwaukeeiverkeeper.org.



Let Us Regale You

Thank you to everyone who joined us for the 2014 River Regale. It was a delightful evening filled with not just familiar faces, but new ones as well. Guests viewed artwork from local artists in our Arts and Rivers Contest, enjoyed our signature drink the “River Royale”, and learned about the history of Milwaukee Rivers in a historic panel exhibit entitled “Milwaukee Rivers: Then & Now.” Speaker Robert F. Kennedy Jr., delivered an address regarding “Our Environmental Destiny”, which left attendees inspired and ready to fight for fishable, swimmable rivers. Thank you to all who joined us on that special night!

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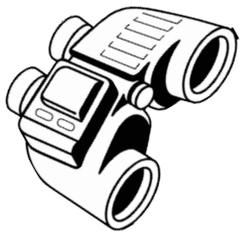
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RIVERKEEPER WATCH

From the log book of the Milwaukee Riverkeeper

Perch Population in Peril

On October 23rd, WDNR held a public meeting on the status of yellow perch in Lake Michigan. The yellow perch population has experienced a rapid and lake-wide decline since the early 1990s. Despite the commercial fish harvest ban in 1996, the fishery continues to decline. The WDNR also reduced sport harvest to 5 perch/day (from a high of 50/day), and closed the fishing season from May 1 to June 15 to protect spawning perch. WDNR is considering stocking perch in certain areas, but regulatory changes need to be enacted to really make a difference. Particularly in Indiana (which has no season closures) and Michigan, which still allow up to 15 and 35 perch/day, respectively, to be harvested. Illinois also allows up to 15 perch/day to be caught, but has a season closure similar to Wisconsin.

WisDOT--Double Decker or Bust?

The Wisconsin Department of Transportation (WisDOT) is proposing a \$1.1 billion expansion of Interstate 94 in Milwaukee between N. 16th Street and 70th Street (between the Marquette and Zoo Interchanges) that includes a possible massive double decker structure. A new coalition called the Coalition for More Responsible Transportation, which Riverkeeper is a part of, organized a public meeting/press event on October 14th to educate the public on the alternatives currently being considered and to highlight community concerns which include: the high cost to taxpayers; safety concerns; preservation of cemeteries; protecting water quality from increased runoff; protecting air quality; supporting local businesses; and creating local jobs. The Coalition, as well as the City of Milwaukee, supports fixing the existing highway footprint, and inclusion of reliable, efficient mass transit. WisDOT has also just announced that they will be releasing the draft Environmental Impact Statement for this project and holding public meetings in early December. Please consider attending one of these meetings:

Wednesday, December 3, 2014 from 3 - 7 p.m. at the Tommy Thompson Youth

Center at the Wisconsin State Fair Park, Gate #5, 640 S. 84th Street, Milwaukee, WI (the westbound I-94 exit at 84th Street will be closed, use the 68th/70th exit. State Fair Park is accessible from 76th Street or 84th Street).

Thursday, December 4, 2014 from 5 - 8 p.m. at Marquette University High School, 3401 W. Wisconsin Avenue (enter from Michigan Street parking lot), Milwaukee, WI.

We are also following the I-43 North/South reconstruction project, which under current plans, would significantly increase stormwater runoff into Ulao Creek, a tributary that discharges to the Milwaukee River in the Mequon area.

Asian Carp DNA Found in Upper Fox River

In October, WDNR announced that 1 of 200 water samples taken in the Fox River over the summer tested positive for Asian carp DNA. In November 2013, DNR officials announced one positive sample in Lake Michigan, near Sturgeon Bay. This doesn't necessarily signify that there are Asian carp in the Fox River or the Lake. The DNA could have come from a bait bucket, boat hull, bilge water, bird feces, or another source. Samples from the Milwaukee River and Sheboygan River came back negative. An additional 200 samples taken in October had no positive DNA results for Asian carp in the Fox River.

In the meantime, Congress has done nothing on recommendations made by the US Army Corps in the Great Lakes and Mississippi River Interbasin Study (GLMRIS) that was released last year. Although we hear Senator Stabenow from Michigan is introducing legislation to fund short-term and long-term control measures. Riverkeeper is working with other state, regional, and national NGOs as part of an Asian Carp Work Group to urge short-term actions and permanent ecological separation of the Great Lakes and Mississippi River. The Federal Government has set up an official Advisory Committee for the Chicago Area Waterway System area to advance a pilot project on the Brandon Road lock and



Cheryl Nenn, Milwaukee Riverkeeper holding a baby sturgeon.

dam near Joliet, Illinois to reduce the risk of movement of invasive species into the Great Lakes. Our Work Group is submitting a letter to the US Office of Management and Budget urging \$8 million in funding to pay for interim measures and additional studies seeking a permanent solution.

Low DO in East Branch of the Milwaukee River

One of our trusted water quality monitoring volunteers, Cristal Gorsege, detected very low oxygen levels in the East Branch of the Milwaukee River near Kewaskum and downstream from the Northern Kettle Moraine State Park in July and August. After a lot of sleuthing by Cristal, we decided to get the WDNR involved. WDNR went out several times in late August and confirmed our findings. It's unclear what the source of the problem was, but we suspect high water and biological decomposition of organic matter caused oxygen levels to plummet. We will continue to monitor the situation to ensure there are not blocked culverts or other barriers contributing to the problem.

Responding to Citizen Concerns in Mequon

Filling and grading began on September 2nd on the River Club Estates subdivision in Mequon along the Milwaukee River, and continued on and off until September 25th. There was no activity on the property from September 25th until October 29th. Additional filling began on site in the last few weeks. Local residents began questioning the large expanses of unstabilized soil on the site, and reported their concerns to municipal staff. With the large amounts of rain in late September and early October, and recent high winds, citizen concerns heightened. Milwaukee Riverkeeper

requested the stormwater plans for the site from WDNR and learned that the developer still had not received their stormwater permit prior to land disturbance. WDNR issued a Notice of Noncompliance to the Developer on October 30th, and is working with the developer and the City of Mequon to ensure that proper erosion control and winter seeding is put in place. We will continue to monitor this site as well.

Calling For Stronger Crude Oil Rail Shipping Regulations

Milwaukee Riverkeeper is increasingly concerned by the increase in oil train traffic passing over and along our waterways every day. Nationally, oil train traffic has increased more than 4,000% in the last five years and oil trains are much longer, which concentrates the risk of an accident, especially in urban areas. In our Basin, Union Pacific and Canadian Pacific operate major rail routes (with some smaller spurs). Dangerous and combustible crude oil is being transported through urban areas and over all of our local rivers. Railroads cross over rivers in the Milwaukee River Basin 36 times to be exact, and tracks run along rivers for many miles. Crude oil is combustible and sinks in water, making cleanup efforts difficult. In a letter, Milwaukee Riverkeeper and 23 other Waterkeeper Organizations, urged the US DOT to implement vital, immediate changes to the crude-by-rail industry through its emergency order authority. We also called on the Pipeline and Hazardous Materials Safety Administration to issue more protective regulations. Read our letter online at: <http://milwaukeekeeper.org/content/calling-stronger-crude-oil-rail-shipping-regulations>.

Stop the Great Lakes Nuclear Dump

The Great Lakes Waterkeepers, led by Milwaukee Riverkeeper, submitted a letter to US Secretary of State John Kerry in September urging him to request the Canadian and Ontario Governments to withdraw plans by Ontario Power Generation (OPG) to build a permanent underground nuclear waste storage facility along Lake Huron. The proposed OPG facility would bury radioactive nuclear waste less than one mile from the shores of Lake Huron, and approximately 2,000 feet below the existing lake level. Some of this waste remains radioactive for over 100,000 years. 40 million Americans and Canadians depend on the Great Lakes for drinking water, fisheries, tourism, and

quality of life. The Great Lakes contain 95% of the US supply of fresh water. This is one of the worst possible locations for a permanent nuclear waste burial facility. The Department of State responded in October explaining that they are watching the issue. The US EPA submitted comments on the project, but is also not taking a hard line against this proposal. It's noteworthy that the Canadian Government stopped a similar proposed project in Vermont in 1986 due to concerns about impacts to Canadian waters and natural areas. For more info and to sign a petition, go to www.stopthegreatlakesnucleardump.com.

The Continuing Saga of Advanced Waste Services

The saga continues about what to do with Advanced Waste Services (AWS aka Chem Works) in the Martin Drive Neighborhood. AWS is a chemical pre-treatment company that has caused significant air, odor, and wastewater problems disrupting the quality of life for nearby residents and shutting down Miller Brewing Company on several occasions for noxious sewer vapors. After a series of orders from the Department of Neighborhood Services, AWS submitted a facility closure plan in November of 2013 to the City of Milwaukee signaling their intent to close operations and move to a new facility in Menomonee Falls. Milwaukee approved the plan in late 2013, and indicated to residents that their problems would be over by September 1, 2014.

Fast forward to now, AWS did not receive necessary permits to operate in Menomonee Falls (despite purchasing a facility there) due to significant community opposition, and now the business has stated they plan to remain in Milwaukee. The City has said that the business has the right to conduct operations as long as they don't have "odor causing" operations. We are urging the City to require better odor control measures, because existing techniques are "experimental," unproven and inadequate. Residents have been concerned about storage of hazardous waste at the facility, but were told that there are no toxic materials stored within the facility, and that the facility treats non-hazardous waste with hazardous materials (acids and corrosives) in reasonable quantities. The facility also continued to rack up both air and wastewater pre-treatment violations in 2013 and early 2014. Now that the facility is no longer moving, we are reviewing

our options and will continue to pursue compliance and/or enforcement.

Menomonee Fish Passage Updates

Great progress is being made on the lower Menomonee River concrete removal project after a few months of delay due to a wet spring. The first phase includes removing concrete along a 1,100-foot-long corridor upstream of the Wisconsin and Blue Mound Road bridges to the Canadian Pacific Railway crossing, and transforming the concrete channel to a natural streambed that has rock riffles and pools, and allows for safe passage of fish. This phase is expected to be finished by the end of November.

A second phase, being led by the US Army Corps of Engineers, will start soon, and will continue this work along a 2,600 foot long stretch downstream of Blue Mound Road to I-94 using the same local contractors. We are already seeing more salmonids (which are strong swimmers) moving well up the watershed, with spawning fish detected all the way up into Menomonee Falls. MMSD is working on removal of the five "low flow" barriers in Hoyt Park; this project should hopefully start construction next year. Riverkeeper is working with our contractor, Interfluve, on conceptual designs and cost-estimates for several suspected fish passage barriers upstream to improve access between the Menomonee and several major tributaries with good wetland/floodplain habitats.

Lincoln Park/Milwaukee River Channels Phase 2 Update

Remediation and habitat restoration of the Lincoln Park/Milwaukee River Channels is under way! This area includes the east oxbow of the Milwaukee River and the main stem of the river from the oxbows downstream to the Estabrook Park Dam. Contractors have begun moving construction trailers, equipment and preparing the land. The initial focus of the work will be construction of land based facilities and land clearing activities. Water based activities should start in mid-November. Currently, sediment removal is planned to be completed in late 2014 or early 2015, but as work progresses, the schedule is subject to change. Originally, there were no plans to close the Milwaukee River Parkway, but due to some traffic incidents, the parkway will be closed to ensure the safety of workers.

Meet Our Monitors



Names: Peggy McGuire and Erika Voss

Where do you two monitor?

On the Menomonee River at Center Street in Wauwatosa.

How long have you two been monitoring?

We have been volunteering at this site since 2006.

Why do you monitor?

Erika: I have always enjoyed being near water; the beaches of Lake Michigan, swimming in inland lakes, skating on frozen ponds in the winter, and just sitting and enjoying the beauty of meandering streams.

Beyond that, I have come to recognize water as a symbol of life. Water cleans, dissolves, refreshes and is the one thing essential for all life. Without it we will not survive. To have the opportunity to support Milwaukee Riverkeeper's efforts to keep our rivers and lakes clean by becoming a water quality monitor is a gift, and my small contribution to the overall effort. Besides that, it is lots of fun.

Peggy: I feel that as a part of this community, we all need to work together to ensure clean water, clean air, and healthy food for ourselves and future generations. I consider it a privilege to

be supporting the people at Milwaukee Riverkeeper who work so hard towards these goals and never give up no matter how adverse the conditions.

What is the craziest or most interesting thing you have seen when monitoring?

Encountering a mother deer with her faun; a muskrat; lots of ducks, geese, and many birds; and watching the force of the water change the character and flow of the river are all the wonderful and exciting things we have observed during our monitoring experience.

But the most exciting thing for us happens every Fall when we are able to successfully rediscover and reclaim the thermistor from its Spring "planting" in the river and return it to the Milwaukee Riverkeeper office.

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