

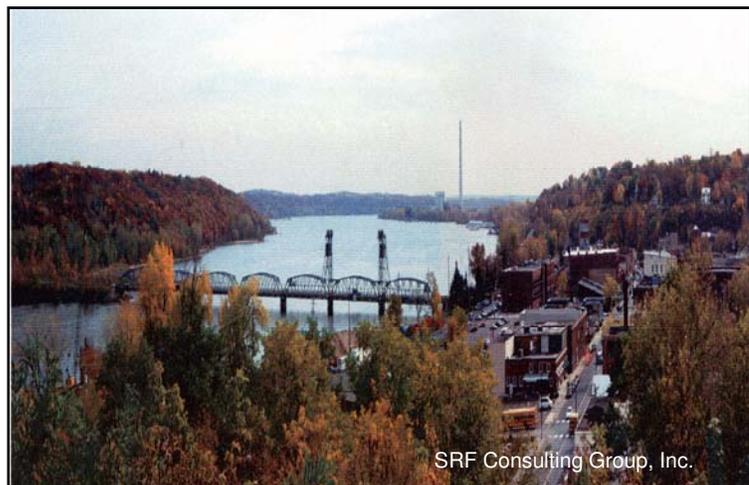
## **St. Croix River Crossing Controversy: Case Report**

September 2006

### **INTRODUCTION**

The towns of Stillwater, Minnesota and Houlton, Wisconsin are connected by an historic lift bridge over the St. Croix River, a waterway within the Wild and Scenic River System. Due to the age of the bridge, its closure during floods, and traffic congestion in Stillwater's historic downtown, discussion of the need for another bridge began in the 1950s. Serious proposals for the construction of a new and larger bridge began to be offered during the late 1980s. Over the years, protracted disputes revolved around the questions of what to do with the historic lift bridge and where to locate a new bridge. In 1995, the states of Minnesota and Wisconsin jointly proposed building a new bridge to the south of the existing one. The National Park Service (NPS) originally approved the project, with the provision that the existing bridge be demolished in keeping with the agency's "no bridge proliferation" policy for Wild and Scenic Rivers. However, the Sierra Club successfully challenged the ruling through litigation, charging that NPS had failed to adequately consider the impacts of the proposed bridge itself on the St. Croix River per Section 7(a) of the Wild and Scenic Rivers Act. Thus, in 1996 NPS reversed its position and declared that the proposed new bridge would adversely affect the river.

A new alignment, design, and mitigation measures were proposed and approved by NPS—again on the condition that the existing bridge would be removed. Both local historic preservation groups and the federal Advisory Council on Historic Preservation (ACHP) adamantly opposed removal of the historic bridge. In effect, the intersection of three important but competing goals of public policy—enhancement of transportation services, preservation of historic resources, and protection of a wild and scenic river—gradually produced gridlock between seven federal and six state agencies, including the Federal Highway Administration (FHWA), U.S. Army Corps of Engineers, U.S. Coast Guard, U.S. Environmental Protection Agency, NPS, U.S. Fish and Wildlife Service, ACHP, and the Departments of Transportation, Departments of Natural Resources, and State Historic Preservation Offices of both Minnesota and Wisconsin.<sup>1</sup>



<sup>1</sup> Wofford, J.G. and Keyes, D.L. 2001. "One river, two bridges: a conflict assessment of the existing and proposed St. Croix River bridges between Stillwater, Minnesota and Houlton, Wisconsin." Report of the

In 2000, the Secretaries of the U.S. Departments of Transportation and Interior intervened personally and proposed three alternatives: building a new bridge and removing the historic bridge; building a new bridge, retaining *half* of the historic bridge as a pier, and establishing a \$10 million conservation fund; or building a new bridge, retaining the entire historic bridge, and establishing a \$15 million conservation fund. In response, the State Historic Preservation Offices and the ACHP flatly rejected removing either half or all of the historic bridge, and neither the State of Minnesota nor Wisconsin was willing to finance the conservation fund. All parties were at loggerheads, tired of the terms of the debate and the seemingly endless regulatory impasse.<sup>2</sup>

## CONFLICT ASSESSMENT

In the summer of 2001, the Federal Highway Administration and the two States engaged the U.S. Institute for Environmental Conflict Resolution to help resolve the conflict. In response to a request from Wisconsin Governor McCallum, assistance was initially requested to facilitate a summit meeting of the key federal and state agencies. Given the duration and current state of the conflict, the Institute counseled that an assessment would be appropriate before proceeding with any type of conflict resolution process.

During the fall of 2001, John Wofford, a private mediator under contract with the U.S. Institute, and Dale Keyes, Senior Program Manager at the U.S. Institute, conducted a conflict assessment to identify the primary stakeholders and their perspectives on the issues, understand the causes of the impasse, determine whether or not re-starting negotiations seemed feasible, and, if so, propose a general design for a collaborative decision-making process. As the conflict assessment began, long-time participants in the controversy discussed their opinions about the process with the press. Ron Kind, then U.S. Rep. D-Wis., said that while he was glad the governor was seeking new ways to spur on the project, he was concerned about the timetable:

I'm also concerned that this process may further delay progress on moving forward with the bridge issue. At the end of the day, we may find ourselves back in the same situation where some groups are adamantly opposed to any bridge going in, and whether you have an outside mediator or not, that is not going to change their position on the issue.<sup>3</sup>

John Soderberg, chairman of the St. Croix Alliance for the Interstate Bridge, doubted that the U.S. Institute's involvement could be helpful:

We've been down this road already with [an earlier process]... That process pretty well outlined what needs to be done, and what's going to happen to the lift bridge. More importantly, the goal of the process is to get the bridge built, and get the DNR and the Departments of Transportation from both states to get on with it. [...] We really think we've been down this road before. This new process will probably delay [the bridge] a little bit and will open up those old cans of worms.<sup>4</sup>

Jay Kimble, the mayor of Stillwater, voiced a similar perspective:

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U.S. Institute for Environmental Conflict Resolution funded by the Federal Highway Administration, Office of NEPA Facilitation.

<sup>2</sup> Wofford and Keyes (2001). Pp. 4.

<sup>3</sup> Kind qtd. in "Group to mediate dispute over Stillwater bridge." *Leader-Telegram Online*: 17 Aug. 2001.

<sup>4</sup> Soderberg qtd. in "DNR chief to appear here Aug. 28." *New Richmond News*: 27 Aug. 2001.

While I am not looking forward to participating in these meetings because they are less fun than having a root canal, as frustrating as they are, Stillwater will attend and urge compromise by all parties. [...] We've been through this exercise. All of these issues brought up by each of these stakeholder agencies have been studied *ad nauseam*. [...] It's sort of disappointing that we might have to go through a series of negotiation and conflict resolution meetings again with agencies' representatives who do not understand the word 'compromise.' Each agency representative remains typically in lock step toward their mission and will not consider the mission of any other stakeholders, let alone the needs of the citizens of the greater St. Croix Valley who are suffering without the bridge.<sup>5</sup>

The assessment team issued its final report on the conflict assessment November 30, 2001. They identified congestion as the major issue at stake—when the lift section of the historic bridge is raised to allow boats to pass underneath, automobile traffic backs up on both sides of the river, frustrating drivers, generating air pollution, and interfering with commerce in downtown Stillwater—and suggested that conflicting values, priorities, and agency mandates were the principal causes of the policy-making impasse. The assessment team proposed that negotiations be re-opened, but with a novel approach. First, they recommended that the decision-making group be expanded to include local government and non-governmental organizations, including the Sierra Club (which had stopped the project in 1995). Second, since the perceived need to resolve all issues simultaneously appeared to be a major factor in the impasse, and since the lift bridge was physically deteriorating, the team recommended initially separating discussions regarding the fate of the historic lift bridge from discussions related to the new bridge proposals. As explained in the assessment report, “The issues, the timetables, the types of expertise needed, the leadership, and the politics involved in negotiation are substantially different for each bridge. Separating the processes will be more likely to let the decision-makers, the private groups and the public-at-large give direct and thorough attention to the very real issues to be resolved about each bridge.”<sup>6</sup>

The proposal for renewed dialogue received varied reactions. The mayor of Oak Park Heights, David Beudet, remarked, “A conversation is always positive. And when you're dealing with a project like the bridge in as interesting of a state as it is, conversation is always good.”<sup>7</sup> But the mayor of Stillwater, Jay Kimble, said,

Upon reviewing the Institute's report, I found my frustration level once again hitting a peak. The plain and simple truth is that we've studied, re-studied, and revisited this issue enough – it's time for leadership from the governors of Minnesota and Wisconsin to move this project off the dime.<sup>8</sup>

Elwyn Tinklenberg, then commissioner of the Minnesota Department of Transportation (MnDot), expressed doubt that all of the groups involved in the debate would agree to the recommendations: “I have to tell you that I don't think that that is likely. The whole point of the two processes is that there are those holding up action on the one in order to influence the direction of a decision on the other. People do not want the two bridge issues separated.”<sup>9</sup>

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<sup>5</sup> Kimble qtd. in “DNR chief to appear here Aug. 28.” *New Richmond News*: 27 Aug. 2001.

<sup>6</sup> Wofford and Keyes (2001). Pp. 38.

<sup>7</sup> Beudet qtd. in Brouwer, M. “Feds recommend more bridge talk.” *Stillwater Gazette*: 3 Dec. 2001.

<sup>8</sup> Kimble, J. “Ask the governors to break the log jam; build new bridge.” *Stillwater Gazette*: 11 Dec. 2001.

<sup>9</sup> Tinklenberg qtd. in Divine, M. “Stillwater: Groups unlikely to cross bridges soon.” *Pioneer Planet*: 23 Jan. 2002.

In the months that followed, the Institute communicated with the affected stakeholders to provide additional clarification and detail regarding the report's recommendations. The recommendation to separate deliberations over the two bridges was questioned, and the Institute clarified that the intent of the recommendation was to first address critical issues about rehabilitating the lift bridge in the near term and then move to deliberations over the need for both bridges. The Institute also counseled stakeholders to initiate discussions with the key decision-making agencies regarding the barriers to beginning a collaborative stakeholder process. By late spring 2002, informal negotiations among the U.S. Department of the Interior, FHWA and the ACHP had led to withdrawal of the conservation fund requirement and eliminated the need for a binary decision between removing the whole lift bridge or half of the lift bridge—thus creating the possibility of a two-bridge solution without a conservation fund penalty. This proved to be a critical breakthrough, and both States announced in June 2002 that negotiations would be renewed.

### **MEDIATOR SELECTION AND STAKEHOLDER NEGOTIATIONS**

In October 2002, the U.S. Institute convened a panel of representative stakeholders, helped them develop criteria for selecting a mediator, and facilitated the selection process. The review committee selected a mediation team from Resolve, Inc. lead by Mike Hughes.<sup>10</sup> This meeting was the first time the stakeholders involved in the St. Croix controversy came to consensus on a contentious question. Shortly after this initial meeting, FHWA designated the St. Croix bridge as a “priority project” under Executive Order 13274, a designation that allowed the Environmental Streamlining Interagency Task Force in Washington to assign a project “champion” to offer encouragement and monitor progress of stakeholder deliberations.

The U.S. Institute convened several preparatory meetings between the mediation team and the principal agencies during the first six months of 2003. Using the assessment report as a point of departure and reference document, the meetings focused on defining the independent and neutral roles of the Institute and the mediators, and on articulating how the stakeholder group could function. The stakeholder group then began meeting in early June 2003. At the first meeting, the group defined its membership as including 27 stakeholders representing seven federal agencies, six state agencies, four local governments, and ten private advocacy groups.<sup>11</sup> The stakeholders adopted an “operating agreement” which defined the purposes of the problem-solving process: first, to facilitate a common understanding of the transportation, environmental and historic preservation issues among the government and non-government stakeholders; second, to define the various solutions to these issues by exploring the advantages and disadvantages of each solution; third, to arrive, if possible, at a consensus; and fourth, if full-group consensus proved impossible, to reach agreement among the core agencies with regulatory authority. The mediators emphasized the importance of working towards a consensus agreement, defined as one

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<sup>10</sup> The mediation team consisted initially of Mike Hughes and Robert Fisher, with Jody Erikson becoming the second principal mediator once stakeholder deliberations began. Hughes and Erikson are now with The Keystone Center and Fisher is a sole practitioner.

<sup>11</sup> *N.B.* – At the first meeting, the stakeholder group was expanded to include a 28<sup>th</sup> participant. After several meetings, it became clear that this stakeholder did not represent a broader constituency and was unwilling to follow the operating protocols (e.g., continually using abrasive language and displaying disrespectful behavior). After encouragement by the mediators and the group, the 28<sup>th</sup> stakeholder eventually “removed himself” from deliberations.

that all group members could support, built by identifying and exploring all parties' interests and by developing an outcome that would satisfy those interests to the greatest extent possible.<sup>12</sup>

To arrive at a solution the group will work toward consensus through a process of interest-based negotiation. Interest-based negotiation is based on discussing interests (the needs that must be satisfied by a solution) and not positions (what the solution ought to be). The interests can be translated into a list of criteria by which any potential solution will be measured. In this process skepticism is welcome. It helps achieve the goal of the best possible solution by continually questioning if it is the most viable option. For the process to be successful, participants need to passionately represent their own interests and passionately search for the option that satisfies all interests.<sup>13</sup>

However, the decision-making agencies initially questioned whether they should—or even could—share their authority within a consensus-oriented process. The agencies were willing to incorporate the work of the stakeholders only insofar as they themselves did not give up ultimate decision-making authority. Thus, in order to satisfy these agencies' concerns and to keep the other stakeholders engaged, tiered decision-making rules were established:

If consensus is not possible, the permitting agencies will work to build a consensus of their own, using the whole group's deliberation as the basis for their work. Finally, if full agency consensus is not possible, the lead agencies may use the group's work to make decisions in line with their regulatory authority and in keeping with the limitations of that authority.<sup>14</sup>

In addition to concerns about decision-making authority, questions also arose about how the collaborative stakeholder process would relate to the review process under the National Environmental Policy Act (NEPA). Both to avoid extending the NEPA timeline and to ensure that decisions made and agreements reached by the stakeholders would not be changed during a subsequent NEPA review, the stakeholder process was embedded within the NEPA review process. Project scoping, the development and analysis of alternatives, and the preparation and review of environmental documents were all conducted by or in conjunction with the stakeholder process. In addition, the public outreach requirements of NEPA were met with the assistance of the stakeholder group—individual members helped explain the stakeholder process and the rationale for the selected alternatives during public meetings held as part of the public comment period for the draft environmental impact statement.

During subsequent meetings, the stakeholders identified potential alternative solutions (with nothing rejected out of hand), and decided on criteria and methods to evaluate those alternatives. Importantly, the environmental advocates requested—and were granted—the involvement of



<sup>12</sup> “Operating Agreement for the St. Croix Crossing Problem Solving Process.” Adopted 10 June 2003. Avail. online: <http://www.keystone.org>.

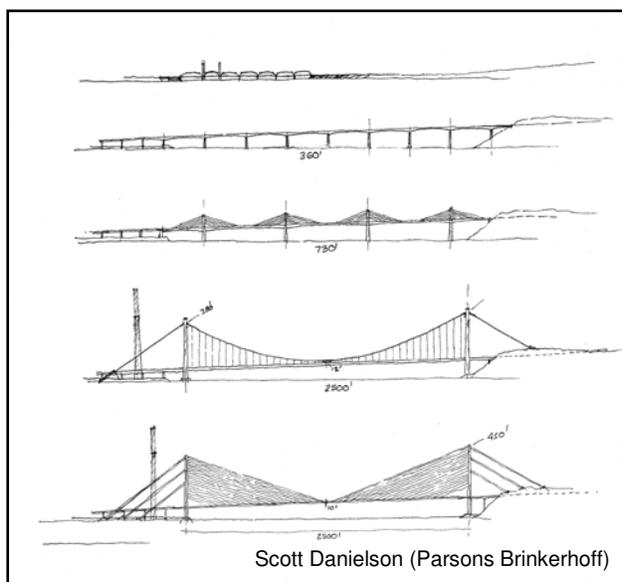
<sup>13</sup> “Final Summary: Meeting # 1, St. Croix Crossing Stakeholder Problem Solving Process.” Avail. online: <http://www.keystone.org>.

<sup>14</sup> “Operating Agreement for the St. Croix Crossing Problem Solving Process.” Adopted 10 June 2003. Avail. online: <http://www.keystone.org>.

stakeholder-selected peer reviewer to evaluate the travel demand model, which required a sea change in the behavior of both MnDOT (the lead agency) and the Wisconsin Department of Transportation (WisDOT). The stakeholder group's task at this time was "mutual education—making sure that all affected parties were involved, helping [one another] fully understand each other's viewpoints, and finding common ground. In the early going, the group needed to listen to and learn from one another and to move from *either/or* thinking—either environmental protection or transportation, either historic preservation or environmental and scenic quality—to *yes/and* thinking—effective transportation and environmental quality and historic preservation and economic vitality and good design [emphasis added]."<sup>15</sup>

By the meeting in July 2003, this transition was well underway, and participants were cautiously endorsing the problem-solving process. Mary McFarland, who was with MnDOT, but attending meetings only as an observer, commented to the press, "I think it's a great effort, because it gets all of the permitting agencies around the table. [...] Everyone is there with a serious intent to give it their best effort."<sup>16</sup> Don Empson, a stakeholder representing the nonprofit Stillwater Lift Bridge Association, said he was pleasantly surprised by the meetings: "In the end, everybody gets to have their say, which is truly remarkable when you get that many people together, all of whom are opinionated."<sup>17</sup> Several months later, in September, a number of stakeholders were interviewed on National Public Radio and indicated that they believed the mediation process had been fair and helpful, they intended to stay engaged, and were optimistic that agreement could be reached.<sup>18</sup>

When the stakeholders convened for their next meeting in October, they set aside the question of whether a bridge should be built and focused instead on what it should look like if it were built. A bridge architect, who was also an artist, was invited to the meeting to talk about configuration and design possibilities for a new bridge. The architect was able to translate the stakeholders' visions of a new bridge into sketches. "What ensued," reflected Dale Keyes, "was a dynamic give-and-take interchange between the architect and the stakeholders and among the stakeholders; at the end of the session, everyone left knowing a lot more about bridges and being able to conceptualize what a new bridge could look like on the St. Croix.



Scott Danielson (Parsons Brinkerhoff)

And almost everyone was excited about the possibilities." Thus, the visualization was a major turning point: the October meeting marked the second phase of the decision-making process,

<sup>15</sup> Hughes, M. and Erikson, J. "St. Croix River Crossing Problem-solving Process: Summary and Final Report." Final report to USIECR: 2 August 2006.

<sup>16</sup> McFarland qtd. in Peters, D. "Stillwater: Bridge debate gaining thrust nationally." *St. Paul Pioneer Press*: 27 July 2003.

<sup>17</sup> Empson qtd. in Peters, D. "Stillwater: Bridge debate gaining thrust nationally." *St. Paul Pioneer Press*: 27 July 2003.

<sup>18</sup> Segment available online at: <http://www.npr.org/templates/story/story.php?storyId=1447263> .

when stakeholders envisioned new alternative solutions that would respond to the interests and viewpoints of the entire group. Hughes and Erikson reflected,

Perhaps the most important moment in this phase came when the stakeholders began discussing bridge design. In none of the previous attempts to find a solution were the stakeholders permitted to wrestle with the aesthetic questions in the way they did in this mediation. Removing constraints, ignoring old assumptions, and freeing the stakeholders' imagination allowed them to break new ground and move toward a solution that could be acceptable to everyone.<sup>19</sup>

The group met once more in 2003 and seven times in 2004, rigorously evaluating their options against the full set of stakeholder interests. This period marked the third and final phase of decision-making. During this time, the stakeholders made substantial progress in assessing the location and design alternatives for a new bridge, as well as use and management options for the lift bridge; negotiating agreements among the agencies on historic preservation efforts; and developing mitigation measures for the impacts of a new bridge. "In the end," wrote Hughes, it seemed that the best answer was "to build an exceptionally well-designed new bridge downstream of the existing structure, and preserve the historic bridge while removing car and truck traffic from it."<sup>20</sup> A visual quality manual was developed by the state DOTs and several non-governmental organization (NGO) stakeholders to guide the design process. Moreover, the group agreed that new hiking and biking trails would be built on the Wisconsin side of the river, connecting to the lift bridge, thus enhancing the recreational values for which the St. Croix was designated a scenic and recreational river.

Negotiations continued through the spring of 2005, and then the group convened on July 19 for "what had been billed as possibly—hopefully—the culminating meeting." The purpose of the meeting was to review three major documents: the final Section 106 Memorandum of Agreement (MOA) per the Historic Preservation Act, the draft Section 7(a) determination by the National Park Service per the Wild and Scenic Rivers Act, and the draft Supplemental Final Environmental Impact Statement (SFEIS) prepared by MnDOT. The Section 106 MOA was applauded by everyone. However, representatives of the Minnesota Center for Environmental Advocacy (MnCEA) and the Sierra Club strongly objected to the Section 7(a) findings and the draft SFEIS, principally on the grounds that water quality considerations had been neglected. Both representatives were prepared to withdraw from any future deliberations and one announced that the group he represented was considering litigation. Several of the other stakeholders then acknowledged that the treatment of natural resource issues and impact mitigation during deliberation had not been as robust as the consideration given to historic resources. The entire group agreed that watershed-wide pollution was a significant issue, and a subgroup including the relevant agencies and private stakeholders was formed to discuss what could be done to pursue the goal of better understanding both the causes and possible solutions. After the meeting, Steve Thorne from MnCEA told the press that the threat of legal action should not have been a surprise: "It's not like we waited in the weeds and jumped on you guys at the last meeting. It's no secret [that we've had these contentions]."<sup>21</sup> Nonetheless, Howard Lieberman commented that he was still pleased with the group's progress: "We've come a long way. Considerable concessions have been made. They're asking for a meaningful study to better

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<sup>19</sup> Hughes, M. and Erikson, J. "St. Croix River Crossing Problem-solving Process: Summary and Final Report." Final report to USIECR: 2 August 2006.

<sup>20</sup> Hughes, M. and Erikson, J. "St. Croix River Crossing Problem-solving Process: Summary and Final Report." Final report to USIECR: 2 August 2006.

<sup>21</sup> Thorne qtd. in Divine, M. "Sprawl, water quality still at issue." *St. Paul Pioneer Press*: 20 July 2005.

understand what the impacts on the valley are, and I don't think that's so off the wall. I think we're very close."<sup>22</sup> Later, Keyes reflected,

The very fact that the process survived the challenge at the last meeting attests to the strength of the bond that has developed among the process participants. [...] Several participants volunteered to me that the way the other members rallied behind the environmental advocates was remarkable, and truly a result of working together over the last many months.<sup>23</sup>

Sub-committees convened in the fall of 2005 to discuss water quality mitigation measures and historic preservation. In June 2006, the agencies released the SFEIS. The stakeholders convened on July 17, within the SFEIS 30-day comment period, for what would prove to be their last meeting. After three years of work, they had developed an agreement that most everyone could live with. Not only would the lift bridge be retained as a pedestrian and bicycle crossing and a new bridge constructed just south of Stillwater, but a mitigation package would also address natural, social, and cultural impacts. Articulated in three MOUs and one MOA, the mitigation package and related agreements included wetland replacement, relocation of threatened and endangered species, bluff land restoration and preservation activities, removal of visual intrusions from the Riverway, funding for the long-term preservation of the Lift Bridge, the designation of Stillwater as a historic district, and the addition of an access point to the river (i.e., a boat ramp). In order to address the "potential negative impacts to area resources from accelerated growth in St. Croix County influenced by the project," mitigation measures were identified to assist local governments in managing growth through planning, ordinances and other tools.<sup>24</sup> Finally, a comprehensive study of the health of the St. Croix River was planned. These side-agreements went considerably beyond mitigating for the direct impacts of the new bridge.

With the final plan, Hughes pointed out, every stakeholder is asked to move away from previous positions:

...environmentalists have to forego the idea of preventing new bridge construction; transportation proponents have to part with the idea of a lower-cost solution; and historic preservationists have to exchange historic use for protection and longevity. In stepping away from previously held positions, the stakeholders will realize that the lift bridge will have long-term protection and be integrated into the recreation system for the Wild and Scenic Rivers Act. At the same time, they will see that a new bridge of exceptional design is worthy of the St. Croix Valley. The group could not have come this close to a final resolution without a real appreciation for the scenic values and the exceptional environmental quality that underlie the Wild and Scenic River designation, for the visual quality of the historic district, and for a bridge design that responds to aesthetic questions as it answers the transportation need.<sup>25</sup>

At the final meeting, many stakeholders indicated enthusiastic support for the agreement; others gave more tempered endorsements; and a few consented silently, with plainly visible



<sup>22</sup> Lieberman qtd. in Divine, M. "Sprawl, water quality still at issue." *St. Paul Pioneer Press*: 20 July 2005.

<sup>23</sup> Keyes, D. 2005. "Status report on the St. Croix River Crossing Case." (Internal doc.) USIECR. Pp. 3.

<sup>24</sup> "St. Croix River Crossing Project Supplemental Final EIS." June 2006. Pp. 2.

<sup>25</sup> Hughes, M. and Erikson, J. "St. Croix River Crossing Problem-solving Process: Summary and Final Report." Final report to USIECR: 2 August 2006.

disappointment. One stakeholder group, the Sierra Club, would not officially endorse the final decision. All the other participants agreed to support the project, so long as the agencies fulfill the commitments laid out in the SFEIS and associated memoranda.

## FEEDBACK FROM PARTICIPANTS

*Stakeholders.* During and after the final meeting, stakeholders commented on the collaborative decision-making process.

- After the final meeting, **Jim Laskin**, representing the Stillwater Area Chamber of Commerce, remarked:

The genius, obvious as it seemed, [was] to get everybody involved to sit down around the same table, give them the time to tell everyone what their needs were and people actually having the ability to listen. And everybody being given the same relative level of information so that people understood what really was needed, what really was at stake, how people really cared. In that way, it's been extremely productive.

- **Dan Seemon**, representing the U.S. Army Corps of Engineers, said:

I think everybody got a chance to voice what they needed or what they wanted out of the process, but in addition they also had to listen to other people and understand where they were coming from, and that included not just the permitting agencies, but, as I said before, also the public and private agencies that were intricately involved in this process.

- **Bill Berndt**, representing the Western Wisconsin Realtor's Association, commented on the most remarkable aspect of the process:

[It was] the fact that we were able to spend the time necessary to get over our natural inclination to not trust people from the other side. [...] We had enough time and enough space to come to a conclusion that everybody could feel comfortable with.

- **Rick Arnebeck**, of the Minnesota Department of Transportation (and project leader for most of the process), said:

When we came into it things had ground to a halt. It was a matter of trying to get people back together, who had personal biases or positions that had been drilled in, to reestablish that whole discussion program and see how we can move forward on it. Look for opportunities where we can find agreement first and then try to work on the separate issues one at a time until we worked it through. It took nearly three years to do it, but almost 25 years of issues previously, so it takes some time to undo all this. [...] It's been a very rewarding experience for me. You know, there's a whole lot of diverse views and perspectives and to put all those in balance is I think a real eye-opener. To see that we can get almost thirty people together and to stay together and to come up with something that at least most could live with...nobody got their own way exactly the way they wanted it...

- **Howard Lieberman**, representing the Stillwater Heritage Preservation Commission, reflected:

You get a group of people, none of whom trusted the other, none of whom wanted to work with the other, most of whom were actually diametrically opposed to the other one's point of view and that at the end of the day we are friends, we have forged a consensus and we did it in a relatively collegial, cordial, and oftentimes downright friendly way. Mike Hughes and his group took this rabble, this ornery, you know, spittle-drooling mob and cajoled us to a happy ending. I think it's easy to take a position and cling to that position with the certitude of a zealot. And the only way that you reach any kind of accommodation...[...] is just to sit down and try and find some consensus. It's too easy to disagree and say, I don't want to hear what you have to say. It's too easy to do that. And that's pretty much how we do. Politically speaking, that's the direction our country's heading. In the, I'm right, you're wrong direction, you know? And that's a bad direction. This, what we did today, is the antithesis of that. And if more people in more situations would try collaboration and discussion and mutual respect and a willingness to back off from their own position, we'd have less discord. For all of you out there listening, sit down every now and then, shut up, pay attention to the other side, and forge consensus.

- **Steve Thorne**, of the Minnesota Center for Environmental Advocacy (MCEA), had mixed reactions:

We think the work done on the MOUs was remarkable. [...] We will not challenge the environmental impact statement in court. [But...] we think the E.I.S. remains quite a flawed document. We have made a series of comments from the earliest stages of this review process which, in short, have been pretty much ignored. [...] We think the issues of induced growth and traffic demand analysis have not been adequately met. I think it's important for MnDOT and WisDOT to understand that if they don't change the way they approach the environmental review process, things aren't going to be as sunny in future projects. We may have decided not to sue on this one, but there may be a better time and place for us to raise what we consider are very serious flaws in the way that you're doing your job in projecting traffic, in projecting the effects of development, in particular. [...] Peak oil and global climate change [...] are going to make major changes in our way of life, and I think we had best start thinking about – in every project we deal with – how we're going to minimize our risk that those two things are going to rise up and bite us real hard. [...] The biggest disappointment that I had in this process is that we really did nothing meaningful about transit.

Nonetheless, Thorne's constituency—MCEA—supported the final stakeholder agreement and agreed to participate in implementation of the MOA and MOUs—especially those addressing the health of the river and assistance to local governments in managing growth, both of which Thorne had played a major role in negotiating. The Sierra Club, on the other hand, neither supported the final agreement nor agreed to participate in its implementation. Both MCEA and the Sierra Club are dissatisfied with the SFEIS document, charging that it does not adequately analyze or document the indirect effects of the bridge projects—changing land use, water quality, and habitat loss related to induced growth in Wisconsin. Furthermore, the Sierra Club had wanted to see both a “no-action” scenario and a public transit plan seriously analyzed and considered as alternatives, which it believes did not happen.

### *Mediators.*

- **Mike Hughes**, the lead mediator, reflected that the most challenging part of the St. Croix intervention had been recognizing early on that a “culture of non-

confrontation” existed, necessitating a great deal of work on his part in between stakeholder meetings, trying to “unearth what hadn’t been said” during the formal sessions.

- **Jody Erikson**, the secondary mediator, completed her Master’s thesis on the St. Croix mediation. Erikson concluded that the commitment of a public administrator (in this case, Rick Arnebeck of MnDOT) is crucial to the success of collaborative problem-solving in public policy disputes:

The St. Croix problem solving case is not the norm. In the mediator’s [Mike Hughes’] 15 years of experience he has had two cases where the public administrator shared adaptive leadership and worked in concert with the mediator (St. Croix is one of them). What can be generalized from this case is that collaborative processes need public administrators who have the capacity for adaptive leadership, who support collaborative efforts through their flexibility, commitment of resources to the process and willingness to following the lead of the group including a stakeholder definition of the problem, and the ability and desire to work in concert with the mediator to: regulate the pressure, focus attention, shift responsibility to the stakeholders (to motivate and mobilize stakeholders to do the adaptive work necessary).<sup>26</sup>

- In their final report to the U.S. Institute, Hughes and Erikson concluded that the “two-bridge plan is the result of the stakeholders insisting on a fair and transparent problem-solving process that involved all affected stakeholders. Overcoming fear, resistance, and long-standing conflict is a matter of inclusion and of helping all stakeholders to see how much more they can achieve from their collective effort.”<sup>27</sup> They identified four factors that were critical to this success.<sup>28</sup> First, shared decision-making:

At the outset of the mediation, the agency staff seemed to believe that they could retain a great deal of discretion and control [...] It took the first six months of work to help agency personnel see that they had to assign staff who could both speak for the agency and were willing to truly share decision making. [...] Agency personnel have to understand what mediation is and what shared decision making requires – without that, our work is far less likely to succeed.

Second, full commitment of the major stakeholders:

This effort required significant time and energy from the major stakeholders. Their commitment to making the stakeholder process *the* venue for solving the problem and making that venue open and fair were essential. Knowing that the agencies were making the decisions about the preferred alternative and its mitigation in the stakeholder process, the stakeholders maintained their participation. [...] The mediation has to integrate the NEPA process and serve as the venue for real negotiation

Third, redefining success:

We were relentless in stating that the goal of the process was an agreement that would give each stakeholder what s/he needed. Ending the long-standing framing of the issue as a battle to be won at the expense of others and replacing it with a discussion about what would be

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<sup>26</sup> Erikson, J. “Capstone: Public administrators, mediators, and shared leadership in collaborative stakeholder processes.” 5361 Advanced Seminar: Spring 2006.

<sup>27</sup> Hughes, M. and Erikson, J. “St. Croix River Crossing Problem-solving Process: Summary and Final Report.” Final report to USIECR: 2 August 2006.

<sup>28</sup> Hughes, M. and Erikson, J. “St. Croix River Crossing Problem-solving Process: Summary and Final Report.” Final report to USIECR: 2 August 2006.

necessary in a preferred alternative for everyone to agree was vital. [...] Creating an atmosphere for joint problem solving required relentless commitment to the idea that the final answer had to be a mutually agreeable answer. Every time a stakeholder insisted that he/she had the best answer, the evaluation was always the same: “Will 27 others agree with you?” If the stakeholders turn this corner and start talking about what we all can agree to, there’s a chance for the mediation to succeed.

#### Fourth, verification and formal commitment:

It mattered a great deal that the stakeholders were honest with one another and with the mediators about the low level of trust and about the level of detail in the SFEIS, the memoranda and the final agreement that would be necessary to ensure implementation of the agreement. [...] It’s not over ‘til it’s over. Every “t” has to be crossed before the mediators can leave.

### CONCLUSIONS

After a five year effort, the stakeholders were able to resolve the contentious and long-standing dispute over the St. Croix River Crossing. Relationships and communication among the stakeholders have improved remarkably, establishing the foundations for better decision-making in the future. Even though the St. Croix River Crossing Stakeholder Group is now dissolved, many former participants will continue to be involved in collaborative governance through the oversight and implementation of the memoranda associated with the SFEIS. Other communities have already begun to look to the St. Croix intervention as an outstanding model for dispute resolution.<sup>29</sup> Furthermore, the intervention has highlighted both the importance and challenges of effectively integrating collaborative problem solving into NEPA review processes.

There were many keys to success. First, FHWA set the stage by requesting U.S. Institute's assistance in response to a request from Wisconsin. Second, all of the stakeholders had to overcome suspicion and distrust—of each other and of the process. Third, leaders within the various participating organizations had to step up and demonstrate leadership both within and outside their organizations. Examples are the negotiations among the U.S. DOT, FHWA and ACHP that, in essence, “re-set” the negotiation table and allowed the stakeholder process to begin. Leadership within MnDOT and the Minnesota Division of FHWA was also notable, as it was for many other stakeholders. Fourth, most of the stakeholders rallied behind the MCEA when concerns were raised about the sufficiency of environmental mitigation, which threatened to derail the process—a demonstration of the cohesiveness of the stakeholder group at a moment of crisis. Finally, the stakeholders had to overcome a sense of process fatigue during the three-year plus engagement.

A total of five years elapsed between the conflict assessment and the conclusion of the collaborative process (see Appendix). The success achieved in that time came with substantial financial support from FHWA and to a lesser degree, from MnDOT—altogether, almost \$500,000 was provided for the U.S. Institute's involvement and the mediators’ services. Moreover, FHWA provided leadership and support to the St. Croix stakeholders under Executive

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<sup>29</sup> In the final stakeholder meeting, Mary McComber reported that the St. Croix stakeholder process had been acknowledged as a model during a conference at the University of Wisconsin-Green Bay, and Howard Lieberman reported that the community of Eugene, Oregon was also looking to Stillwater for inspiration in resolving their transportation conflicts.

Order 13274. Thus, the collaborative problem-solving process represents a substantial amount of time and money. However, considering that the conflict had previously been simmering for fifty years, and that the total costs of the project will likely be several hundreds of millions of dollars, the collaborative process appears to have been not only a small investment, but a profoundly worthwhile one.

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## Appendix A. Project Timeline

1950s – 1970s	A replacement bridge crossing the St. Croix River near Stillwater is considered, but not pursued due to a lack of funding;
1980s	MnDOT, WisDOT and FHWA begin working with the communities of Stillwater and Oak Park Heights in Minnesota, and St. Joseph Township in Wisconsin to identify possible solutions for a replacement crossing.
1987	Scoping Decision Document/Final Study Outline for the Highway 36/State Highway 64 St. Croix River Crossing identifies four potential sites for a new river crossing.
1990	Draft EIS analyzes three of these alternatives, along with a "no action" scenario and a Transportation System Management (TSM) scenario.
1995 1996	Final EIS completed for replacement bridge; NPS approves; ROD signed. Sierra Club sues NPS and wins; NPS reverses 1995 decision.
1998	New bridge design developed; NPS approves, contingent on lift bridge removal.
2000 2001 2002	Secretaries of U.S. DOI & U.S. DOT introduce possibility of 2 bridges, with conditions. Agencies at impasse; USIECR engaged; assessment conducted and report issued. DOT & DOI remove conditions for 2 bridges; agencies agree to restart negotiations; mediation team selected.
2003	Stakeholder group meetings commence.
2006	SFEIS released; final stakeholder meeting held.