

November __, 2007

The Honorable John Paul Woodley
Assistant Secretary of the Army (Civil Works)

Through: Missouri River Interagency Roundtable
Federal Working Group

Dear Secretary Woodley:

We are pleased to submit our proposed Charter for the Missouri River Recovery Implementation Committee (MRRIC), drafted over the last eight months by a broadly representative committee of Missouri River basin residents, including participation by tribes, eight basin states, and diverse stakeholder interests. Through persistent and dedicated efforts, we have succeeded in setting aside past tensions and concerns to create a document that delicately balances competing interests and addresses many issues.

When this effort commenced, there was no assurance, and indeed considerable skepticism, that it would be successful. Conflict has been the persistent theme in the basin for 30 years. Despite this legacy, we have worked to generate goodwill among our members and to create the possibility of new approaches to addressing Missouri River issues. We are pleased to report that the most notable feature of this proposed Charter is that it is the consensus recommendation of all Drafting Team members who participated in the last meeting of the group.

The development of this recommended Charter would not have been possible without the dedicated efforts of Drafting Team and Review Panel members who came to the table with deeply held differences about Missouri River issues, labored in the shadows of past conflict-resolution failures and uncertainty over the passage and content of the Water Resources and Development Act (WRDA), and still managed to move forward. These members took time away from their offices, homes, and fields, drove or flew countless hours from the distant corners of this large basin, and spent many full days discussing how to fashion a Missouri River Recovery Implementation Committee that will succeed.

Our work would also not have been possible without the preliminary efforts of the Federal Working Group and the U.S. Institute for Environmental Conflict Resolution. These efforts helped to secure a broadly representative Drafting Team and Review Panel. The Federal Working Group and the U.S. Institute have provided continued substantive and logistical support including advice on crucial issues, financial resources to retain a facilitation team, travel stipends for members, a web site, and numerous opportunities for public participation. We have especially appreciated the attendance of dedicated federal agency representatives at all of our meetings where, as has been said of flying, hours of boredom were sometimes punctuated by moments of abject terror.

The Drafting Team's work was slow in starting due to prolonged efforts to seat representatives from the basin states, to obtain the endorsement of co-chairs, and to select the talented facilitation team lead by Ruth Siguenza. Once the Drafting Team's work began, considerable time and effort went in to writing operating rules to guide the committee's processes and decision-making. While many believed these discussions delayed Charter development, efforts to draft procedural rules allowed some aspects of developing a charter, also a procedural document, to go much faster.

Virtually every term and provision in this Charter has been discussed and carefully considered. While the recommended Charter contains many notable features, the following are paramount:

Complements WRDA provisions--Although WRDA was not enacted until the last month of the Drafting Team's work, the group strived to develop a proposed Charter that satisfies WRDA's requirements for a recovery implementation committee while providing more detailed structure and procedure for the committee's work.

Consensus-based decision-making--Drafting Team members acknowledged early that majority-rules voting, even with significant protections for the minority, would perpetuate long-standing resentments and forum-shopping for other venues to secure political or legal advantages. Consequently, the Drafting Team recommends a Charter premised on consensus decision-making on substantive matters. We believe decision-making aimed at building a broad consensus on the issues affords the best opportunity to address these problems.

Broadly based membership--The proposed Charter continues the broadly based membership that has characterized the Drafting Team itself. Eight basin states, 28 federally recognized Indian tribes, and 15 stakeholder categories may designate representatives to the Missouri River Recovery Implementation Committee. As required by WRDA, federal representation is also incorporated into the Committee as discussed in more detail below.

Federal agency representation on the Missouri River Recovery Implementation Committee was the most problematic issue faced by the Drafting Team. Drafting Team and Federal Working Group members actively engaged in discussing numerous issues. Would federal agencies be members of the Committee? If so, which federal agencies? Would federal agencies be part of quorum requirements? Would they participate directly in consensus decision-making, or would they be asked to endorse the recommendations developed by the non-federal members of the Committee?

In a search for answers, the Drafting Team looked at institutional examples from other parts of the United States. The Drafting Team carefully considered the need for federal agency expertise and perspectives, as well as the need to avoid federal dominance that would defeat the purpose of a broadly based stakeholder and intergovernmental

Committee. We believe the federal agency membership provisions in the proposed Charter strike the proper balance among these concerns.

We request that you adopt the proposed Charter as you begin to implement the Missouri River-related provisions of WRDA. We are available to meet with you in person or by telephone conference call if you are concerned about any of the major provisions of the Charter. Indeed, we urge you to meet with us so that we may explain the rationale behind our recommendations.

We have one additional concern that we ask you to address as you establish the Missouri River Recovery Implementation Committee. Although WRDA does not authorize travel, lodging, and per diem reimbursement for MRRIC members, we believe that such financial assistance is indispensable for many members who will spend days away from work and families, often with no sources other than personal funds to pay these expenses. We hope that the federal agencies, perhaps in cooperation with state governments or foundation assistance, will be able to solve this problem.

We are justifiably proud of the work we have accomplished in drafting and recommending a Charter, and we pause to celebrate our success. While a consensus Charter recommendation is a remarkable achievement, we also recognize that our work is only a down payment on species recovery, broadly supported water management policies, and continued cooperation among basin residents and government agencies. Indeed, our dedication to cooperation must be ongoing. We pledge ourselves to that effort, and we look forward to working with the Corps of Engineers and other federal agencies with responsibilities for the Missouri River in implementing the proposed Charter and establishing the Missouri River Recovery Implementation Committee.