

***Draft Operating Protocol***  
**For the Development of an Initial Charter for**  
**The Missouri River Recovery Implementation Committee**  
**Prepared for Discussion Purposes by the Keystone Center Team**

**PURPOSE**

To develop the MRRIC Charter through a collaborative process involving non-federal stakeholders representing the diversity of river management interests found throughout the Missouri River Basin. Charter development will follow guidelines set forth in the Final Framework for Establishing the Missouri River Recovery Implementation Committee, dated 2-5-07 and referred to hereafter as “the Framework”.

**ROLES**

The MRRIC Charter will be developed through a collaborative and iterative process involving a Drafting Team, Review Panel, Public Workshops and Tribal and Public Outreach. Charter development will include the four participation methods as outlined in the Framework – participating in the Drafting Team, participating in the Review Team, attending public meetings and providing written comment. The process of developing the draft Charter will be guided by a Facilitation Team with specific expertise and experience in collaborative process design, conflict management, public involvement, and facilitation in similar situations. The Drafting Team, Review Panel and Co-Chairs constitute the Planning Group. These protocols use the phrase “Planning Group” when referred to the combination of all three subsets of participants.

**The Planning Group**

***Drafting Team (Framework Participation Method #1 of 4)***

The Charter Drafting Team will work with the Facilitation Team and with each other to draft the initial Charter. The Drafting Team will be responsible for all of the following:

- Attending 8 x 1.5 day meetings – currently scheduled for March, April, May, July, August, September, October, and November of 2007
- Participating in conference calls and e-mail communication aimed at producing Charter language
- Reviewing charter language from charters and protocols of similar efforts
- Learning about adaptive management and the lessons from other large-scale recovery and restoration efforts
- Building skills in collaborative problem solving
- Responding to feedback, comments and suggestions received from the Review Panel, Public Workshops and Tribal and Public Outreach

- Conferring with constituents
- Reaching consensus on specific Charter language
- Forwarding a recommended Charter to the Federal Working Group

***Review Panel (Framework Participation Method #2 of 4)***

The Charter Review Panel will work with the Facilitation Team and each other to provide meaningful and constructive feedback to the Drafting Team concerning the Charter. The Review Panel will be responsible for all of the following:

- Attending 3 x 1.5 day meetings – currently scheduled for April, July and October
- Learning about adaptive management and the lessons from other large-scale recovery and restoration efforts
- Building skills in collaborative problem solving
- Responding to feedback, comments and suggestions received from Public Workshops and Tribal and Public Outreach
- Conferring with constituents
- Providing constructive recommendations to the Drafting Team to improve the language of the Charter
- Recommending an initial Charter to the Federal Working Group

***Planning Group Attributes***

In order to stand as a credible presence in Missouri River management decisions, and to ensure that it can produce a credible Charter, the Planning Group must embody these attributes:

- Membership must be broad, diverse and representative of river interests throughout the basin;
- Participation must be active;
- Attendance must be consistent;
- Dialogue must be open and frank;
- Decision making must be shared and inclusive of all interests

***Planning Group Membership***

The following organizations and individuals will be members of MRRIC’s Drafting Team (Approximately 25 total members, formally designated by her/his constituency):

Organization	Individual
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[Insert table here – so we are perfectly clear who is participating – list tribal, state, federal, local government and non-governmental representatives]

The following organizations and individuals will be members of MRRIC's Review Panel (Approximately 50-75 total members, formally designated by her/his constituency):

Organization

Individual

[Insert table here – so we are perfectly clear who is participating – list tribal, state, federal, local government and non-governmental representatives]

### ***Co-Chairs***

Two Co-Chairs – selected by the federal executives of the Missouri River Basin Interagency Roundtable for their integrity, nonaligned status on Missouri River issues, and their expertise in leading collaborative efforts aimed at developing pragmatic consensus-based solutions in situations with competing interests – will provide process assistance on an independent basis through the auspices of the U.S. Institute for Environmental Conflict Resolution.

The Co-Chairs will offer advice about Charter language and the ongoing MRRIC collaboration; offer advice about Planning Group agendas, deliberations, interaction and consensus building; offer advice about the connections between the Charter and process issues and the substantive issues that MRRIC will consider; help plan Tribal and Public Outreach and Public Workshops; and meet with the Facilitation Team, Process Advisory Committee (below), and the US Institute staff in order to achieve the Framework goals and timeline.

### **Facilitation Team**

The Keystone Center will work with the Planning Group in a neutral capacity to develop a draft MRRIC Charter within the given timeframe. The Facilitation Team will also work with a Process Advisory Committee to set agendas and modify the collaborative process as necessary to meet the goal and timeline. The Facilitation Team will be responsible for all of the following:

- Identifying and synthesizing charters and protocols from similar efforts to give the Drafting Team a sense of what others are doing
- Providing a structured but flexible framework for collaboration
- Helping group members create shared agendas and processes
- Helping group members establish norms that aid in understanding and decision making
- Offering clear process advice and asking hard process questions
- Managing meetings to achieve Framework goals
- Helping group members adhere to ground rules and timelines
- Documenting meeting results, agreements and next steps
- Serving as a point of contact for all communication including managing e-mail lists, sending materials and ensuring distribution

- Offering options for Charter language while leaving the choices clearly in the hands of group members
- Helping group members reach consensus
- Mediating disputes as they arise
- Working with the Process Advisory Committee to assure that Framework goals are achieved, including Tribal and Public Outreach and Public Workshops

### **Process Advisory Committee**

A Process Advisory Committee made up of the Facilitation Team, the US Institute representative, the Co-Chairs, the lead agency representatives, and three participants selected by the consensus of Drafting Team will focus exclusively on process-related issues required to assure that the Framework goals and timeline are achieved. The Committee will be responsible for all of the following:

- Providing continuous feedback to the Facilitation Team and the Planning Group about process-related issues
- Creating first drafts of meeting agendas
- Anticipating the requirements of future meetings and helping sequence the Planning Group deliberations
- Serving as a sounding board for the Planning Group members' procedural needs and concerns
- Checking in with the Planning Group on process-related issues as needed

### **Federal Working Group**

The Federal Working Group is made up of representatives of the federal agencies that play a role in the management of the Missouri River: US Army Corps of Engineers, Bureau of Indian Affairs, Bureau of Reclamation, Environmental Protection Agency, US Fish and Wildlife Service, US Geological Survey, National Park Service, Natural Resources Conservation Service, and Western Area Power Administration. The Federal Working Group will designate five representatives from the various agencies who will serve as advisors throughout the Planning Group process.

Federal Working Group representatives will serve as resources and will be expected to provide clear guidance regarding opportunities for fulfilling the goals of MRRIC as well as agency responsibilities and authorities that may constrain the ability of MRRIC to meet the goals of the Missouri River Recovery Implementation Program.

More specifically, the Federal Working Group's representatives will participate fully in helping the Planning Group craft a workable Charter. Representatives will not, however, have a decision-making role in the final recommendation but will be asked whether they

favor or oppose the final recommendation. The Federal Working Group will receive and consider the final recommendations of the Planning Group process.

In order for the Planning Group to succeed and for these representatives to succeed in their multiple roles, Federal Working Group representatives commit to their best efforts at the following:

- Attending Planning Group meetings and Public Workshops
- Actively participating in Planning Group discussions
- Informing the Drafting Team and the Review Panel of internal agency issues, constraints and perspectives that may impact the MRRIC Charter and the Planning Group's recommendations
- Working within her/his agency to advocate for the views, needs, aspirations and draft recommendations from the Planning Group
- Working as a caucus to provide consensus-based recommendations to the Planning Group
- Keeping the Planning Group informed of the progress of gaining internal support for recommendations
- Helping revise and refine recommendations in order to gain agency acceptance

## **OPERATING PROCEDURES AND PROTOCOLS**

### **Ground Rules – Derived from Framework Selection Criteria**

- Commit the time required
- Make a good faith effort to seek balanced solutions that address multiple interests and concerns
- Work constructively with others, including traditional adversaries, to build joint solutions
- Keep constituents informed and efficiently seek their input when needed
- Commit to not engage in adversarial communications or unilateral actions that undermine the Planning Group process
- Prepare for meetings to ensure informed discussions
- Interact with other participants in a civil and respectful manner, regardless of differences that may arise during their discussions and deliberations
- Refrain from personal attacks and derogatory or demeaning statements directed towards others
- Show respect for diverse communication styles so that all Group members have equal opportunity to meaningfully participate in discussions and deliberations

## **Decision Rules**

### ***Consensus***

The Planning Group will operate by consensus and will work towards building consensus with others. Consensus building is the effort of all participants to balance unilateral perspectives and favorite solutions with shared perspectives and solutions that work for everyone. A consensus decision is one that ALL participants can live with and that everyone is willing to see implemented.

### ***Short of Consensus***

Despite best efforts at consensus building, consensus is not always possible. If the Planning Group reaches a point where some elements of the Charter are not settled by consensus agreements, these elements will be decided through consensus by the Federal Working Group. In order to help the Federal Working Group make its decision, the Facilitation Team will document the nature of the ongoing disagreement and offer an explanation of the reasons why consensus is not possible.

Should the Federal Working Group fail to reach a consensus of its own, the U.S. Army Corps of Engineers and U.S. Fish and Wildlife Service will finalize that Charter element. However, the Corps and the Service will do so in ways that respect those decisions that have been made by consensus and will seek to align the Charter provision as closely as possible with the shared interests of all Planning Group stakeholders.

## **Media Relations**

In communicating about the Planning Group's work, including communicating with the press, each member agrees to speak only for herself or himself; to avoid characterizing the personal position or comments of other participants; and to always be thoughtful of the impact that specific public statements may have on the Group and its ability to complete its work. No one will speak for either the Drafting Team or Review Panel as a whole without the consensus of the Group. Should anyone wish the Planning Group to release information to the press, the Planning Group will do so only through a mutually agreeable statement, drafted by consensus of all of its members.

## **TRIBAL OUTREACH**

Special outreach efforts will be made to ensure that all non-participating tribes are kept informed of the process and have the opportunity to request consultation with the federal government consistent with their status as sovereign governments. The federal agency representatives will request consultation with tribes that do not appoint a representative to the Planning Group and do not request consultation.

## **PUBLIC WORKSHOPS (Framework Participation Method #3 of 4)**

Participation in Public Workshops in key localities will provide interested publics with a way to offer meaningful feedback on the MRRIC Charter as well as a voice in helping shape the Planning Group recommendations. Participants will be able to accomplish this with the more limited, yet not insignificant, time commitment involved in attending a half-day workshop held in their geographic region of the basin. The Planning Group will hold three workshops at locations and times selected to cover the basin and maximize opportunities for public participation.

## **PUBLIC COMMENT (Framework Participation Method #4 of 4)**

All meetings of the Planning Group will be announced and open to the public for observation. Opportunities for public comment will be provided at each meeting.

The Facilitation Team will keep a complete record of e-mail and mailing addresses of those persons who wish to receive information about the Planning Group's work and who wish to provide information to the Planning Group in writing. The Facilitation Team will ensure that the Planning Group members receive all electronic communication and have, as part of their agenda, the opportunity to consider the written comments.

The Planning Group will provide a formal opportunity for written public review and comment on the proposed Charter. The Facilitation Team will ensure distribution of the draft and will collect and forward the comments to the Planning Group. The Drafting Team will consider and respond to public review and comments before finalizing its recommended Charter and submitting the Charter to the Federal Working Group.

## **TRAVEL REIMBURSEMENT ASSISTANCE**

A limited amount of travel reimbursement assistance will be available for those tribal, local government, and non-governmental members of the Planning Group who will otherwise not be able to participate on a consistent basis throughout the Planning Group process. Travel reimbursement will be administered through the U.S. Institute for Environmental Conflict Resolution.

## **PLANNING GROUP PROCESS NOT SUBJECT TO FACA**

The Federal Working Group has determined that the Planning Group process is not subject to the provisions of the Federal Advisory Committee Act (FACA). The Federal Working Group has previously proposed that the MRRIC be established under an exemption included in the Endangered Species Act, which stipulates that recovery implementation teams shall not be subject to FACA. In addition, the MRRIC language in the recent versions of the reauthorization bill for the Water Resources Development Act

(WRDA) stipulates that the MRRIC would be exempt from FACA requirements. The Planning Group will determine which FACA-like elements should be part of the Charter.

## **BACKGROUND AND AUTHORIZATION**

The 2003 amendment to the Army Corps of Engineers' 2000 Master Manual commits the Corps to a comprehensive Missouri River Recovery Implementation Program (MRRIP). The Program is designed to recover federally threatened and endangered species in the basin and to restore the ecosystem on which they depend. Specific actions include habitat restoration, hatchery support, flow modifications and an adaptive management program focused on the listed species. The Record of Decision that formalized the Master Manual further stipulates that the program shall be identified, reviewed, modified and implemented through coordination with the Missouri River Recovery Implementation Committee (MRRIC).

As a federally funded set of measures, the Program is being carried out by the Corps in collaboration with the US Fish and Wildlife Service (FWS), tribes, states, and other basin stakeholders. The Program incorporates fish and wildlife mitigation requirements of the Missouri River Bank Stabilization and Navigation Project with actions required by the FWS's 2003 Amended Biological Opinion on the operation of the Missouri River Mainstem Reservoir System, the Bank Stabilization and Navigation Project, and the Kansas Reservoir System.

The measures encompassed by the MRRP include habitat construction and channel modification (shallow water and emergent sandbar habitat); propagation and hatchery support; research, monitoring and evaluation; flow modifications; and adaptive management. The Program will be reviewed, modified and implemented through coordination with the MRRIC, which will include broad and diverse stakeholder representation, to ensure that public values are incorporated into recovery program actions. More broadly, the goal of MRRIC will be to "make recommendations about ways to improve the functioning of the river that will promote endangered species recovery (including but not necessarily limited to the pallid sturgeon, interior least tern, and piping plover), while minimizing impacts on human uses" (Final Framework for Establishing the Missouri River Recovery Implementation Committee – dated 2-5-07)

MRRIC will operate in an advisory capacity pursuant to a formal operating Charter. The MRRIC Charter will be developed through a collaborative process involving non-federal stakeholders representing the diversity of river management interests found throughout the Missouri River Basin. Charter development will follow guidelines set forth in the Final Framework for Establishing the Missouri River Recovery Implementation Committee (dated 2-5-07). This document is an addendum to the Framework and will describe the operating procedures and protocols that will be used to develop a draft Charter for MRRIC.