



Final Meeting Minutes
Missouri River Recovery Implementation Committee
Drafting Team Meeting
Omaha, Nebraska

January 23 and 24, 2008

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Summary

The Drafting Team for the Missouri River Recovery Implementation Committee (Committee) met in Omaha, Nebraska on Wednesday and Thursday, January 23 and 24 2008, to complete the development of a Recommended Charter for the Committee.

The meeting was co-chaired by Cheryl Chapman and John Thorson and facilitated by Ruth Nicholson Siguenza, CPF, and Steve Miller, AICP. Notes were taken by Douglas Huston.

On day one of the meeting, the Drafting Team worked on finalizing the Definitions section of the Draft Charter, made some final changes to the Draft Charter at the request of the Federal Working Group, and reviewed the proposed Charter transmittal letter.

At the November meeting in Denver, the Drafting Team had reached consensus on all sections of the Draft Charter except the Definitions section. Nine (9) definitions in this section did not have consensus at the start of the January meeting. Eight (8) of the definitions were quickly dealt with, but there was a lengthy debate over the definition of *Stakeholder*. Some Drafting Team members wanted to include a geographic restriction in the definition to prevent organizations and people outside the Missouri River basin from having an undue influence on the Committee. Others on the Drafting Team were concerned that a geographic restriction would prevent some people and organizations with legitimate concerns from having a voice on the Committee. A compromise definition was crafted that gives membership preference to residents of or organizations located in or adjacent to the basin in the event there are equally qualified applicants. Consensus was reached on the Definitions section. Discussions on day two clarified that those with economic interests in the basin would be considered residents of or located in or adjacent to the basin.

Following completion of the Definitions section, the Drafting Team reviewed proposed changes to the Draft Charter suggested by the Federal Working Group. The majority of these suggested changes were approved.

The Drafting Team also reviewed and made revisions to the proposed Charter transmittal letter.

On day two of the January meeting, the Drafting Team reached consensus on the Recommended Charter as a whole and approved the Charter transmittal letter.

Meeting Minutes

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Day One, January 23, 2008

Meeting Opening and Introductions

Co-Chair Cheryl Chapman called the meeting to order at 8:00 am. She welcomed everyone to the meeting and introduced her Co-Chair John Thorson. John commented that it was nice to be back and he was optimistic that the team could finish its work this meeting.

Roll Call

Ruth Nicholson Siguenza, Lead Facilitator, conducted a roll call in accordance with the Drafting Team's Operating Procedures and verified the presence of a quorum. Review Panel and Federal Working Group members and other observers were asked to introduce themselves.

Adoption of the November Meeting Minutes

Ruth explained the reason for the second version of the meeting minutes. Some Drafting Team members had concerns that approving the November minutes would be a de-facto approval of the Draft Charter since it was an appendix to the minutes. To alleviate that concern, the appendix containing the minutes was annotated to ensure it was clear that the Charter did not have Drafting Team agreement yet. Joe Gibbs commented that a sentence was missing at the bottom of page 9 of 18. This turned out to be a copying problem.

Following this discussion, the Drafting Team approved the November minutes.

The Drafting Team then discussed how the minutes from the January meeting would be approved since this meeting was the last official meeting of the Planning Group. Ruth explained the plan was to send the draft minutes around to the Planning Group, Institute Team, and Federal Working Group (FWG) and ask for comments. Once the comments were addressed, the minutes would be issued as final. The Drafting Team agreed to this under the conditions that 1) the process be transparent; and 2) if another meeting occurred, the January minutes would go through the procedurally prescribed approval process.

Federal Working Group Update

Ruth introduced Ernie Quintana, National Park Service Midwest Regional Director. Ernie thanked the Drafting Team for its work and commented that this process is absolutely critical to fairly addressing the common interests along the Missouri River. He stated that there is still some trust building that needs to take place. He also reported that Sue Jennings is being promoted and will be moving on. Her replacement will be Wayne Werkmeister. Mr. Quintana closed his remarks by stating that he would be available to answer questions and that he supported the Charter the group had developed.

Mary Roth, of the U.S. Army Corps of Engineers (USACE), reported on the FWG's efforts to develop a memorandum of understanding concerning how the various federal entities will participate in the Committee process. She also commented that the FWG had some minor wording changes to suggest to the Draft Charter. These changes were intended to minimize the chance that the Recommended Charter would be changed as it went through the approval process. The Team decided to address these changes as part of the final review of the Draft Charter.

The Drafting Team asked the FWG to discuss what preparations had been made for the Charter review to date and to explain the proposed process for review. Rose Hargrave, of the USACE, responded that the USACE had prepared some draft implementation guidance that was currently being reviewed. The local USACE office anticipated that, after receiving the Recommended Charter, it would send the draft guidance and the Recommended Charter to the Secretary of the Army's office. The local USACE office has a meeting scheduled with Witt Anderson, the current Senior Executive Service (SES) level person in the Northwest Division on February 6. Simultaneous to this process, the USACE would send the Recommended Charter to the tribes to initiate government to government consultations. Rose commented that in the draft implementation guidance, the USACE considers the Committee established once the Recommended Charter has been approved by the Secretary of the Army.

Rose also discussed with the group the tentative schedule for the various activities needed to get the Committee running. Once the Recommended Charter is approved, the member selection process can begin. The USACE anticipates beginning that process around the end of June, 2008. Once the applicants are notified, the first meeting date of the Committee will be set.

The Drafting Team expressed some concerns over the potential for changes to the Recommended Charter during the tribal consultations and also suggested that the meetings to discuss any changes to the Recommended Charter and to review Committee appointment recommendations could be combined.

Draft Charter Definitions Section Review

The Team proceeded to review the Definitions section. Members of the Drafting Team pointed out that the proposed definitions in this section had been worked out on a conference call and there had been considerable discussion on them at that time.

Adaptive Management

The Team changed the phrase *its true measure* to *the purpose of adaptive management is*.

Given these changes, consensus was reached on this definition

Mitigation

At this point in time, some Drafting Team members voiced concern over the word *gathering* in the definition of *meeting*. The Team decided to continue addressing the definitions that did not yet have agreement and come back to the definition of *meeting* at the end of that discussion.

In the definition of *mitigation*, the Team decided to change the opening phrase to *this sequential process includes* to emphasize that the list of actions that follows is intended to be sequential.

Given this change, consensus was reached on this definition.

Plan

There was some concern that referencing the Water Resources Development Act (WRDA) of 2007 might unduly restrict the Committee's activities. The Team decided to remove the caveat at the beginning of the definition.

Given this change, consensus was reached on this definition.

Recovery

Consensus was reached on this definition

Restoration

The Team asked that the source of this definition be clarified.

Given this, consensus was reached on this definition

Stakeholder

The Drafting Team debated at length on this definition. Some Team members wanted a geographic restriction placed on potential members of the Committee to prevent persons or organizations outside the basin from unduly influencing the Committee. Other members were concerned that a geographic restriction on membership would prevent people and organizations with legitimate concerns from becoming members. A compromise position was reached in which the definition was changed to indicate that in the appointment process, preference will be given to basin residents or organizations located in or adjacent to the basin in the event there were equally qualified applicants.

Given these changes, consensus was reached on this definition.

Study

The Team decided to remove the caveat at the beginning of the *study* definition.

Given this change, consensus was reached on this definition.

Substantive Issue

The Team took the examples out of the definition and added the phrase *as identified in the Committee's operating rules and procedures*.

Given these changes, consensus was reached on this definition.

Stakeholder Issues

The Team reached consensus on deleting this definition as long as the list of stakeholder issues was left in the Purpose section.

Meeting

The Team resumed the discussion of the *meeting* definition and decided to clarify this definition in the Committee operating procedures.

The Drafting Team had additional questions on the definitions of *public notice* and *quorum* but decided not to re-open previously agreed on definitions.

At this point, consensus was reached on the Definitions section as a whole.

Federal Working Group Suggested Changes

Mary Roth reviewed the USACE suggested changes with the Drafting Team, and Henry Maddux addressed the U.S. Fish and Wildlife Service (USFWS) suggested revisions.

Purpose and Scope

The USACE pointed out that one of the WRDA purposes for the Committee had been omitted. The team agreed to add this to the Draft Charter.

Public Notice

The USACE suggested that the phrase *shall be given* should be added to the definition of public notice. The Drafting Team pointed out that this was a definition, not a requirement. The change was not made.

Stakeholder Appointments and Vacancies

Adding the phrase *to the Secretary of the Army* to section 5a)v)(2)(d) was suggested by the USACE. In addition, the Team recommended moving 5v(2)(d) up into 5a)v)(2)(c). Consensus was reached on making these changes.

Termination

A recommendation was made by the USACE to rearrange the order of the sentences in section 5a)v)(2)(g) to improve clarity. In addition, the Team suggested breaking the section into two paragraphs to further improve clarity. Consensus was reached on making these changes.

Roles and Responsibilities

The USACE suggested changing the phrase *membership requirements to determination of a quorum* in section 5b)(ii)(5). The Team decided not to make this change.

Independent Panels

The USACE expressed concern that the provision for allowing non-Committee members to serve on independent panels would circumvent the Committee's vetting process. The team pointed out that non-Committee members would not be making decisions. No changes were made to this section.

Meeting Frequency and Location

The USACE expressed concern that it might not be possible to hold the first meeting of the Committee by May 9, 2008. The Drafting Team changed this section to require that the first meeting be convened by the Secretary of the Army within ninety (90) days of May 9, 2008.

Consensus and Decision Making

The USACE recommended removing the vice-chair from paragraph 6d)i)(3). The Team agreed to do this.

Reports, Work Plans, and Proposals

The USFWS proposed changing the terms *target/goals* to *delisting criteria* to be consistent with the federal terms and pointed out that delisting is not done by reach. The USFWS also pointed out that there are currently not any target numbers for the pallid sturgeon.

The Drafting Team changed the language in this section to refer to *downlisting/delisting criteria* but kept the requirement for reports on species numbers over the entire range of the species where available.

Budget and Finance

The USACE suggested adding the words *subject to appropriations* to the Budget and Finance section. The Team agreed to make this change.

Drafting Team Charter Discussion

At this point in time, the Drafting Team began a general discussion on the Charter. The Team agreed that unless there were errors or inconsistencies in the Charter it would not re-open already agreed on sections for discussion. There were questions on including conflict of interest requirements in the Charter and it was pointed out that conflict of interest had been discussed at the meeting in Denver in November and it was decided then to address these issues in the Committee operating procedures. There were also questions concerning the change in the minimum number of meetings from four (4) to two (2).

The Drafting Team tasked the facilitation team with compiling a list of the items that had been deferred to the Committee operating procedures and including it as an appendix to the January minutes. See Appendix B for this list.

The Team also decided that the scheduled 7:00 pm meeting was not necessary and asked the facilitation team to clean up the Draft Charter, e-mail it to the Planning Group, and make copies available later that evening.

Transmittal Letter

The Drafting Team debated removing the paragraph concerning travel expenses from the transmittal letter but decided to leave it in. The team also decided to include a list of the Planning Group members as an enclosure to this letter and to have dual addressees: the Secretary of the Army and Stephen Guertin, chair of the Missouri River Basin Interagency Roundtable (MRBIR).

Review Panel Input

Karin Jacoby of the Review Panel thanked the Drafting Team for its efforts and continued cooperation.

Public Input

There was no public input.

Wrap Up

The meeting adjourned at 3:50 pm.

Day Two, January 24, 2008

Meeting Opening and Introductions

Cheryl Chapman, Co-Chair, opened the meeting at 8:30 am. She reviewed the agenda for the day, and turned to Ruth Nicholson Siguenza, the lead facilitator, to conduct the meeting.

Final Consensus on a Recommended MRRIC Charter

Ruth verified that a quorum was present and checked to be sure the Drafting Team members had a copy of the latest version of the Draft Charter. She asked for questions or comments on the Draft Charter. There were some questions about what the Draft Charter would be titled. Ruth explained that it would be called the *Recommended Charter* and that the *Draft* watermark would be removed once the Drafting Team had come to consensus on the document as a whole.

There was discussion about an e-mail request to add the Yankton Sioux treaties to the Purpose and Scope section of the Draft Charter. The Drafting Team decided that they could be added as part of the government to government consultation that would occur once the Recommended Charter was submitted to the Secretary of the Army.

Ruth asked if there were any other comments on the Draft Charter. With respect to the definition of stakeholder, the question was posed to the drafting team and confirmed that those with economic interests in the basin were considered residents of or organizations located in or adjacent to the basin.

Ruth asked the Drafting Team if the current version of the Draft Charter was the Charter it wanted to recommend to the Secretary of the Army. Final consensus was reached on the Draft Charter as a whole at 8:50 am on January 24, 2008. See Appendix A for a copy of the Recommended Charter.

Final Consensus on the Transmittal Letter

The Drafting Team decided to use the Co-Chairs' addresses as the return addresses for the transmittal letter; revised and shortened the last paragraph of the letter; and decided to copy Stephen Guertin.

Given these changes, final consensus was reached on the transmittal letter.

Presentation

At this point in time, an ad-hoc change was made to the agenda. The Co-Chairs presented a framed picture of cranes in the Missouri River to Ruth Nicholson Siguenza, the lead facilitator, in appreciation for her efforts in helping the Drafting Team develop the Recommended Charter.

Final Perspectives on the Charter Development Process

John Thorson, Co-Chair, opened this section of the agenda by recapping the difficulties and challenges the Planning Group had overcome getting to this point. He commented that, as far as he knew, this was the first successful cooperative stakeholder effort of this kind in the history of the Missouri River basin.

Cheryl Chapman, Co-Chair, commented that the Planning Group had been successful despite the long history of conflict in the Missouri River basin.

Members of the Drafting Team expressed appreciation for the efforts of their colleagues on the Team, thanked the facilitation team for its efforts and pointed out the important role played by the facilitation team in contributing to the group's success.

Members of the Drafting Team also commented that while the concept of the Review Panel was good, its use and effectiveness in this effort could have been improved.

Wrap Up

The meeting was adjourned at 9:35 am.

Appendix A: MRRIC Recommended Charter

Missouri River Recovery Implementation Committee

Recommended Charter - v34

January 29, 2008

Preamble:

The Secretary of the Army hereby establishes the Missouri River Recovery Implementation Committee (Committee) as authorized by Section 5018 of the 2007 Water Resources Development Act (WRDA) to make recommendations and provide guidance on a study of the Missouri River and its tributaries and on the existing Missouri River recovery and mitigation plan. The Committee will provide a collaborative forum for the basin to come together and develop a shared vision and comprehensive plan for Missouri River recovery. The Committee will help guide the prioritization, implementation, monitoring, evaluation, and adaptation of recovery actions. The Committee will include broad stakeholder representation to ensure a comprehensive approach to Missouri River recovery implementation while providing for congressionally authorized Missouri River project purposes and to ensure that public values are incorporated into the study and the recovery and mitigation plans.

1) Purpose and Scope:

- a) The Purpose and Scope of the Committee are to:
 - i) Provide recommendations and guidance on a study of the Missouri River and its tributaries to determine actions required to:
 - (1) Mitigate losses of aquatic and terrestrial habitat
 - (2) Recover federally listed species under the Endangered Species Act of 1973
 - (3) Restore the ecosystem to prevent further declines among other native species
 - ii) Provide guidance with respect to the existing Missouri River mitigation and recovery plan, including recommendations on:
 - (1) Changes to the implementation strategy as a result of adaptive management
 - (2) Coordination of the development of consistent policies, strategies, plans, programs, projects, activities, and priorities for the Missouri River recovery and mitigation plan

- (3) Exchange of information regarding programs, projects, and activities of the agencies and entities represented on the Committee to promote the goals of the Missouri River recovery and mitigation plan
- (4) Establishment of such working groups as the Committee determines to be necessary to assist in carrying out the duties of the Committee, including duties relating to public policy and scientific issues
- (5) Facilitation of the resolution of interagency and intergovernmental conflicts between entities represented on the Committee associated with the Missouri River recovery and mitigation plan
- (6) Coordination of scientific and other research associated with the Missouri River recovery and mitigation plan
- (7) Preparation of an annual work plan and associated budget requests

iii) Provide recommendations and guidance that will include:

- (1) Recognition of local stakeholders' social and economic, historical and cultural, flood control, irrigation, agriculture, internal drainage, water supply, water quality, navigation, hydropower, thermal power, science, natural resources, conservation, and recreation issues, and any other issues identified by the Committee
- (2) Identification of impacts to stakeholders
- (3) Identification of actions that will benefit multiple uses of the river
- (4) Avoidance, minimization, and/or mitigation of adverse impacts

b) The Committee does not substitute for nor replace executive orders related to tribal consultation such as: Executive Order 13175, Tribal Consultation; any federal agency's trust responsibilities to a federally recognized tribe in the Missouri River Basin or a tribe that has historically been on the Missouri River; and/or replace any treaty right thereof such as: the Treaty of Ft. Laramie, 11 Stat. 749 (Sept 17, 1851); the Treaty of Ft. Laramie, 15 Stat. 635 (April 29, 1868); Title VI-Cheyenne River Sioux Tribe, Lower Brule Sioux Tribe, and State of South Dakota Terrestrial Wildlife Habitat Restoration Act of the Omnibus Consolidated and Emergency Appropriations Act of 1999, PL 105-277, 112 Stat. 2681, 2861-660-670 (October 21, 1998), as amended by Title IV of the Water Resources Development Act of 1999, PL 106-53, 113 Stat 269, 385-397 (August 17, 1999), and as otherwise amended; and any other treaty or right. Cooperation with the federally recognized tribes engaged in this process should be interpreted as "in good faith."

- c) Participation in the Committee by State, Tribal, or Federal entities does not limit their discretion; alter, affect, impair, delegate, or relinquish their statutory or other legal rights and responsibilities, including any right to legal remedies; or otherwise waive their sovereign immunity under applicable law; create any new right to any type of administrative review or create any new right to judicial review or any other right or benefit, substantive or procedural, enforceable by or against these entities or any other stakeholder participating in the Committee; and affect Tribal reserved water rights, treaty rights, or water rights administered by the Tribes and/or States. If the processes and procedures of the Committee would impede the implementation of any action for which agencies of the States, Tribes, or United States are obligated under law, that agency reserves the right to proceed with fulfilling those obligations in such manners as it may deem appropriate. Participation in the Committee by State, Tribal, or Federal entities is also contingent upon availability of funding or appropriation by appropriate State, Tribal, or Federal authorities, and their participation does not obligate any specific amount of expenditures in furtherance of this Charter; such expenditures being at the discretion of the State, Tribal, or Federal entity.

2) Convening Authority:

The Committee is convened under the authority of Section 5018 of the Water Resources Development Act of 2007.

3) Definitions - Glossary of Terms and Acronyms

- a) **Adaptive Management:** A type of natural resource management in which decisions are made as part of an ongoing science-based process. Adaptive management involves testing, monitoring, and evaluating applied strategies and incorporating new knowledge into management approaches that are based on scientific findings and the needs of society. Results are used to modify management policy, strategies, and practices. The purpose of adaptive management is to help meet environmental, social, and economic goals, increase scientific knowledge, and reduce tensions among stakeholders. (Source: Adapted from Unified Federal Policy for a Watershed Approach to Federal Land and Resource Management and the U.S. Department of the Interior Technical Guide)
- b) **Consensus:** All non-federal members of the Committee can support or live with an action or recommendation when quorum requirements are met.
- c) **Guidance:** The process by which recommendations are used to inform appropriate agencies about Missouri River recovery-related activities.
- d) **Lead Agency:** The U.S. Fish and Wildlife Service (USFWS), the U.S. Army Corps of Engineers (Corps of Engineers), and other agencies as necessary for specific issues.

- e) **Meeting:** A gathering of the Committee lasting one or more partial or full days, as defined in the Committee's operating procedures and guidelines.
- f) **Mitigation:** This sequential process includes (a) avoiding the impact altogether by not taking a certain action or parts of an action; (b) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (c) rectifying the impact by repairing, rehabilitating, or restoring the affected human or natural environment; (d) reducing or eliminating the impact over time by preservation and maintenance operations during the life of an action; (e) compensating for the impact by replacing or providing substitute resources or environments. (Source: Adapted from the Council on Environmental Quality, 40 CFR 1508.20)
- g) **Participating Agency:** Federal agencies involved in the Committee process other than the USFWS or Corps of Engineers unless designated as a lead agency for a specific issue.
- h) **Plan:** The Missouri River recovery and mitigation plan referenced in Section 5018 (B)(3)(b) of the Water Resources Development Act of 2007.
- i) **Public Notice:** Notice given to members of the public at least thirty (30) days prior to an event. It shall include but not be limited to written notice given by e-mail and by regular mail to:
 - (1) All members of interest groups who shall sign up to receive notice
 - (2) Persons who have been designated by members of the Committee to receive notice
 - (3) Newspapers and radio stations generally covering the basin and to four (4) specific newspapers recommended by members of the Committee
- j) **Quorum:** A quorum shall consist of those Committee state representatives and those Committee tribal representatives who are present at the meeting and 51% of the stakeholders as identified in Section 5(a)(v), who are at the time appointed to the Committee.
- k) **Recommendations:** Official suggestions, comments, or advice representing the consensus of the Committee and provided to the appropriate governmental or non-governmental agencies, groups, or persons.
- l) **Recovery:** Improvement in the status of a species listed under the Endangered Species Act to the point that it is not likely to be in danger of extinction in the foreseeable future throughout all or a significant portion of its range. (Source: Adapted from USFWS Regulations and the Endangered Species Act)
- m) **Restoration:** To fully or partially reestablish the attributes of a naturalistic, functioning, and self-regulating system. (Source: Engineer Pamphlet 1165-2-502: Ecosystem Restoration - Supporting Policy Information, USACE)

- n) **Stakeholder:** Any organization or individual that has a direct interest in actions or decisions of the Missouri River restoration, recovery and mitigation plan, or study. For the purposes of Section 5 of this Charter, representatives of Federal Agencies, Tribes, and States are not considered stakeholders. In the appointment process, all things being equal, preference will be given to residents of, or organizations located in or adjacent to, the basin.
- o) **Study:** The study referenced in Section 5018 (a) of the Water Resources Development Act of 2007.
- p) **Substantive Issue:** An issue for which the Committee is considering developing recommendations and other decisions identified as substantive in the Committee's operating rules and procedures.

4) Charter Amendment

The Committee may propose amendments to the Charter in accordance with its decision making process. Public notice will be given and public comments will be received prior to the Committee recommending the amendment to the Secretary of the Army for final adoption.

5) Membership and Representation of Interests:

a) Members and Alternates

- i) The Secretary of the Army will maintain a list of the members and alternates of the Committee.

ii) Federal Agencies

- (1) Federal agencies with programs affecting the Missouri River may be members of the Committee. Federal agency membership may include those agencies currently represented on the Missouri River Basin Interagency Roundtable (MRBIR) and any other federal agency designated by the Secretary of the Army. This includes federal agencies with management responsibilities, jurisdiction by law, regulatory authorities, technical expertise, and/or resource responsibilities affecting the Missouri River. To initiate the Committee, the lead agencies will be the U. S. Army Corps of Engineers and the U. S. Fish and Wildlife Service. Participating federal agencies may include the Bureau of Reclamation, Natural Resource Conservation Service, Environmental Protection Agency, Western Area Power Administration, United States Geological Survey, Maritime Administration, the National Park Service, and any other agency designated by the Secretary of the Army.
- (2) Federal agencies will not be counted for purposes of Committee quorum requirements and will not participate in the determination of consensus recommendations.

- (3) Federal agencies will submit to the Secretary of the Army documentation of their agency's interest in the Committee explaining why they need to be involved and designating a representative to the Committee.
- (4) Lead Federal Agencies will be represented on the Committee by officials at the Senior Executive Service (SES) level or their deputies. Lead Federal Agency representatives will participate fully and completely in all Committee meetings and any sub-committees or panels formed by the Committee.
- (5) Participating Federal Agencies will be represented by officials appointed by their respective agencies. These representatives will be available to answer questions, provide information, and state their opinions and recommendations at Committee meetings (including any sub-committees and panels) on recommendations directly affecting the Participating Federal Agency's management or resource responsibilities, jurisdiction by law, or regulatory authorities.
- (6) Participating Federal Agencies will be able to participate temporarily as a Lead Agency, at the SES or their deputy level, when any issue being discussed or considered by the Committee could directly affect the Participating Federal Agency's management or resource responsibilities, jurisdiction by law, or regulatory authorities.

iii) States:

- (1) The following states are eligible for membership in the Committee. For those states that choose to participate, the governor shall appoint one (1) representative and one (1) alternate.
 - (a) Iowa
 - (b) Kansas
 - (c) Missouri
 - (d) Montana
 - (e) Nebraska
 - (f) North Dakota
 - (g) South Dakota
 - (h) Wyoming

iv) Tribes:

(1) The following tribes are eligible for membership in the Committee. Those tribes that choose to participate will appoint one (1) representative and one (1) alternate in accordance with tribal procedures.

(a) Ft. Peck Assiniboine and Sioux Tribes

(b) Blackfeet Tribe

(c) Cheyenne River Sioux

(d) Chippewa Cree Tribe

(e) Crow Creek Sioux Tribe

(f) Crow Nation

(g) Eastern Shoshone Tribe

(h) Flandreau Santee Sioux Tribe

(i) Ft. Belknap Indian Community

(j) Iowa Tribe of Kansas and Missouri

(k) Kickapoo Tribe of Indians

(l) Lower Brule Sioux Tribe

(m) Northern Arapaho Tribe

(n) Northern Cheyenne Tribe

(o) Oglala Sioux Tribe

(p) Omaha Tribe of Nebraska

(q) Ponca Tribe of Nebraska

(r) Prairie Band of Potawatomi Nation

(s) Rosebud Sioux Tribe

(t) Sac and Fox Nation of Missouri in Kansas and Nebraska

(u) Santee Sioux Nation

- (v) Sisseton - Wahpeton Sioux Tribe
- (w) Spirit Lake Sioux Tribe
- (x) Standing Rock Sioux Tribe
- (y) Three Affiliated Tribes
- (z) Turtle Mountain Band of Chippewa
- (aa) Winnebago Tribe of Nebraska
- (bb) Yankton Sioux Tribe

v) Stakeholders:

- (1) There will be a maximum of twenty-eight (28) stakeholder members, broken down into the interests below. Each interest shall have a maximum of two (2) representatives and two (2) alternates.
 - (a) Navigation
 - (b) Irrigation
 - (c) Flood Control
 - (d) Fish and Wildlife
 - (e) Recreation
 - (f) Water Quality
 - (g) Water Supply
 - (h) Agriculture
 - (i) Conservation Districts
 - (j) Waterway Industries
 - (k) Major Tributaries
 - (l) Thermal power
 - (m) Hydro power
 - (n) At large/other interests, e.g. cultural and historic preservation
 - (o) Local Government

(p) Environmental/conservation organizations

(2) Appointment, Terms of Office, and Attendance

(a) Terms:

The standard Committee appointment will be for a term of three years. At the first organizational meeting of the Committee, through a random drawing, one-third of the stakeholders will be appointed to a one-year term. Another third will be appointed to a two-year term. The final third will be appointed to a three-year term. This provision applies to the initial terms of the founding Committee members. Thereafter, all terms will be three years.

(b) Term Limits:

There will be no limit to the number of terms a member may be appointed to serve.

(c) Stakeholder Member Appointments and Vacancies:

Stakeholder vacancies will be published in the Federal Register and public notice will be given and broadly disseminated within the Missouri River basin by the U.S. Army Corps of Engineers. Interested parties will submit applications to the Secretary of the Army. Applications from interested parties will be forwarded to the Committee for the purpose of providing a recommendation of appointment following its decision-making process. For the initial appointments, the Planning Group will provide recommendations to the Secretary.

Each year the Committee will forward to the Secretary of the Army a list of those stakeholder members whose terms will expire and those who wish to remain on the Committee. Incumbent members wishing to remain on the Committee do not need to re-submit an application to the Secretary of the Army. Members may continue to serve until the Secretary appoints a replacement.

(d) Stakeholder Application Qualifications:

Stakeholders will demonstrate they represent an interest in the Missouri River basin.

(e) Alternate Members:

Alternates will apply in the same manner as stakeholder members and will be recommended by the stakeholder member. Upon appointment, the alternate will serve during the temporary absence of the member. In the instance of the permanent absence of the member, the alternate will fill the remainder of the term.

(f) Termination:

(i) If a member is not in attendance or represented by an alternate at two consecutive meetings, the Committee may recommend termination of that member and alternate to the Secretary of the Army after giving notice to the affected parties and giving them the opportunity to respond.

(ii) A member or alternate will notify the Chair if they are no longer able to serve. The Secretary of the Army will be notified of the vacancy.

b) Roles and Responsibilities, Including Leadership and Staffing

i) Chair and Vice-Chair

- (1) The Committee shall select a Chair and Vice Chair who may be a member of the Committee. The Chair will be responsible for protecting the interests of all Committee members and alternates. S/he will act in a fair and balanced manner with respect to the Committee's operation and the conduct of Committee meetings. The Chair will strive to determine the views of all Committee members regarding Committee advice and work to achieve consensus.
- (2) The Chair will be responsible for running Committee meetings, including opening, enforcement of operating rules, and adjournment. The Chair may call a meeting subject to the public notification procedures of the Committee. The Chair will be responsible for collaboratively developing meeting agendas and reviewing draft meeting minutes and summaries for accuracy and completeness.
- (3) The Chair shall have the authority to represent the scope and purpose of the Committee and convey the consensus decisions of the Committee to agencies, elected officials, and in public settings, but shall not act in a lobbying capacity.

- (4) The Chair and Vice Chair will serve or be removed with the consensus of the Committee. The term of office of the Chair and Vice Chair will be one (1) year, with the opportunity for reappointment for no more than three (3) additional terms of one (1) year each. Should a Committee member believe the Chair and/or Vice Chair are not performing in a fair and balanced manner, it is the responsibility of the member to raise his/her concerns to the Chair or to the full Committee for consideration.
 - (5) The Vice-Chair will assume the duties of the Chair in her/his absence.
 - (6) The Chair and Vice-Chair shall be selected at the last meeting of the calendar year and assume office at the first meeting of each calendar year.
 - (7) The Chair and Vice-Chair shall not be employees of the federal government.
- ii) Member and Alternate Responsibilities
- (1) Members and alternates are expected to honor their commitment to seek consensus.
 - (2) All members and alternates will be accurate and respectful with regard to their communications with others.
 - (3) Members and their alternates will be responsible for representing the interests and concerns of the organizations, institutions, and constituencies they represent.
 - (4) It is the affirmative responsibility of members and alternates to voice dissent if they cannot support or live with a recommendation. If a member objects to a recommendation, it is also his/her affirmative responsibility to articulate the reasons behind the objections and to provide an alternate proposal if possible.
 - (5) Members and alternates are free to abstain from a determination of consensus for whatever reasons. However, it is the responsibility of each member and alternate to affirmatively state his or her desire to abstain from participating in a determination of consensus if she/he so chooses. Abstentions will not affect the determination of a quorum.
 - (6) Members and alternates will adhere to the Committee's charter, operating procedures, and ground rules. They are expected to give due consideration to the procedural guidance and recommendations of the Chair.

iii) Working Groups and Subcommittees

The Committee may create special work groups or sub-committees as necessary to accomplish its purposes. These may include individuals not on the Committee.

iv) Independent Panels

The Committee may convene independent panels to advise the Committee on substantive issues. Members of these panels may be compensated for their services.

v) Written Directives and Scopes of Work

Prior to commencing work, the Committee will provide each working group, sub-committee, and independent panel a written directive that outlines its purpose and tasks, as well as specifies its members, their roles and responsibilities, the expected work products, and the specific time frames for reports and completion of the group's work.

vi) Staffing

The Secretary of the Army will provide the necessary support staff to the Committee, including but not limited to office support, travel and meeting coordination, facilitation, minutes/note taking, and other duties the Committee may determine are necessary to conduct its business.

6) General Committee Operations

a) Operating Procedures and Guidelines

The Committee will develop a set of operating procedures and guidelines to set forth in detail how it shall conduct meetings and accomplish the requirements of this charter.

b) Meetings

Meeting frequency and location

- (1) The first meeting of the Committee will be convened by the Secretary of the Army or his/her designee within 90 days of May 9, 2008.
- (2) The Committee will meet a minimum of two (2) times per year and will determine meeting dates and locations.

c) Communications, Record Keeping, Documents, and Reports

i) Open meetings

Except as provided herein, each Committee meeting will be open to the public. Interested persons shall be permitted to attend, offer public comment, or file statements with the Committee.

ii) Executive sessions

The Committee may call an executive session that is closed to the public upon the consensus of the members present. An executive session may only be called for legal, personnel, or property transfer issues directly pertaining to the Committee. Decision-making will be conducted during the open meetings.

iii) Notice of meetings

Public notice of each such meeting of the Committee will be given as provided for in the Operating Procedures.

iv) Minutes and approval of minutes

Detailed minutes of each Committee meeting will be kept by an independent, qualified note taker. These minutes and summaries of the minutes will be approved by the Committee in accordance with its decision making process.

v) Availability of records

Any records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by the Committee will be available for public inspection and copying, except as provided by law.

vi) Assessment and Self-Evaluation

The Committee will conduct a self-evaluation of its operations every year.

vii) Reports

The Committee will submit an annual report to the Secretary of the Army.

d) Consensus and Decision Making

i) Process

- (1) The Committee's goal is to reach consensus on all substantive issues brought before it. Federal Agency representatives may participate [per section 5(a)(ii)] in the discussion of all matters pending before the Committee and provide their opinions, input, and suggestions. The Committee will only make recommendations where there is a consensus. Federal agencies will not participate in the determination of the Committee's consensus recommendations.
- (2) Consensus recommendations will be made using a two-step process with information, discussion, proposal development, and tentative consensus at the first meeting and actions no sooner than the next meeting to assure adequate notification of and deliberations by Committee members and the interests they represent. Upon consensus of the Committee, the two-step process may be waived except for recommendations to federal and/or other agencies and Charter amendments.
- (3) If consensus cannot be reached, the Chair will designate a period of time to be set aside to address the issue during at least two different meetings. If consensus still cannot be reached, the meeting minutes will not characterize or quantify the level of support for the differing views.
- (4) Once consensus is reached on any recommendation, the Chair will ask the Lead Federal Agency representatives involved with the issue being considered whether they can endorse the recommendation. The Lead Federal Agencies will be requested to respond immediately to the Committee, if possible, or by an agreed upon date. Lead Federal Agency endorsement is not necessary for a consensus recommendation to be submitted to the appropriate government entity.
- (5) Once recommendations and guidance are delivered by the Committee to the Secretary of the Army, it is requested that s/he, in coordination with other participating Federal Agencies, agrees to provide the official federal position on the issue and outline the steps to implement the recommendations by an agreed upon date or provide the reason(s) for not implementing the recommendation.
- (6) Committee members are free to abstain from a determination of consensus. Abstentions will be recorded in the meeting minutes when requested by the individual who wishes to abstain.

e) Reports, Work Plans, and Proposals.

- i) The U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, and other agencies selected by the Committee will provide at least annual, summary reports on Missouri River and tributaries recovery, mitigation, and restoration emphasizing the status of recovery activities for the pallid sturgeon, interior least tern, and piping plover. In addition to construction, monitoring, research, and propagation activities, the annual summary reports will include:
 - (1) Number of pallid sturgeons, interior least terns, and piping plovers present over their entire ranges, where available
 - (2) Downlisting and/or delisting criteria, including target numbers, for the pallid sturgeon, interior least tern, and piping plover for the Missouri River and their entire ranges
 - (3) Comparison of numbers for the pallid sturgeon, interior least tern, and piping plover with previous years' reports
 - (4) Progress and effectiveness of adaptive management toward the pallid sturgeon, interior least tern, and piping plover recovery
 - (5) Other reports as deemed necessary by the Committee.
- ii) Reporting agencies will be prepared to respond to specific questions from the Committee, by an agreed upon date, regarding recovery status and recovery activities.
- iii) Federal agencies involved in recovery, mitigation, and restoration efforts in the basin will submit status reports, work plans, and cost estimates to the Committee at least annually.
- iv) Other federal, tribal, and state agencies, as well as non-governmental organizations may also submit recovery and restoration proposals for review by the Committee.

f) Budget and Finance:

- i) Committee funding and budget authority/responsibility

Subject to appropriations, the Secretary of the Army will provide funding for Committee operations and activities, including, but not limited to:

- (a) Independent technical review
- (b) Facilitation assistance

- (c) Administrative assistance
 - (d) Meeting costs
 - (e) Preparation of information on key technical and policy questions and issues
 - (f) Public information and outreach
- ii) Annual funding level recommendations for the Committee will be developed through annual consultation between the Committee and a U.S. Army Corps of Engineers representative.

7) Interactions Outside The Committee:

a) Web Site

The U.S. Army Corps of Engineers will maintain a Web site as a clearinghouse for Committee-related information.

b) Annual Conference

The Committee may host an annual conference to provide information to the public on the Missouri River Recovery and Mitigation Plan.

Appendix B: Suggestions for Items to Include in the MRRIC Operating Procedures and Ground Rules

Note: The following list is a compilation of suggestions made by both Drafting Team and Review Panel members between June, 2007, and January 2008. It does not reflect or imply a consensus of the group or constitute a formal list of agreed upon recommendations from the Planning Group.

1. Develop a procedure for amending the Charter
2. Develop a procedure for expanding the membership of the Committee, if needed, to address evolving issues or specific needs
3. Outline additional membership responsibilities beyond attendance requirements
4. Develop a MRRIC dispute resolution process
5. Clarify the definition of meetings
6. Develop a clearer and more complete list of decisions that would be considered substantive
7. Develop a public notification procedure
8. Develop conflict of interest guidelines

Appendix C:

Meeting Attendance January 23, 2008

DRAFTING TEAM	
Name	Affiliation
Adams, Steve	State of Kansas
Asbury, Randy	Coalition to Protect the Missouri River
Beacom, William	Missouri River Navigation Caucus
Cassidy, Patrick	Kansas City Board of Public Utilities
Catches Enemy, Michael	Oglala Sioux Tribe
Collins, Gary	Northern Arapaho Tribe
Cookson, David	State of Nebraska
Drew, John (Alt. for Mike Wells)	State of Missouri
Gibbs, Joseph	Missouri Levee Districts
Good Bird, Bonnie	Mandan, Hidatsa and Arikara Nations
Graves, Thomas	Mid-West Electric Consumers Association
Lay, William	Howard County Commission
Johnson, David	Garrison Diversion Conservancy District
Maddox, Max (Alt. for Larry Mires)	St. Mary Rehabilitation Working Group
Majeres, Jack	Moody County Conservation District
Marquis, Vicki	Missouri River Conservation Districts Council
Meisner, Don "Skip"	State of Iowa
Meng, Lanny	Missouri Levee and Drainage District Association
Muench, Lynn	The American Waterways Operators, Mid-Continent Region
Rath, Mark	State of South Dakota
Ryckman, Fred	State of North Dakota
Saul, Eugene	Santee Sioux Nation
Schrempp, Tom	WaterOne, Water District #1 of Johnson County, KS
Schwellenbach, Stan	City of Pierre
Sieck, David	Iowa Corn Growers Association
Skold, Jason	The Nature Conservancy
Smith, Joe	Standing Rock Sioux Tribe
Walters, Bob	Cheyenne River Sioux Tribe
Williamson, Bob	City of Kansas City, Missouri
MRRIC PLANNING GROUP CO-CHAIRS	
Chapman, Cheryl	Matrix Consulting
Thorson, John	California Public Utilities Commission (Participation does not represent CPUC)
REVIEW PANEL	
Jacoby, Karin	Mo-ARK
Lepisto, Paul	Izaak Walton League of America

Appendix C

FEDERAL WORKING GROUP	
Ames, Joel	U.S. Army Corps of Engineers
Cieslik, Larry	U.S. Army Corps of Engineers
Cothorn, Joe	U.S. Environmental Protection Agency
Fleming, Craig	U.S. Army Corps of Engineers
Fritz, Dan	U.S. Bureau of Reclamation
Hargrave, Rosemary	U.S. Army Corps of Engineers
Jennings, Sue	National Park Service
Kluck, Doug	National Weather Service/NOAA
Mac, Mike	U.S. Geological Survey
Maddux, Henry	U.S. Fish & Wildlife Service
McSharry, Heather	U.S. Fish & Wildlife Service
Olson, Mike	U.S. Fish & Wildlife Service
Roth, Mary	U.S. Army Corps of Engineers
Ponganis, Dave	U.S. Army Corps of Engineers
Quintana, Ernie	National Park Service
Roth, Mary	U.S. Army Corps of Engineers
Seeronen, John	U.S. Army Corps of Engineers
Stas, Nick	Western Area Power Administration
Fleming, Craig	U.S. Army Corps of Engineers
Wiley, Dan	National Park Service
MRRIC PLANNING GROUP FACILITATION TEAM	
Behrns, Lisa	Olsson Associates
Huston, Douglas	AccuEdit Writing Services, LLC
Miller, Steve	Olsson Associates
Siguenza, Ruth Nicholson	Ruth Siguenza, LLC
U.S. INSTITUTE FOR ENVIRONMENTAL CONFLICT RESOLUTION	
Eng, Mike	U.S. Institute for Environmental Conflict Resolution
OBSERVERS	
Cady-Hoffman, Linda	Western Area Power Administration
Shadle, John	Nebraska Public Power District

Appendix D

Meeting Attendance, January 24, 2008

DRAFTING TEAM	
Name	Affiliation
Adams, Steve	State of Kansas
Asbury, Randy	Coalition to Protect the Missouri River
Beacom, William	Missouri River Navigation Caucus
Cassidy, Patrick	Kansas City Board of Public Utilities
Catches Enemy, Michael	Oglala Sioux Tribe
Collins, Gary	Northern Arapaho Tribe
Christensen, Joel (Alt. for Tom Schrempp)	WaterOne - Water District No. 1 of Johnson County, KS
Cookson, David	State of Nebraska
Drew, John (Alt. for Mike Wells)	State of Missouri
Gibbs, Joseph	Missouri Levee Districts
Good Bird, Bonnie	Mandan, Hidatsa and Arikara Nations
Graves, Thomas	Mid-West Electric Consumers Association
Lay, William	Howard County Commission
Johnson, David	Garrison Diversion Conservancy District
Maddox, Max (Alt. for Larry Mires)	St. Mary Rehabilitation Working Group
Majeres, Jack	Moody County Conservation District
Marquis, Vicki	Missouri River Conservation Districts Council
Meisner, Don "Skip"	State of Iowa
Meng, Lanny	Missouri Levee and Drainage District Association
Muench, Lynn	The American Waterways Operators, Mid-Continent Region
Rath, Mark	State of South Dakota
Ryckman, Fred	State of North Dakota
Saul, Eugene	Santee Sioux Nation
Schwellenbach, Stan	City of Pierre
Sieck, David	Iowa Corn Growers Association
Skold, Jason	The Nature Conservancy
Smith, Joe	Standing Rock Sioux Tribe
Walters, Bob	Cheyenne River Sioux Tribe
Williamson, Bob	City of Kansas City, Missouri
MRRIC PLANNING GROUP CO-CHAIRS	
Chapman, Cheryl	Matrix Consulting
Thorson, John	California Public Utilities Commission (Participation does not represent CPUC)
REVIEW PANEL	
Jacoby, Karin	Mo-ARK
Lepisto, Paul	Izaak Walton League of America

Appendix D

FEDERAL WORKING GROUP	
Ames, Joel	U.S. Army Corps of Engineers
Cieslik, Larry	U.S. Army Corps of Engineers
Cothorn, Joe	U.S. Environmental Protection Agency
Fleming, Craig	U.S. Army Corps of Engineers
Fritz, Dan	U.S. Bureau of Reclamation
Hargrave, Rosemary	U.S. Army Corps of Engineers
Jennings, Sue	National Park Service
Kluck, Doug	National Weather Service/NOAA
Mac, Mike	U.S. Geological Survey
Maddux, Henry	U.S. Fish & Wildlife Service
McSharry, Heather	U.S. Fish & Wildlife Service
Olson, Mike	U.S. Fish & Wildlife Service
Roth, Mary	U.S. Army Corps of Engineers
Ponganis, Dave	U.S. Army Corps of Engineers
Roth, Mary	U.S. Army Corps of Engineers
Seeronen, John	U.S. Army Corps of Engineers
Stas, Nick	Western Area Power Administration
Fleming, Craig	U.S. Army Corps of Engineers
Wiley, Dan	National Park Service
MRRIC PLANNING GROUP FACILITATION TEAM	
Behrns, Lisa	Olsson Associates
Huston, Douglas	AccuEdit Writing Services, LLC
Miller, Steve	Olsson Associates
Siguenza, Ruth Nicholson	Ruth Siguenza, LLC
U.S. INSTITUTE FOR ENVIRONMENTAL CONFLICT RESOLUTION	
Eng, Mike	U.S. Institute for Environmental Conflict Resolution
OBSERVERS	
Cady-Hoffman, Linda	Western Area Power Administration
Katz, Sara	Katz & Associates
Shadle, John	Nebraska Public Power District