



Draft Notes
Missouri River Recovery Implementation Committee
Planning Group Public Workshop
Omaha, Nebraska

November 8, 2007

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Notes

The Planning Group for the Missouri River Recovery Implementation Committee (MRRIC) conducted a public workshop on November 8, 2007, in Omaha Nebraska for the purpose of obtaining public feedback on the DRAFT MRRIC Charter developed by the Drafting Team for MRRIC.

Three workshops were conducted: 10:00 am to noon, 2:00 pm to 4:00 pm, and 5:00 pm to 7:00 pm. The workshops were facilitated by Ruth Siguenza and Steve Miller. Notes were taken by Doug Huston.

Drafting Team Co-Chair Cheryl Chapman opened two of the three sessions with a welcome to the Planning Group members and members of the public in attendance. Ruth Siguenza opened the third session. Prior to each session, members of the Planning Group, Federal Working Group, facilitation team, and the public in attendance introduced themselves. Each session also received a Power Point presentation on the organization, structure and membership of the Planning Group, the history of the development of the MRRIC concept, and the charter development process provided by Mike Eng of the U.S. Institute for Environmental Conflict Resolution (U.S. Institute). Mike also pointed out to each workshop the laptop computers set up in the back of the room and encouraged the members of the public to use these as a method of submitting their feedback. Ruth Siguenza discussed the questions the Planning Group would like the public to answer with respect to the DRAFT Charter:

1. Is the DRAFT Charter understandable?
2. Is the DRAFT Charter reasonable?
3. Is the DRAFT Charter implementable?

Steve Miller provided an overview of the DRAFT Charter for two of the three sessions. Ruth Siguenza provided the overview for the third session.

Following these presentations, the public was invited to make comments on the DRAFT Charter and ask questions of the Planning Group and Federal Working Group members in attendance.

Public Comment Session 1: 10:00 am to Noon

Some members of the public expressed confusion over the definition of consensus and the process for reaching consensus. The Planning Group clarified the MRRIC definition of consensus and explained that two separate meetings would be required as a minimum to reach consensus. Members of the public also had a question on the definition of a quorum and expressed concern that there was no guarantee that any particular group would have representation on MRRIC. The Planning Group pointed out this was true, but the categories for stakeholder representation were broad, and it was likely that any issue would fit in at least one of the categories. The group also commented that interested persons could get involved in the sub-committees the MRRIC might be creating for specific issues.

There was a question over the apparent mathematical disconnect between the fifteen (15) stakeholder membership categories, the allowance of up to two (2) members per category, and the DRAFT Charter limit of twenty-eight (28) total stakeholder members. The Planning Group explained that it was anticipated that not all categories would have representatives and not all

that were represented would have two representatives. The twenty-eight (28) member limit was an attempt to control the size of the group and maintain balance.

There was also concern among some public members about the membership selection process. In particular, there was concern that the current selection process could shut some people out. The public recommended that the DRAFT Charter contain a requirement to forward all applications to the Secretary of the Army.

In response to the Planning Group request for specific feedback on federal agency participation, the public asked questions on the history of each of the two federal agency participation proposals. Jack Majeres of the Drafting Team provided a synopsis of the history of both proposals. The Planning Group and the public then discussed federal agency participation. There was some confusion among the public representatives concerning whether federal agencies would be involved in determining consensus. The Planning Group clarified that under either proposal and at the federal agencies' request, they would not be involved in determining consensus. The public suggested that the Drafting Team clarify the language concerning whether a temporary lead agency would require Senior Executive Service (SES) level representation during the period of time it was a lead agency. The public also commented that an SES level position is sometimes not a policy position.

Public Comment Session 2: 2:00pm to 4:00pm

For session two, the chairs in the room were rearranged to allow for better conversation between the Planning Group, Federal Working Group, and the public.

The public commented that the DRAFT Charter did not adequately acknowledge the contributions of the states and suggested some language be added to the Scope and Purpose section on this subject. The comment was also made that the Scope and Purpose section should contain reference to environmental interests in the list in section 1.b. In addition, there was a public concern that the DRAFT Charter contained strong, prescriptive language with respect to the federal agencies and possibly the terms shall and will should be replaced with less prescriptive terms.

With respect to membership, a member of the public commented that the size of the committee appeared unwieldy and the larger the committee, the more difficult it might be to reach consensus. The suggestion was made that some of the listed stakeholder interests might be combined.

With respect to federal agency participation, a member of the public commented that the Water Resources Development Act (WRDA) clearly intended that the federal agencies be part of the process and that differentiating between participation levels created an awkward arrangement. The comment was made that the committee would gain more than it might lose by inclusiveness.

The Planning Group commented that this arrangement came about as a result of issues with federal agency participation in the Spring Rise process. A member of the public commented that the group should not let Spring Rise dominate its thinking. Another member of the public commented that federal agencies needed to be at the table, but not involved in determining consensus.

The Planning Group asked the public for its opinion on having Navigation and Waterway Industries be two separate categories. Members of the public responded that these two categories had enough differences to justify being treated separately.

A Review Panel member asked the public if MRRIC's purpose was clear enough and if the public had any feel for the possible duration of MRRIC activities. A member of the public responded that it would probably be long term, but he was concerned that the charter was too process oriented and too specific. Another member of the public commented that he hoped the purpose of MRRIC would be to foster civilized, respectful dialogue. The Drafting Team commented that this was already happening.

The Drafting Team asked that the three questions (understandability, reasonableness, and implementability) discussed earlier be placed back on the screen and asked the public to look at the DRAFT Charter from an understandability standpoint. The team was concerned that since the DRAFT Charter had been developed in discrete pieces these pieces might not fit together smoothly.

The public commented that communication was itself a worthy goal.

The public asked about the relationship between MRRIC and the Master Manual. The U.S. Army Corps of Engineers responded that MRRIC would be advisory with respect to potentially changing the Master Manual.

The public expressed concern that there were no conflict of interest provisions in the DRAFT Charter. The Planning Group asked for clarification on conflict of interest. The concern was over economic conflicts of interest.

A review panel member commented that the DRAFT Charter needed language concerning public involvement and comment. This member also expressed concern that the current membership selection process could allow MRRIC to filter out applications. This language needs clarification.

Another Review Panel member commented that his experience with consensus councils is that they work, and they can be very effective.

A member of the public expressed concerns that the current membership selection process looked like a way to perpetuate the Drafting Team.

Public Comment Session 3: 5:00pm to 7:00pm

A member of the public commented that termination of members should be moved to number three under Membership. This member was also concerned how the initial membership selection process would work. The Drafting Team explained that the intent was that all applications would be forwarded to the Secretary of the Army.

A Review Panel member asked the public if it felt that the list of stakeholder interests needed additional definition. The public responded that trying to define these categories might skew the process or make it too complicated.

A Review Panel member questioned the no decision provision for executive sessions. The Drafting Team clarified that executive sessions were for discussing sensitive issues. Any decisions would have to be taken back to the full committee for a consensus determination. There was also some confusion over the difference between the purpose of an executive session and the purpose of the dispute resolution process. The Drafting Team explained that the dispute resolution process was an open process, an executive session was closed.

A member of the public commented that not taking notes during an executive session might be in conflict with Kansas law. A Review Panel member suggested changing the language in Purpose and Scope section b to state that stakeholder issues would be *studied and considered* instead of *recognized*. The Drafting Team members in attendance concluded that *recognized* covered *studied and considered*. The suggestion was also made that instead of identifying actions to benefit multiple uses of the river, the language should say *propose actions*. The Drafting Team members in attendance preferred to leave *identify* in the DRAFT Charter.

The Drafting Team members in attendance expressed concern over how much of the DRAFT Charter would be open for revision at the November Planning Group meeting in Denver. It was pointed out that public comment could encompass all sections of the DRAFT Charter, and these comments need to be addressed. There was then some discussion on limiting the length of discussions at the Denver meeting. Another proposal was to have the Review Panel meet separately for a period of time in Denver and consolidate its input for the Drafting Team. Some Review Panel members again expressed frustration that not all their comments had been heard at the October Planning Group meeting in Kansas City.

Wrap Up

Cheryl thanked the public, the Federal Working Group representatives, and Planning Group members for attending these workshops and expressed appreciation for their input. The workshops were closed at 7:00 pm

Appendix A
Specific Comments
from
Karin Jacoby, Review Panel Member

1. Clarify the meaning of *in good faith* in the tribal language in the Purpose and Scope section.
2. Consider replacing the requirement for an SES level representative for lead agencies with a requirement for a policy level administrator.
3. Consider that the *other interest* category is not the same as an *at large* category. *At large* implies multi-purpose.
4. There should be member term limits with a mandatory break between terms.
5. The staggered terms for initial MRRIC members should be staggered within an interest. For example, if there are two Navigation interest representatives, one should have a one year term, the other should have a two year term.
6. Under attendance, change the words *able to serve* to *willing or able to serve*.
7. Under Roles and Responsibilities, Chair and Vice-Chair, sections d and g seem to be in conflict. Clarify this relationship.
8. Delete the phrase *if applicable* in the Coordinating Committee language.
9. In the Preamble, delete the word *essential*.
10. In the requirement to develop operating procedures, add the phrase, *to meet convening authority requirements*
11. Consider adding target goals and actual population numbers of endangered species to the reporting requirements section.
12. Clarify how the DRAFT Charter funding provisions will work.

Appendix B

Specific Comments from Max Maddux, Review Panel Member

1. Require agencies temporarily designated as lead agencies to provide an SES level representative to MRRIC meetings.
2. All MRRIC proceedings need to be recorded.
3. If a Drafting Team member is applying for membership on MRRIC s/he should not be involved in reviewing membership applications. Recommend that the facilitation team and the U.S. Institute make the initial recommendations to the Secretary of the Army.

Appendix C

Specific Comments from the Nebraska Game and Parks Commission

Comments on the Draft MRRIC Charter Outline - v24, dated October 21, 2007. In regard to the Planning Group Process to Develop a MRRIC Charter (Missouri River Recovery Implementation Committee):

1. Comment. Page 1, Under Purpose and Scope. It was good to see that mitigation, recovery, and restoration were all defined in the definitions paragraph on page 2.
2. Comment. Page 2, Under paragraph 3) I) it states restoration is the process of restoring the ecosystem to prevent further declines of native species. Although it is not necessary to state anything else, the National Research Council (2002) stated that 51 of 67 native fish species living along the mainstem are now listed as rare, uncommon, and/or decreasing across all or part of their ranges.

Citation: National Research Council (2002). The Missouri River Ecosystem, Exploring the Prospects for Recovery. National Academy Press, Washington, D.C. page 2.

3. Comment. Page 3 and 4. The NGPC recommends Draft Proposal 2 rather than Proposal 1 for Federal Agency participation because proposal 2 will allow more of a collaborative effort to take place and because proposal 2 will allow the Lead Federal Agencies to articulate federal positions. Without knowing their position on any one issue or topic, unknowingly and undoubtedly there would be time delays and confusion. We believe the partnership attitude will be better served also because federal agencies have a wealth of information that can be utilized by MRRIC representatives.
4. Comment. Page 4. The states need to be represented because their fish and wildlife agencies have public trust responsibilities by statute, including natural resources in major tributaries (page 6, paragraph iv, Stakeholders (k)). Who would represent Major Tributaries (page 6, iv, (k))?
5. Comment. Page 7. In paragraph (2) c the word Secretary/MRRIC is used yet Secretary is not defined anywhere. We believe reference is being made to the Executive Secretary cited on page 8, paragraph b) i 1 (b), third line reference to Coordinating Committee and Executive Secretary, as well as on page 9 under staffing. Perhaps the Secretary/MRRIC verbage on page 7, (2) c should be Executive Secretary/MRRIC?
6. Comment. On page 8, in paragraph b) 1 (b) the word Coordinating Committee ...is mentioned for the first time. Is this in reference to the Missouri River Recovery Implementation Committee (MRRIC) or the Coordinating Sub-committee mentioned on page 9, paragraph ii) (g) and (h)?

Appendix C, continued

7. Comment. On page 10, paragraph ii) (1) the word mission is used in the second line. This is the first use of this word throughout this document. Is the reader to assume that the Purpose and Scope paragraphs on page 1 constitute the mission?
8. Comment. On page 11, paragraph 7) a) i the words operating procedures and guidelines are used. Are these words synonymous with By-Laws? Further, the words ...accomplish the requirements of this charter. Perhaps the word Mission could be used in lieu of ...requirements of this charter?
9. Comment. On page 12, paragraph viii) (1) it states that an annual report shall be submitted to congress, the administration, and the general public. We would encourage the following verbage be attached after the word public: regarding mitigation, recovery, and restoration activities on the Missouri River and its tributaries.
10. Comment. On page 13, paragraph (6) (a) after the word implement and before recommendations the following words be included: mitigation, recovery, and restoration.
11. Finally, on page 15, paragraph 8) b) i there is mention of an annual conference on the Recovery and Mitigation Plan. Should this not be mitigation, recovery, and restoration plan?

Respectfully submitted:
Kirk Nelson, Assistant Director
Nebraska Game and Parks Commission

Appendix D: Workshop Attendance

DRAFTING TEAM	
Name	Affiliation
Beacom, William	Missouri River Navigation Caucus
Cassidy, Patrick	Kansas City Board of Public Utilities
Drew, John	State of Missouri
Gibbs, Joseph	Missouri Levee Districts
Lay, William	Howard County Commission
Majeres, Jack	Moody County Conservation District
Meisner, Don "Skip"	State of Iowa
Muench, Lynn	American Waterways Operators
Saul, Eugene	Santee Sioux Nation (Water Quality)
Schwellenbach, Stan	City of Pierre
Skold, Jason	The Nature Conservancy
Williamson, Bob	City of Kansas City, Missouri
MRRIC PLANNING GROUP CO-CHAIRS	
Chapman, Cheryl	Matrix Consulting
REVIEW PANEL	
Armstrong, Mike	WaterOne
Jacoby, Karin	Mo-ARK
Jorgensen, Don	Missouri River Technical Group
Lepisto, Paul	Izaak Walton League of American
Maas, Marian	Nebraska Wildlife Federation
Maddox, Max	Montana Water Resources
Moser, Tom	Lewis & Clark Natural Resources District
Redmond, Jim	Sierra Club, Midwest Region
Richmond, Vicki	Missouri River Relief
FEDERAL WORKING GROUP ADVISORY TEAM	
McSharry, Heather	U.S. Fish & Wildlife Service
Roth, Mary	U.S. Army Corps of Engineers
OTHER MEMBERS OF THE FEDERAL WORKING GROUP	
Erbreg, Alissa	U.S. Army Corps of Engineers
Farmer, Monique	U.S. Army Corps of Engineers
LaRanda, John	U.S. Army Corps of Engineers
Reinig, Teresa	U.S. Army Corps of Engineers
Sellers, Randy	U.S. Army Corps of Engineers
Trombly, Steve	Western Area Power Authority
MRRIC PLANNING GROUP FACILITATION TEAM	
Huston, Douglas	AccuEdit Writing Services, LLC
Miller, Steve	Olsson Associates
Siguenza, Ruth	Ruth Siguenza, LLC
U.S. INSTITUTE FOR ENVIRONMENTAL CONFLICT RESOLUTION	
Eng, Mike	U.S. Institute for Environmental Conflict Resolution

Appendix D, Continued

PUBLIC ATTENDEES	
Chapman, Jeff	Kinder Morgan
Christensen, Joel	Metropolitan Utility District of Omaha
Geiger, Jake	Missouri River Basin Commission of Kansas
Gibson, Dennis	DeBruce
Holland Richard	Nebraska Game and Parks Commission
Hunt, Ed	DeBruce
Illegible	Big Soo Terminal
McGrace, Mike	Missouri River Association of States and Tribes
Olson, Mike	Illegible
Palmer, Doug	Tegra Corporation
Peterman, Marlin	Missouri River Natural Resources District
Pope, David L	Missouri River Association of States and Tribes
Radke, Eileen	Illegible
Shadle, John	Nebraska Public Power District
Striegea, Marion	Izaak Walton League
Thomas, Kelly	Katz and Associates