

**Planning Group Process to Develop a MRRIC Charter
(Missouri River Recovery Implementation Committee)**

DRAFT MRRIC Charter Outline - v12

1) Purpose (*Draft proposed language from the Scope and Purpose Committee*)

- a) To provide guidance to the Secretary and any affected Federal Agency, State Agency, or Indian Tribe on a study to determine actions required
 - i) to mitigate losses of aquatic and terrestrial habitat
 - ii) to recover federally listed species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)
 - iii) to restore the ecosystem to prevent further declines among other native species
- b) To provide guidance to the Secretary with respect to the Missouri River recovery and mitigation plan in existence on the date of this Act (WRDA), including recommendations relating to:
 - i) **Option 1:** Minimizing or eliminating negative impact of recovery activities on municipalities, agriculture, navigation, recreation, utilities and flood control uses on the river.

OR

- i) **Option 2:** First, do no harm by the recovery activities to municipalities, agriculture, navigation, recreation, water and power utilities and flood control uses on the river.
- ii) Changes to the implementation strategy from the use of adaptive management
 - (1) MRRIC will consult with the local stakeholders, the Corps' state-based recovery teams, the Agency Coordination Teams (ACTs), local, state, and Tribal agencies, as well as other resources to:
 - (a) Recommend changes to the implementation strategy
 - (b) Recommend specific implementation strategies for the Reasonable and Prudent Actions (RPA), RPMs, and Conservation Measures specified in current and future applicable Biological Opinions.
- b) Coordination of the development of consistent policies, strategies, plans, programs, projects, activates, and priorities for the Missouri River recovery and mitigation plan.
 - i) MRRIC will work with the local stakeholders, local, state, and Tribal agencies to ensure that the Missouri River recovery and mitigation plan:

- (1) Coordinates federal recovery activities with local and state-based recovery activities throughout the basin and sustains the multiple uses of the Missouri River.
 - (2) Identifies and minimizes the negative impacts to the economic, social, and cultural uses of the Missouri River.
- c) Exchange of information regarding programs, projects, and activities of the agencies and entities represented on the MRRIC to promote the goals of the Missouri River recovery and mitigation plan.
 - i) The MRRIC will work with the local stakeholders as well as local, state, and Tribal agencies to ensure that the Missouri River recovery and mitigation plan recognizes local recovery efforts and vice versa.
 - ii) Where conflicting or uncoordinated recovery programs, projects, and activities are identified, the MRRIC will work with the appropriate stakeholders and agencies to resolve the conflicts and coordinate the activities, ensuring that all stakeholders are adequately represented in the process.
 - d) Establishment of working groups as the MRRIC determines to be necessary to assist in carrying out the duties of the MRRIC, including duties relating to public policy and scientific issues.
 - e) Facilitating the resolution of interagency and intergovernmental conflicts between entities represented on the MRRIC associated with the Missouri River recovery and mitigation plan.
 - i) When interagency or intergovernmental conflicts arise, the MRRIC will ensure that the appropriate local stakeholders as well as local, state, and Tribal agencies are involved in the resolution process.
 - f) Coordination of scientific and other research associated with the Missouri River recovery and mitigation plan.
 - i) The MRRIC will serve as a clearinghouse for technical, economic, social, and cultural research and information as it pertains to Missouri River recovery activities.
 - ii) The MRRIC will identify valid information and research efforts and recommend those be incorporated, through adaptive management, into the Missouri River recovery and mitigation plan as well as into the implementation of RPAs, RPMs, and conservation measures specified in applicable Biological Opinions.
 - iii) The MRRIC will identify gaps in scientific and other research associated with the Missouri River recovery and mitigation plan and recommend a strategy for filling in those gaps.

- g) Annual preparation of a work plan and associated budget requests.
- h) Related to the study and guidance responsibilities, MRRIC will ensure that:
 - i) Local stakeholders' economic, social, and cultural issues are addressed and included in the study.
 - ii) Multiple uses of the Missouri River are identified and considered throughout the course of the study.
 - iii) Studies and research being conducted by local, state, and Tribal agencies are consulted and incorporated into the study, as appropriate.
 - iv) Landowners adjacent to the Missouri River are consulted and given adequate opportunity to participate in the study.

2) **Scope:** *(Draft proposed language from the Scope and Purpose Committee - 4 options)*

- a) **Option 1:** Missouri River and Tributaries, Mitigation, Recovery, and Restoration, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, and Wyoming.

OR

- a) **Option 2:** To consider the impact of recovery activities on municipalities, agriculture, navigation, recreation, water and power utilities, and flood control uses on the river.

OR

- a) **Option 3:** Recovery and restoration of the Missouri River Basin.

OR

- a) **Option 4:** Mitigation, recovery, and restoration of the Missouri River mainstem, and its tributaries as deemed necessary and appropriate within the states of Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, and Wyoming.

2) **Definitions** - *gathered by the facilitation team as suggestions have come up in committee conference calls and other discussions - not an agreed-upon or complete list*

- a) Considerations
 - i) Glossary of terms and acronyms
 - ii) Working definitions

- b) Suggested words and terms needing definition in the charter
 - i) Adaptive Management
 - ii) Recovery
 - iii) Restoration
 - iv) Others?

3) Updates and Revisions

No language has been drafted yet for this section.

4) Membership and Representation of Interests

- a) Members and Alternates (identification and balancing of interests at the table)
- b) Role of federal, state, and tribal governments and agencies
- c) Membership selection process (initial selection, adding members, replacing members, terminating members)
- d) Terms of office
- e) Member responsibilities
 - i) Representation of interests, organizational commitment and responsibilities of representing others
 - ii) Preparation and attendance
 - iii) Sharing and considering information and perspectives
 - iv) Procedural guidance
 - v) Good faith
 - vi) Behavior during meetings
 - vii) Wise use of political and administrative power
- f) *See Appendix B for a list of the Membership Committee issues on this subject.*

5) Roles and Responsibilities - Governance and Leadership

- a) Authority - *a section describing MRRIC's authority and the authorities of the associated federal agencies, including identification of final decision makers*
- b) Committee and sub-committee leadership (*Draft proposed language from the Logistics Committee*)
 - i) Chair and Vice-Chair
 - (1) The MRRIC shall select a Chair who must be a member of the MRRIC. The Chair will be responsible for protecting the interests of all MRRIC members and alternates. S/he will act in a fair and balanced manner with respect to the MRRIC's operation and the conduct of MRRIC meetings. The Chair, with the assistance of the facilitator, will strive to determine the views of all MRRIC members regarding MRRIC advice and work to achieve consensus.
 - (2) Shall have the authority to represent and convey the views of the MRRIC to agencies, elected officials, and in public settings. With the support of the Executive Committee and the Executive Secretary, and/or the facilitator, the Chair will be responsible for collaboratively developing meeting agendas and reviewing draft meeting minutes and summaries for accuracy and completeness.
 - (3) The term of office of the 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 MRRIC member believe the Chair is not performing in a fair and balanced manner, it is the responsibility of the member to raise their concerns to the Chair or to the full MRRIC for consideration.
 - (4) A Vice-Chair will be selected by the MRRIC to serve in the absence of the Chair.
 - (5) The term of office of the 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.
 - (6) The Chair and Vice-Chair shall be selected at the beginning of each calendar year.

ii) Executive Committee

- (1) MRRIC may establish an Executive Committee. Unless otherwise determined by the MRRIC the role and function of the Executive Committee is to help the Chair make decisions on procedural matters between MRRIC meetings (such as the agenda for upcoming MRRIC meetings, meeting dates and locations, etc.); to consult with the Chair regarding efforts to resolve substantive policy issues between and during MRRIC meetings; and, along with the Chair, to represent the MRRIC before the sponsoring agencies, elected officials, and legislative bodies.
- (2) If formed, the Executive Committee shall consist of the Chair, Vice Chair (if applicable), and a number of other MRRIC members to be determined who represent a cross-section of the MRRIC's membership. These members will be selected in accordance with a nomination procedure to be determined by the MRRIC.

iii) Working Groups (*See also Science Committee language under step 7.d: General MRRIC Operations: Committees and Panels*)

- (1) The MRRIC may create special working groups to address specific issues directly related to the MRRIC's mission and purpose. Prior to commencing work, each of these working groups will have a short, written charter that outlines purpose and mission; scope and authority; deliverables and work products; membership roles and responsibilities; and the specific time-frame associated with the group's work. Any additional working groups created by the MRRIC will have similar written charters. In addition, all working groups will select chairs that will have responsibilities similar to those of the MRRIC Chair. The MRRIC Chair may enlist working group chairs to assist in collaboratively developing MRRIC agendas and in addressing other leadership needs of the MRRIC.

c) Staffing (*Draft proposed language from the Logistics Committee*)

i) Executive Secretary

- (1) The MRRIC may select an Executive Secretary to provide office support and a point of contact between meetings. The Executive Secretary will coordinate travel and meeting facilities scheduling and perform such other duties as the MRRIC may decide.

ii) Facilitator(s) and Other Support Staff

(1) The role of a neutral, third-party facilitator and support staff, if used, is to assist the Chair and the MRRIC to accomplish the MRRIC's mission. In all instances the facilitator, who will serve at the pleasure of the MRRIC, shall operate in a completely neutral, balanced, and fair manner. Specific tasks that a facilitator might be asked to accomplish are developing draft meeting agendas; assisting the Chair in conducting and otherwise managing MRRIC meetings and deliberations; consulting with the Chair and MRRIC members between meetings about how to manage the process and resolve substantive and procedural issues of concern; and preparing draft and final meeting summaries and other MRRIC documents. Support staff shall include a professional note taker to record MRRIC actions and to prepare meeting minutes and summaries.

d) Dispute Resolution Process - Resolving Compliance with Charter, Operating Procedures, and Ground Rules

6) General MRRIC Operations

a) Meetings

i) Meeting frequency and location

ii) Quorum

iii) Use of time

b) Communications, Record Keeping, Documents, and Reports (*Draft proposed language from the Logistics and Convening Authority Committees*)

i) Open meetings

(1) Each MRRIC meeting shall be open to the public. Interested persons shall be permitted to attend, appear before, or file statements with the MRRIC. There shall be a time scheduled on the agenda at each day's meeting for public comments. The public shall be asked to refrain from making statements during meetings, except during public comment periods. Advance approval for oral participation may be prescribed, and speaking time may be limited. MRRIC members will not make statements during public comment periods. (*Does this last statement belong here or in Membership?*)

ii) Notice of meetings

(1) Public notice of each such meeting of the MRRIC shall be given to insure that all interested persons receive prior notification of such meetings. Meeting agendas and materials will be distributed to the members of the MRRIC not less than seven days prior to each meeting.

- iii) Communications between members, including internal communications
 - (1) All members of the MRRIC will be accurate and respectful with regard to their communications with others.
 - (2) MRRIC members, agency staff, and the facilitation team will respect each other by being on time. Meetings will begin and end as scheduled on the meeting agenda unless otherwise agreed to by the MRRIC. *(Does this last statement belong here or in Membership?)*
- iv) Minutes and approval of minutes
 - (1) Detailed minutes of each MRRIC meeting, which accurately summarize the decisions and recommendations made shall be kept by a qualified note taker and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the MRRIC.
 - (2) These written minutes and summaries will be prepared in draft form, and will be clearly identified as draft documents, and will be submitted to the MRRIC for formal approval. All MRRIC members will be provided a reasonable opportunity to suggest revisions to the draft meeting minutes and summaries before they are formally approved by the MRRIC.
- v) Availability of records
 - (1) The records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by the MRRIC shall be available for public inspection and copying at a single location in the offices of the MRRIC or the agency to which the MRRIC reports. The MRRIC shall make available to any person, at actual cost of duplication, copies of transcripts of the MRRIC proceedings or meetings and all documents presented to or considered by the MRRIC.
- vi) Assessment and self-evaluation *(Draft proposed language from the Convening Authority Committee)*
 - (1) The MRRIC shall conduct a self-evaluation of its operations every three (3) to five (5) years. This self-evaluation shall honestly and thoroughly consider the effectiveness of the committee in accomplishing its purposes and whether the committee's purposes are still necessary and relevant. It will result in a MRRIC recommendation as to whether the committee should continue to exist. *(The Convening Authority Committee would like the full Drafting Team to discuss how often this assessment should be conducted.)*

vii) Reports, including periodic reports to congress and the public

- (1) The MRRIC shall submit an annual report to congress, the administration and the general public describing its activities and accomplishments in the preceding year.

c) Consensus and Decision Making - *(Draft proposed language from the Decision Making Committee)*

i) Process

- (1) The Committee's goal is to reach consensus on all substantive issues brought before MRRIC. The Committee shall only make recommendations where there is a consensus.
- (2) Consensus decisions will be made using a two-step process with information and discussion 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. ~~The two-step process may be waived based on a consensus of the Committee.~~
- (3) In no instance shall the Committee convey consensus recommendations or characterize them as being a consensus of the Committee unless 51 percent of the membership interests are represented at the meeting at which the decision is made. *(This will be revised if a quorum requirement is included in another section of the charter.)*
- (4) If consensus cannot be reached, the co-chairs 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, differing views will be documented in the minutes as approved by the Committee, with no characterization or quantification of the level of support for the differing views.~~ *(Some desire to strike this from this section but could be addressed by logistics section of the charter.)*

ii) Definition of Consensus

- (1) For the purpose of MRRIC, consensus means that all members of the Committee can support or live with an action or recommendation.

iii) Decision Making Roles and Responsibilities

- (1) Members of the Committee are expected to honor their commitment to seek consensus.

- (2) It is the affirmative responsibility of Committee member to voice dissent if s/he 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 objection and, if possible, to provide an alternate proposal.
- (3) Committee members are free to abstain from a determination of consensus for whatever reasons. However, it is the responsibility of each Committee member to affirmatively state his or her desire to abstain from participating in a determination of consensus if s/he so chooses. Abstentions will not affect the membership requirements of section 1(c) above. *(Question: Should group record abstentions? This issue should be considered by Logistics Committee and full Planning Group.)*
- d) Committees and Independent Panels *(Draft proposed language from the Science Committee)*
- i) The Missouri River Recovery Implementation Committee (MRRIC) may create special work groups, committees, sub-committees, or panels as necessary to accomplish its purposes. These groups may consist of committee members or may be comprised of members independent of the MRRIC, chosen by the committee for their skills and knowledge. These may be long term, general, standing groups or short duration, task-specific groups as necessary.
- (1) Committees, Sub-Committees, and Work Groups
- (a) The MRRIC may create special committees, sub-committees, and work groups to address specific issues directly related to its purpose. Typically, the membership of these committees will be comprised of members and alternates of the MRRIC, unless there is a clearly identified need for special expertise related to a specific committee issue.
- (b) Prior to commencing work, each of these committees will have a short, 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 frame for completing the committee's work. Based on this directive, each committee created by the MRRIC shall create a work plan for accomplishing its assigned task(s) and submit this work plan to the MRRIC for approval.
- (c) Any committee whose assignment duration is one year or longer will prepare and present an annual report on its work and accomplishments for the year to the MRRIC at a time to be determined by the MRRIC.
- (2) Independent Panels
- (a) The membership of independent panels will be comprised of individuals who do not hold a seat on the MRRIC. They may be compensated for their service, as necessary.

- (b) Prior to commencing work, each independent panel will have a short, written directive that outlines its purpose and tasks, as well as specifying the panel's members, their roles and responsibilities, the expected work products, and any time frames associated with completing the panel's work. Based on this directive, each independent panel created by the MRRIC shall develop a work plan for accomplishing its assigned task(s) and submit this work plan to the MRRIC for approval.
 - (c) Any independent panel whose assignment duration is one year or longer will prepare and present an annual report on its work and accomplishments for the year to the MRRIC at a time to be determined by the MRRIC.
- e) Budget and Finance (*Draft proposed language from the Logistics Committee*)
- i) MRRIC funding and budget authority/responsibility
 - (1) Funding for the MRRIC activities and operations will be provided by the federal funding agency. For purposes of assuring independence and guaranteeing access to such funds on a timely basis, the funds will be administered by an independent fiscal agent. This agent will be determined by the MRRIC, in consultation with the federal funding agency.
 - (2) The federal funding agency commits to providing funding levels adequate to cover or provide:
 - (a) Technical assistance sufficiently adequate for independent review of all major policy issues that the MRRIC believes warrant independent technical advice or review prior to the MRRIC rendering advice. The MRRIC shall determine adequacy of funding.
 - (b) Facilitation assistance
 - (c) Administrative assistance
 - (d) Meeting costs and costs associated with MRRIC member travel and a reasonable reimbursement of incidental, incurred expenses through a per-diem or honorarium
 - (e) Preparation of information on key technical policy questions and technological issues. These resources shall be used by the MRRIC to prepare materials that will be easily understood by the public, with provision for adequate dissemination of such information to the public and to constituencies represented by the MRRIC.
 - (3) Annual funding levels will be determined through annual consultation between the MRRIC and the federal funding agency and will be based upon a proposed budget presented by the MRRIC. The MRRIC will determine how to approve expenditures within its total annual budget.

- f) "First do no harm" policy
 - i) *Issue raised in the Science Committee but may have broader applicability to the charter. See Purpose section and language provided by the Scope and Purpose Committee. Also see Appendix A for additional proposed language.*
- g) Transparency
 - i) *Issue raised in the Science Committee but may have broader applicability to the charter. See Appendix A for proposed language*

7) Interactions outside MRRIC - may partially overlap 6 (b) Communications, Record Keeping, Documents, and Reports above

- a) Public involvement and communication
- b) External communications, perhaps including a media policy

Appendix A - Additional Language Proposals

(The language offered below was proposed by individual Planning Group members but does not currently have general committee endorsement)

Transparency and First Do No Harm Proposed Language (John Drew)

Draft August 15, 2007

General Operating Principals

Transparency - MRRIC shall be open and transparent.

First, do no harm - In making recommendations on actions related to the Missouri River recovery and mitigation, MRRIC will operate under the principal of "first, do no harm." This means that if an action may cause harm, an earnest attempt will be made to determine if there are less harmful alternatives to the action.

Work Groups Proposed Language (John Drew)

Draft August 15, 2007

Subcommittees and workgroups - The Committee may establish such subcommittees or workgroups it deems necessary in conducting MRRIC.

Independent Panel - The Committee may establish an Independent Panel, which may be compensated for its work. This Panel may provide advice on technical issues, produce work products, or conduct technical reviews as directed by the Committee.

Work Plans - Federal Agencies will submit work plans that include proposed budgets to MRRIC that are part of:

- a. The Missouri River Recovery and Mitigation Plan. This will include projects, research, monitoring, and other aspects of the Plan
- b. Any studies of the Missouri River and its tributaries to determine actions required to mitigate the losses of aquatic and terrestrial habitat, recover federally listed species under the Endangered Species Act, and restore the ecosystem to prevent further declines among other native species.

Reporting - Federal Agencies will submit timely reports to MRRIC that detail the results from Work Plans from the preceding year.

Annual Conference - MRRIC will hold an annual conference to help provide information to the public on the Missouri River Recovery and Mitigation Plan.

Appendix A - Additional Language Proposals

(The language offered below was proposed by individual Planning Group members but does not currently have general committee endorsement)

Annual Reports Language (Pat Cassidy)

Draft August 17, 2007,

US Fish & Wildlife Service Annual Presentation

At least annually, a representative from the US Fish & Wildlife Service will present a progress summary report at a convened MRRIC meeting.

At a minimum, the presentation will include the following details:

1. Number of pallid sturgeon present in the various reaches of the Missouri River.
2. Target/goal number of pallid sturgeon necessary in each reach that would result in its delisting from the Threatened & Endangered Species List.
3. Comparison of pallid sturgeon numbers with previous years' reports.
4. Progress and effectiveness of adaptive management toward pallid sturgeon recovery.

Membership Selection Process Language (Lanny Meng)

Draft August 16, 2007

Membership:

The non-governmental founding members of MRRIC will be the current drafting team. The member from each state will be appointed by the governor and the tribal governments will select their members.

Replacement of current members will be what I call "the small town fairboard concept" the member will name their replacement. If for some reason the member does not have a replacement then applications will be submitted to MRRIC and MRRIC will select the new member.

Appendix B:

Compilation of Committee Identified Charter Language Issues and Concerns

- 1) Scope and Purpose Committee
 - a) Should we tie ourselves so tightly to the Water Resources Development Act (WRDA) language?
 - b) Is the difference between restoration and recovery significant and should we worry about it?
 - i) There was a suggestion in the committee that maybe the Drafting Team should seek a legal opinion.
 - c) Should the scope and purpose charter language be broad and general, or specific?
- 2) Membership Committee
 - a) The MRRIC needs to be a manageable size.
 - b) With respect to balance, what criteria do we use?
 - i) Balanced with respect to upper and lower basin?
 - ii) Balanced with respect to interest groups?
 - c) Will the MRRIC be an integrated or advisory group? (Overlap issue with the Convening Authority Committee)
 - d) Tribal representation issues
 - i) How do you ensure adequate tribal representation and still maintain balance?
 - ii) Effect on quorum of non-attendance.
 - e) The committee was concerned that there are stakeholders who are not currently represented in the Planning Group process.
 - f) Are the following categories of interests complete? What sub-categories fall under these major headings?
 - i) Social and economic
 - ii) At large
 - iii) Historical and cultural
 - iv) Water supply
 - v) Water quality
 - vi) Hydropower
 - vii) Thermal power
 - viii) Recreation
 - ix) Fish and Wildlife Conservation
 - x) Flood Control
 - xi) Irrigation
 - xii) Navigation

Appendix B:

Compilation of Committee Identified Charter Language Issues and Concerns

3) Logistics Committee

- a) Need to ensure funding transparency
- b) How will travel expenses be dealt with? (Overlap issue with Convening Authority Committee)
- c) Should the chair and vice-chair be from separate parts of the basin?
- d) Do we need to limit the chair and vice chair to non-governmental members?
 - i) This should not be construed so as to exclude tribal members from being chair or vice-chair
 - ii) This may not really be an issue as the committee will have to come to consensus on the chair and vice-chair regardless of what group they come from.
- e) Should the chair and vice-chair be compensated? They have many responsibilities; it will be a difficult job.
- f) Should the chair and vice-chair rotate among the interests represented on the committee?
- g) Should we add language that addresses the membership balance on the executive committee?
- h) Should working group chairs automatically be members of the executive committee?
- i) Could the executive secretary be a federal agency employee?

4) Convening Authority Committee

- a) Will the MRRIC be an integrated or an advisory committee?
- b) How do we ensure a balanced membership? (Overlap issue with the Membership Committee)
- c) The committee had funding concerns, in particular, travel expenses for MRRIC members, and funding for an independent science panel.
- d) With respect to public participation, how do we prevent a group from hijacking a meeting?

5) Science Committee

- a) Open exchange of information (transparency).
- b) How to ensure an independent panel is truly independent. Should a definition of independence be included in the Charter?
- c) Data quality.
- d) Differentiate science issues from MRRIC issues and keep them separate.
- e) Funding for high-level, independent panel.