

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

DRAFT MRRIC Charter Outline - v16
September 11, 2007

- 1) **Purpose and Scope** (*August 2007 Drafting Team consensus language*)
 - a) To provide recommendations and guidance to the secretary, affected governmental entities, and tribes* regarding mitigation, recovery, and restoration activities pursuant to (Water Resources Development Act [WRDA] and) the Endangered Species Act (ESA) on the Missouri River and its tributaries and to prevent further declines of other native species.
 - b) Recommendations and guidance will: (1) ensure local stakeholders' economic, social, and cultural issues are recognized; (2) identify impacts to stakeholders; (3) identify actions that will benefit multiple uses of the river; and (4) avoid, minimize, and/or mitigate adverse impacts.
 - c) *The MRRIC does not substitute nor replace Executive Order 13175, *Tribal Consultation*, any federal agencies' trust responsibilities to a federally recognized tribe in the Missouri River Basin or have historically been on the Missouri River and/or replace any treaty right thereof. Cooperation with the federally recognized tribes engaged in this process should be interpreted as "in good faith."

- 2) **Convening Authority** (*Draft, proposed language from the Convening Authority and Logistics Committees*)
 - a) The Missouri River Recovery Implementation Committee is convened under the authority of the Water Resources Development Act of 2007 and the Endangered Species Act as they may be amended from time to time.
 - b) Should WRDA not pass, the MRRIC will review and revise this section as necessary.

- 3) **Definitions - Glossary of Terms and Acronyms** (*Proposed language drafted by the facilitation team at the direction of the Drafting Team with input from Drafting Team members and the Federal Working Group*)
 - a) **Adaptive Management.** A systematic process whereby projects are monitored on a regular basis and project goals and methods are modified based on new knowledge and the results of the monitoring program.
 - b) **Meeting.** A gathering of the MRRIC lasting one or more days to conduct business and/or consider, discuss, or decide an issue or issues brought before the Committee.
 - c) **Meeting Day.** A single, day-long subdivision of a meeting. For example, a single meeting could be two days long, in which case, the individual two days would be the meeting days.

- d) **Recommendations.** Official suggestions, comments, or advice representing the consensus of the MRRIC and provided to the appropriate governmental or non-governmental agencies, groups, or persons.
- e) **Recovery.** The process by which the decline of an endangered or threatened species is arrested or reversed, and threats to its survival are neutralized so that its long-term survival in nature can be ensured.
- f) **Restoration.** The process by which natural areas or ecosystems are returned to a close approximation of their conditions prior to disturbance or to less degraded, more natural conditions.
- g) **Stakeholder Economic Issues.** This phrase shall encompass the following areas: social and economic, historical and cultural, flood control, irrigation, agriculture, internal drainage, water supply, water quality, navigation, hydropower, thermal power, and recreation.
- h) **Substantive.** An issue for which the MRRIC is considering developing recommendations.

1) Updates and Revisions

No language has been drafted for this section.

2) Membership and Representation of Interests *(The draft language presented here represents language discussed by the Membership Committee. The committee did not come to consensus regarding all aspects of the language below. Plain text represents the proposal discussed by the committee. Bold, italic text represents issues and concerns discussed by the committee.)*

- a) Members and Alternates
 - i) Federal agencies - Integrated *(There was not committee consensus on the number and role of the federal agencies.)*
 - ii) Corps at Deputy Division Director level
 - iii) Fish and Wildlife at Regional Director level
 - iv) States: Eight (8) state representatives appointed by the governors

(The committee clarified that state appointed representatives here are separate from the Basin Stakeholder Representative seats listed below.)
 - v) Tribes: Twenty-eight (28) tribal representatives selected by various tribal councils

vi) Basin Stakeholder Representatives - Twenty-four (24) seats

(There was discussion that the MRRIC may not desire absolute numbers. Some suggestions were to specify a minimum number or a maximum "up to" number for individual seats or categories of representatives.)

b) Authorized Uses: Sixteen (16) seats

(There were concerns that this list may not be comprehensive enough. In no particular order, there were concerns that environmental interests may not be adequately represented; that fish, wildlife and conservation should be two separate categories (fish and wildlife as one - conservation as another); that agricultural interests were not specifically identified; and that some of the other categories could be further divided.)

i) Each interest would have a minimum representation of two (2) people. These two seats would be reserved at the table for the specific interests and could not be re-allocated to other interests if one or both seats remained unfilled after the initial recruitment/selection process. *(The committee had concerns about specifying absolute numbers. It discussed possible ranges of 1-3 seats per interest.)*

(1) Navigation	2
(2) Irrigation	2
(3) Flood Control	2
(4) Fish, Wildlife, and Conservation	2
(5) Recreation	2
(6) Power Supply	2
(7) Water Quality	2
(8) Water Supply	2

c) Remaining interests: Eight (8) seats

(There were concerns that this number may be too large. Others pointed out that these other, remaining interests could provide flexibility to fill seats with interests that are unique and perhaps different from the eight listed above. This proposal categorizes these eight seats as other interests, not as public-at-large seats.)

vii) Balanced representation: Provide for fair and balanced geographic composition

- b) Membership selection process (initial selection, adding members, replacing members, terminating members)
 - i) Interested parties will submit applications to the MRRIC.
 - ii) Initially, the Drafting Team would act as the screening entity. MRRIC would screen future applications. MRRIC (and the Drafting Team before it) would make its membership recommendations based on consensus.
 - iii) MRRIC submits a slate to the Secretary of the Army for formal appointment. If the Secretary declines to appoint a person recommended by MRRIC, s/he would come back to the MRRIC to request and receive an alternate recommendation for that seat.
- c) Terms of office *(no language proposed for this section)*
- d) Member responsibilities *(no language proposed for this section)*
 - 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

3) Roles and Responsibilities - Governance and Leadership

- b) Authority - *a section describing the MRRIC's authority and the authorities of the associated federal agencies, including identification of final decision makers. No language proposed for this section.*
- c) 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 his/her 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) The 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.

d) Working Groups *(See also Science Committee language under 4.e. on page 9: General MRRIC Operations: Committees and Independent Panels)*

- i) 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.

e) 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.

f) Dispute Resolution Process - Resolving Compliance with Charter, Operating Procedures, and Ground Rules (*no language proposed for this section*)

4) General MRRIC Operations

b) Meetings

i) Meeting frequency and location (*Draft, proposed language from the Logistics Committee*)

(1) The first meeting of the MRRIC shall be convened by the Secretary of the Army or his/her designee on or before July 1, 2008.

(2) The MRRIC shall meet a minimum of four (4) times per year unless otherwise decided by the Committee. The MRRIC shall determine meeting dates and locations.

ii) Quorum (*no language proposed for this section*)

iii) Use of time (*no language proposed for this section*)

- c) Communications, Record Keeping, Documents, and Reports (*Draft, proposed language from the Logistics and Convening Authority Committees*)
 - i) Open meetings
 - (1) Except as provided herein, each MRRIC meeting shall be open to the public. Interested persons shall be permitted to attend, appear before, or file statements with the MRRIC.
 - ii) Executive Sessions
 - (1) The Committee or a sub-committee, panel, or workgroup 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 MRRIC. No decision-making will be conducted during the executive session. Minutes or summaries of the executive session shall not be taken.
 - iii) Notice of meetings
 - (1) Public notice of each such meeting of the MRRIC shall be given to insure that interested persons receive prior notification of such meetings. The process for notifying the public shall follow U.S. Army Corps of Engineers procedures.
 - iv) Communications between members, including internal communications
 - (1) All members of the MRRIC will be accurate and respectful with regard to their communications with others.
 - v) Minutes and approval of minutes
 - (1) Detailed minutes of each MRRIC meeting shall be kept by a qualified note taker. These minutes and summaries shall be approved by the MRRIC in accordance with its decision making processes.
 - vi) 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.
 - vii) 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) years.

- viii) 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.
- d) Consensus and Decision Making (*August 2007 Drafting Team consensus language*)
 - i) Process
 - (1) The Committee's goal is to reach consensus on all substantive issues brought before the MRRIC. The Committee shall only make recommendations where there is a consensus.
 - (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.
 - (3) In no instance shall the Committee convey consensus recommendations without a quorum.
 - (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, the meeting minutes will not characterize or quantify the level of support for the differing views.
 - (5) Once recommendations and guidance are delivered to the appropriate governmental entity, it is requested that, (and federal and state agencies involved with the MRRIC agree to):
 - (a) The governmental entity acknowledge and outline steps to implement recommendations within 90 days or provide the reason(s) for not implementing (we request that the governmental entity report back to the MRRIC before implementing a recommended action).
 - (b) The governmental entity report on an annual basis the outcome of the recommendations, at which time the MRRIC will provide further guidance to continue or cease action.
 - ii) Decision Making Roles and Responsibilities
 - (1) Members of the Committee are expected to honor their commitment to seek consensus.

- (2) If a member objects to a recommendation, it is also his/her 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. Abstentions will be recorded in the meeting minutes when requested by the individual who wishes to abstain.
- e) Committees and Independent Panels (*This draft, proposed language stems from Science Committee discussions and direction to the facilitation team to draft language reflecting those discussions.*)
- i) The MRRIC may create special work groups, committees, sub-committees, or panels as necessary to accomplish its purposes. These may be long term, general, standing groups or short duration, task-specific groups as necessary. These groups may consist of committee members or may be comprised of members or entities independent of the MRRIC, chosen or endorsed by the Committee for their skills and knowledge. Independent members or entities may be compensated for their service as necessary.
 - ii) Prior to commencing work, each of these committees or entities 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 frames for reports and completion of 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 will submit this work plan to the MRRIC for approval.
 - iii) The U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, and any other agencies as determined by the Committee shall provide at least annual reports to the MRRIC on the status of their activities on the Missouri River for the preceding year. Reporting agencies shall be prepared to respond to questions from the Committee on these activities.
 - iv) Federal agencies, as selected by the MRRIC, involved in recovery and restoration efforts along the Missouri River will submit work plans which include proposed budgets to the MRRIC at least annually.
- f) 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.

5) Interactions outside MRRIC - *No language proposed for this section*

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