

**Public Comments
on the
Draft Situation Assessment Report
on the
Feasibility and Convening
of a
Missouri River Recovery
Implementation Committee
(MRRIC)**

April 14, 2006

The following public comments on the Draft Situation Assessment Report on the Feasibility and Convening of a Missouri River Recovery Implementation Committee were received by the U.S. Institute for Environmental Conflict Resolution (USIECR) on its website, and CDR Associates via e-mails between February 28th and April 14, 2006.

Donald Jorgensen
Missouri River Technical Group.
March 2, 2006

Subject: Matters Related to MRRIC Meeting on 28 February 2006

I feel that it is very important that MRRIC get off to a good start based on clear ideas and concepts without misunderstandings. I believe that USIECR and CDR support this approach. It would be an understatement to say that many of the non-federal, non-state, and non-tribal stakeholders were discouraged after reading the draft situation assessment and even more discouraged after attending the meeting on 28 February in Omaha. Below are some items of concern. The first item is simply terminology, the others items are much more troublesome:

*** Correct terminology for stakeholders:** The draft situation assessment used the term non-governmental organization and or stakeholders. These are stakeholders that are non-federal, non-state, and non-tribal and others with interests associated with congressionally authorized purposes and the environment. They are typically called NGOs. This is inaccurate. For example, a municipal water-supply department that uses Missouri River water would certainly be a stakeholder as per a congressionally authorized purpose. To call them an NGO is not accurate and causes confusion. A more accurate term would be NFST stakeholders. The inaccurate use of the term NGO was discussed in the Spring Rise (SR) effort but now has reappeared in MRRIC. Semi-autonomous state and federal agencies would likely fit into the NSFT classification.

***Perception of an effort to reduce NFST participation in MRRIC:** This perception is very strong; every NFST representative that I talked with expressed this concern after attending the meeting on the 28th. This is potentially a show killer. I am aware that the draft situation assessment report did not recommend the dilution of NFST stakeholder influence and recommended balance. However, the dilution of NFST stakeholders was illustratively given in table 1 in the draft situation assessment. At the meeting on the 28th, CDR indicated it was desirable to have as small a group as possible.. We were informed that the tribes were insisting that they have 28 members and that was essential. It was further stated that the states were insisting on having 16 members (twice the number that were used in the SR effort). With this set up it is impossible to have a small MRRIC without reducing or eliminating NFST stakeholders. We were not asked if we supported the doubling. If there is any confusion about this, it must be cleared up soon. I would suggest that CDR poll the NFST attendees and confirm my perception or misperception. *In fact there were no decisions at all about membership.* All discussions at the meeting were based on certain assumptions. This perception or misconception is already causing a problem, as CDR stated at the MRBA / MoRAST meeting on March 1, that it had been agreed that the states each have 2 members. Again there is confusion, and this must be cleared up at this time.

*** The need or lack of need for each state to have two members:** The argument that the states should have two members on MRRIC because the states have many interests lacks good logic. It would only be logical that each state would speak with one voice. Iif

it is believed that two persons can best consider the different aspects of any element, then the governor can appoint the member and an alternate, and the two can consult between themselves. It has been expressed that the two member approach is really a fallout from the decision by the states to have two members from each state in MoRAST. (Note, it is reported that Wyoming is only asking for one representative.) The MoRAST decision in no way dictates that MRRIC must have two voting members per state. *The two members per state proposal is perceived as a blatant effort of the states to take over MRRIC at the expense of NFST stakeholders.*

***Balance of stakeholder interests:** As stated above this is essential that there be balance for a meaningful MRRIC. The lack of balance will likely be a show stopper.

Some different alternatives directed toward achieving balance in MRRIC:

- 1) Use the balance that was achieved in SR in reference to states, tribes and NFST.
- 2) Use an executive committee for voting that has the same balance as was achieved in the SR effort.
- 3) If the states are allocated double representation as compared to SR then the NFST representation must also be doubled.

*** Conflict of Interest:** The states are heavily involved in monitoring efforts that are being paid nearly totally by federal funds. Many recommendations by MRRIC will likely have a direct influence on moneys going to the states for monitoring efforts. Thus, there is a direct conflict of interest if the states representatives in MRRIC are part of the decision making process that relates to monitoring or scientific investigations that the state may be part of. It is even questionable if the state representatives be part of the decision making process.

Please note that I raised this question in the CDR phone interview and again in my written response to the CDR interview. Why isn't this point included in the draft situation assessment?

A final thought, the tribal representatives will be selected as recommended by the tribes. The representatives will be selected as per the recommendations of the particular state. The representatives for each state will be selected as per recommendation given by the respective state. However, it is clear that the states and some others believe they have the right to both appoint NFST representatives and to limit the number of the NFST stakeholders. This is outrageous, the NFST persons can and should make there own selections. We will not be part of the states effort to take over MRRIC. CDR should seriously consider the inequities that are being heaped on the NFST interests. *There is big trouble in river city.*

**Tom Waters, Chairman
Missouri Levee and Drainage District Association
March 27, 2006**

Dear Jaclyn:

Would you please better explain why Fish & Wildlife and Endangered Species were broken into two groups rather than placing them together as one group? It appeared you

tried to group many interests in each group, except for the species and wildlife groups. Can't they be combined? Also, why is there not a group to focus on the socio-economics throughout the entire basin. I only see it listed under navigation. Surely, the economic impacts associated with water supply, agriculture, transportation, energy and the many other business activities along the river should be taken into account. It appears your survey is designed to shape the MRRIC in a manner inconsistent with the true interests of the population throughout the basin. After reviewing the lists of the stakeholders you sent surveys to, I noted the large number of representatives from the Fish and Wildlife Service and Corps of Engineers. If the MRRIC is going to involve federal representatives, I think you should also find representatives from the US Department of Agriculture, US Department of Energy, US Department of Transportation, US Department of Commerce, US Department of Health & Human Services, US Department of Homeland Security, US Department of Labor, FEMA, Federal Trade Commission, Food & Drug Administration, OSHA, and Small Business Administration. (I'm sure I left out a few) All of these federal agencies are impacted by decisions relating to the Missouri River in some way. Federal representatives should not be limited to only those with environmental interests. The Missouri River is a huge economic engine in the heart of our country!

Thanks,
Tom Waters

Sue Jennings
Regional Wild and Scenic Rivers Specialist
National Park Service-Midwest Regional Office
March 28, 2006

Just a couple of comments to the Draft Situation Assessment Report on the Feasibility of a Missouri River Recovery Implementation Committee:

1. Page 1-2: Please clarify that a 39-mile segment and 59-mile segment of the Missouri River is a federally designated Wild and Scenic River and a unit of the both the National Park System and the National Wild and Scenic Rivers System. The NPS has jurisdictional authority and management responsibilities within these two segments. The river is thus managed in accordance with the National Park Service's Organic Act of 1916 (as amended) and the Wild and Scenic Rivers Act. Other National Park Service units located along the Missouri River include the Lewis and Clark National Historic Trail (no land ownership), Knife River Indian Villages National Historic Site, and Fort Union Trading Post National Historic Site.

While the recovery goals for the three federally listed species are compatible with the purposes and intent of the both Acts, there are certain constraints on how those goals may be accomplished. Specifically, Section 7(a) of the Wild and Scenic Rivers Act prohibits water resources projects (federally funded construction activities within the bed and banks of the

river) that are found to have a "direct and adverse" affect on the free-flowing condition, water quality and designated values of the river. Likewise, construction activities upstream/downstream and on tributaries to the designated reach are evaluated pursuant to section 7(a) of the Act to ensure they would not "invaded or unreasonably diminish" scenic, recreational and fish and wildlife values of the designated reach. The Organic Act prohibits actions that could lead to an impairment of park resources--this would include all units of the NPS within the basin. The NPS has the sole responsibility for evaluating qualifying actions pursuant to the WSRA and the Organic Act. As such, river management is influenced by these two Acts; the NPS would need to approve of any proposed COE activities that could aversely affect units of either System. A good case in point is mechanical construction of emergent sandbar habitat for terns/plovers, or certain kinds of bank stabilization efforts.

2. Please replace U.S. Park Service with National Park Service.

If you have any questions, please don't hesitate to call.

Thank you!

Sue

March 29, 2006

Chad Smith, American Rivers

All:

Attached are some thoughts of mine about how we might form MRRIC. I have been working with a small group of stakeholders to kick around ideas about this, and this proposal reflects some of their thoughts as well. We are hoping to be able to pull something together that represents support from this broader small group, but it is proving challenging so far.

I wanted to send this along to all of you to get your thoughts on it, reactions, ideas for modifications, etc. I just felt like we needed to get something on paper to start thinking about so that we could move forward. I simply have run out of time to submit formal written comments on the draft Situation Assessment, so this proposal is going to have to suffice for my comments.

Once I hear back from folks, see what kind of reaction I get, incorporate more good ideas and options, and work some more with my small group, I can see about sending this around to a larger audience to see if it has any legs. Thanks for your indulgence.

Chad Smith, Director
Nebraska Field Office - American Rivers

DRAFT Proposal for Development of MRRIC

As a starting point for discussion, I generated the following proposal to stimulate thinking about how to construct a balanced body for a long-term recovery committee in the Missouri River basin. These ideas are intended to stimulate discussion, and represent only my current thinking about how best to engage a wide array of stakeholders in the process of Missouri River management decision-making.

Background

In my mind, the purpose of MRRIC or any recovery committee in general should be to fully engage basin stakeholders in the process of making decisions about river management. To avoid building a recovery committee that simply makes recommendations that are ultimately ignored, and to build a committee that has authority and a common vision, we need to organize in a way that will best lead to consensus and a feeling among stakeholders that all viewpoints are represented throughout all negotiations and deliberations. This will require leadership among all affected interests on the river to build “interest caucuses” and will help to balance the influence of state and federal agencies and Tribes with that of nongovernmental stakeholders.

The recovery committee should operate on a consensus basis. This will require more time and effort, but it will lead to greater buy-in of solutions and actions and will level the playing field among all interests in the basin. Consensus is preferable to any kind of official voting structure, as voting is likely to lead to individuals focusing on “protecting their turf” rather than on the give and take of true collaboration. Operating by consensus will also make it less important to try and build a recovery committee that focuses on equalizing the number of interest representatives, and instead allow us to build a committee that contains a broad array of representatives and personalities that will lead to successful work. Given the size of the basin and the number of interests, consensus seems to be the only operating protocol that will enable a large recovery committee to accomplish its goals.

Proposed Structure

The following parties would comprise a MRRIC Governance Committee of **56 members**. This committee would be responsible for all negotiations and decision-making, but would rely on extensive input from technical working groups, an independent science review body, and the public. It is important to have an official Governance Committee that will be responsible for the work of MRRIC and that will serve as a fair representation of the diversity of basin interest.

For discussion purposes, I propose the MRRIC Governance Committee be structured as follows:

Nongovernmental Stakeholders – 30 members total

- Three members each for Authorized Project Purposes = 24 members; Categories are: 1) fish & wildlife; 2) recreation; 3) navigation; 4) flood control; 5) hydropower; 6) irrigation/agriculture; 7) water supply; and 8) water quality
- Six “at-large” seats = 6 members

Basin States – 8 members total

- One member for each basin state = 8 members; States are: 1) Montana; 2) North Dakota; 3) South Dakota; 4) Wyoming; 5) Nebraska; 6) Iowa; 7) Kansas; and 8) Missouri

Tribes – 13 members total

- One member for each of the 13 Tribes directly tied to the Missouri River = 13 members

Federal Agencies – 5 members total

- One member for each agency = 5 members; Agencies are: 1) Corps of Engineers; 2) U. S. Fish and Wildlife Service; 3) EPA; 4) National Park Service; 5) WAPA

A few explanatory notes:

- In talking with a small group of basin stakeholders, there was general agreement that a representative group of 30 stakeholders was a good number. There were roughly 22 nongovernmental stakeholders in the spring rise Plenary Group, and everyone generally agreed a few more were needed to fully capture basin interests.
- The “at large” stakeholder seats are designed to capture individuals important to the process because of their ideas and interests but do not necessarily represent a particular organization and that do not seem to fit within the authorized project purpose categories.
- This kind of organization for the nongovernmental stakeholders should help to achieve a better balance of upper basin, lower basin, and basin-wide representation and avoid one area or another having a preponderance of the representation.
- Organizing stakeholders according to the authorized project purposes will require leaders to emerge among each category to build “interest caucuses” that can communicate between meetings to ensure these varied interests are being properly and equally represented on the Governance Committee. This will require significant time and effort on the part of stakeholders outside of the MRRIC meetings, but is fundamental to moving issues forward and ensuring that individuals interested in the process do not feel excluded. For example, conservation interests in the basin have formed the Missouri River Conservation Caucus to this very end and are beginning to build a more formal process of working together to agree on representation and develop ideas that will lead to broadly-supported solutions in the basin.
- CDR and the U.S. Institute will need to be ready and willing to help these “interest caucuses” form and to ensure there is a consistent pattern of these caucuses selecting representatives that can speak for the caucuses and that are committed to the process in the long term. CDR and the U.S. Institute will also need to help select the “at large” representatives in consultation with other stakeholders.

- One representative per state should work, given the new spirit of cooperation among state water resource agencies and state fish and wildlife management agencies now embodied in MoRAST. The state representatives will have to be able to speak on behalf of their respective states, but will also have to coordinate and communicate with MoRAST and leaders in their own states. MoRAST can thus serve as a form of “interest caucus” for the basin states. Also, since a good portion of the work of MRRIC will center on endangered species and ecosystem recovery matters, each state will have to ensure its representative can speak to both issues and represents the full state position on fish and wildlife matters.
- Although there are 28 Tribes in the Missouri River basin, one representative per Tribe seems likely to overwhelm the balance of the group. Also, we need to be mindful of the size of the Governance Committee and ensure the number is manageable enough to make progress. Limiting Tribal representation to the 13 Tribes most closely associated with the river helps to keep that number manageable but still affords the Tribes a strong presence on the Governance Committee. The Tribes might be able to suggest other ways to modify their number of representatives.
- The five federal agencies listed above have generally been the most involved in Missouri River issues, including the spring rise Plenary Group. However, there may be other federal agencies, such as BOR, USDA, and DOT that need a place at the table. USGS is an important federal agency to have involved in the process, but their role might best be to help convene the independent science review body that will help the Governance Committee implement adaptive management on the river. Hopefully, the “interest caucus” for the federal agencies can be the Missouri River Federal Agency Roundtable, and the Roundtable can help to determine how to best engage the federal agencies.
- This process must be facilitated. CDR and the U.S. Institute are in the best position to do this job, given their leadership during the spring rise Plenary Group process and the Situation Assessment. However, some concerns have been raised about their efforts over the past year. Before we move forward, a meeting between CDR, the U.S. Institute, and all spring rise/MRRIC parties should be convened to air these concerns, agree on ways to fix any problems, and then move forward.
- **It is imperative that funding for nongovernmental stakeholder travel expenses be built into the MRRIC budget.** Stakeholder involvement is paramount in this effort, but without travel expense funding, many important stakeholders will simply be unable to participate because of travel distances due to the size of the basin, the number of meetings that will be required, and the length of time this process will take.

Based on the numbers above, this would result in a MRRIC Governance Committee of **56 official members**. To ensure MRRIC has authority to negotiate and see its recommendations implemented, all members would sign a Cooperative Agreement or other declaratory vehicle that would commit all official members to a common vision and agreed-upon goals. It is likely this group would require a “stamp of approval” from Congress, as well as the signatures of all basin state Governors and affected Tribal chairs.

This proposed structure creates a rather large Governance Committee, but this size reflects the reality of the size of the basin, the scope of the issues, and the large array of

interests involved. Since the Governance Committee would operate on consensus, the weight of each person's presence within this structure is generally equal and represents a fair balance between stakeholders, Tribes, states, and federal agencies.

Again, this proposal is intended to stimulate further discussion about how to form MRRIC and ensure nongovernmental stakeholders are equal partners in the process. We need to move forward in this basin with the formation of MRRIC and get down to the long and important work we have in front of us. Hopefully, these ideas help us move in that direction.

Roger Patterson
(IN RESPONSE TO CHAD SMITH DESIGN PROPOSAL)

Chad –

Thanks for taking a shot at this. In my view the balance between the States and stakeholders is not quite there. I think we either need to increase the State reps to 2 per state (which I think is where most states are) or reduce the number per interest group to 2. I agree with the idea of a few at-large appointments. Should also consider a requirement that each interest, and each state, bring one position to the table (at least when its time to take a formal position).

Travel expenses for the Tribes as well as the stakeholders should be covered by the Corp.

Roger

Dawnette Owens
Mni Sose Intertribal Water Rights Coalition
March 31, 2006

Background (pg 2) In the 3rd paragraph after the pull quote, change the sentence that begins, "Tribes want to protect. . ." to "Tribes need to protect their access to water and water intakes for the health and well-being of the residents of the reservations. The Tribes are also concerned with how management of the river will affect cultural, historical, economic, and social resources." ID of Key Individuals (pgs 4-5) Change the 3rd-to-the-last sentence in the 2nd paragraph to "They recommended that CDR especially interview parties in the Upper Basin as they had not be involved in the SR process as extensively as middle and lower Basin parties." Tribal members(pg 27) The 3rd paragraph states that the Tribes should designate a smaller group of delegates who will consistently attend all the MRRIC meetings. I don't agree that this has to occur. Thank you for allowing me to comment on the report.

Brian Barel
NPPD Water Resources Manager
March 31, 2006

I would like to begin by thanking you and others for allowing NPPD and me to participate in the Spring Rise Process and the beginning of the MRRIC process. I look forward to continuing with the enhancement of the Missouri River endangered species issues through further participation in the MRRIC process. In addition, NPPD has personnel with various technical expertise that can participate in the technical committees, etc during the MRRIC process. The Missouri River Basin is large and it is important the stakeholders have the ability to participate in the process as ESA compliance moves forward. This e-mail is to provide comments on the draft Situations Assessment Report and the implementation process associated with MRRIC. I understand that surveys have been conducted since the Feb. 28th public meeting and comment process on the draft report. I do not know if they will be included in the final report or not. In my mind you cannot separate the discussion of categories from the number of participants. In addition to my comments provided to those surveys, please find my additional comments regarding the draft Situational Assessment Report and more importantly how in Institute and the Corp. decide to proceed with the implementation process.

1. MRRIC should be an advisory committee to the Corp or Corp and USFWS
2. It needs to represent and be open to the stakeholders in the basin which are many. Too be successfully it must maximize stakeholder involvement.
3. It should operate by consensus with minority reports if necessary.
4. I do not believe it should have an executive group because it will be too hard to represent the various interests with a smaller group.
5. Caucus groups are likely better to caucus by states including the various categories of members in that type of meeting. This will broaden stakeholder understanding and communications throughout a state. Caucus groups of various interests spread throughout the large expanse of the basin are not going to be workable.
6. The focus of MRRIC should be issues associated with the compliance with and mitigation activities associated with endangered and threatened species.
7. Federal, state and tribal participation if all are represented by 2 individuals will make for very large and potentially unmanageable group.

Federal Representatives should have a caucus outside of MRRIC with the Corp, for which the Corp can bring issues to MRRIC along with agency representatives. There needs to be federal agency alignment or federal agency issues associated with ESA implementation that are brought to MRRIC for input, MRRIC will not be able to deal with a wide variety of federal perspectives within its process. USFWS needs to have a presence to provide input and feedback and participate in the technical and workgroups as was done in the Spring Rise Plenary Process

8. The number of categories of participant and the number of participants must be dealt with together. It is ok to have fewer categories if there is adequate representation for each category. See my attached responses to the second CDR questionnaires.

9. Size of MRRIC -- while the group in Omaha was generally comfortable with a number around 50 -- I believe they thought this was 50 stakeholder representatives. If states and federal agencies are to participate then it just grows the size of MRRIC accordingly. As you know there were state and federal agency participants in the Plenary Group for the Spring rise, but not 2 from each as has been suggested for MRRIC.

10. Representatives for the power industry in the basin are essential. This is one of the critical public infrastructures that has developed based on the Missouri River operation. Actions to comply with ESA that effect these public infrastructures can have enormous impacts on public welfare. In addition, the issues for power production vary from upstream to downstream and state to state. Issues relate to the quantity and quality and state laws and requirements. Someone from Ameron does not know NPPD's issues and cannot represent them. I think the power representation in the Spring Rise Plenary process included those that wanted to participate including on the technical and working groups. This must go forward in MRRIC. Power had 2 representatives from below Gavin's point and if there are those above that want to participate they should have representatives as well. In addition, all MRRIC meetings must be open to the public or other entities that may want to participate.

11. In many cases in the basin power is not a non-governmental stakeholder.

Please let me know should you have any questions on these comments

Brian



**Montana Fish,
Wildlife & Parks**

March 31, 2006

P.O. Box 200701
Helena, MT 59602
406-444-7409
kmcdonald@mt.gov

CDR Associates
100 Arapahoe Ave, Suite 12
Boulder, CO 80302

Dear CDR Associates:

The following comments pertain to the Draft Situation Assessment on the Feasibility and Convening of a Missouri River Recovery Implementation Committee, and represent the collective input from Montana Department of Natural Resources and Conservation and Montana Department of Fish, Wildlife and Parks.

--The Assessment relies too much on the interview responses. In spite of what interviewees think, MRRIC exists in a legal context and cannot be all things to all people. To be useful, the Situation Assessment must clearly lay out--legally and according to the Master Manual and the BiOp--what MRRIC is and what it is not. CDR or the Corps of Engineers needs to clarify the scope, role and issues to be addressed by MRRIC.

--It is important that the statutory and constitutional authorities of the States be recognized. It is important that because of these authorities, the States have strong representation.

-- As noted on page 10 of the Assessment, the committee needs to be effective and functional. This does not seem possible with the process illustrated in Fig. 1 (page 20), nor the medium or large size plenary conceptualized in Table 1 (page 22).

-- Montana supports the proposal brought forth by Nebraska at the Omaha meeting whereby each State is allocated 5 representatives, with two of those coming from the State water management and fish and wildlife management agencies, and the remaining three stakeholders from that State, selected by the State.

--Missouri River recovery extends upstream beyond Fort Peck. Therefore, Montana's non-governmental representatives should include interests along the river below Fort Peck, on the lake, along the river above Fort Peck, and Montana WAPA consumers.

--The section looking at other basin organizations could do a better job comparing those other basins with the Missouri. What aspects of these organizations are relevant to the circumstances of the Missouri? What might be useful in helping MRRIC to be successful? We recommend a more thorough analysis of other basin efforts to answer these questions.

Please feel free to contact me if you have any questions about these comments.

Sincerely,

Ken McDonald
Management Bureau Chief

Debra Bogar
National Assn of Conservation Districts
March 31, 2006

I am writing on behalf of the Northern Plains Region Board of the National Association of Conservation Districts, representing members in the states of Kansas, Montana, Nebraska, North Dakota, South Dakota, and Wyoming. We have reviewed the draft Situation Assessment Report on the Feasibility and Convening of a MRRIC. Our primary point is that conservation districts/natural resource districts (CD/NRD), while not represented in the development of this report, must be represented on the MRRIC. CD/NRDs and their clientele have a vested interest in the natural resources of the Missouri River Basin. CD/NRDs are local units of state government directed by a board of elected/appointed citizens. They are charged with coordinating assistance from all available sources - public and private, local, state and federal - in an effort to develop locally driven solutions to natural resource concerns. CD/NRDs work closely with private landowners and landusers, providing them with the necessary technical and financial information and assistance to manage their land, water and wildlife resources. They work through partnerships with private organizations and public agencies at all levels, and are well experienced in collaboration on natural resource issues. CD/NRDs will bring much to the MRRIC, including landowner/user perspectives and connections, technical expertise, and a wide array of partnerships. The Region Board agrees with most of the recommendations in the draft report for convening the MRRIC with several caveats. Specifically, the MRRIC should define its own focus and mandate; report to both the COE and F&WS; serve as an advisory body; be adequate in size to meet the representation needs; provide for NGO representation and for them to select their own member based on MRRIC-determined qualifications; allow for federal participation in discussion but not in final recommendations; and utilize technical committee(s) for appropriate use of science and data.

Lynn Muench
The American Waterways Operators
March 31, 2006

The states and tribes should be represented by MRRIC or by MoRAST but not both unless there are parallel groups with equal power for the NGOs. The stakeholders are trying to come to a consensus on the composition of the NGO stakeholder group. AWO asks that CDR wait until that proposal is on the table to move forward with the final assessment.

Vicki Marquis
Missouri River Conservation Districts Council
March 31, 2006

This Council agrees with most of the CDR Team recommendations except the recommendations regarding the "Numbers and Balance among MRRIC Members". This Council prefers an equal balance between all stakeholder or interest groups across the basin. The Lower and Upper Basins should be given equal representation, membership should not be based on population of the states or the number of members of a state's congressional delegation. The MRRIC should function, as much as possible, independent of political representation. More focus should be on the authorized uses and the groups impacted in the basin. Additionally, all states in the basin have Conservation Districts on the ground, who represent key local river users. These Conservation Districts should be included in some way as a Stakeholder Agency, either by geographical area or by state. Their views will be useful and will be different from views provided by state governments and non-governmental and private organizations. Additionally, this Council believes that detailed MOAs between the MRRIC and the participating agencies and groups will be critical to the MRRIC's success. A formal process should be created that requires the MOAs to be reviewed and updated at least annually. MOAs with governmental agencies should clearly describe how the agency will act on the MRRIC's recommendations. Regarding the Selection of MRRIC members, this Council feels that each agency and interest group should nominate a MRRIC member and an impartial third party group should review the nominations to ensure the individuals meet the "Desirable Characteristics and Qualities of Future MRRIC Members". The membership should be confirmed by a committee made up of members from the Federal Agency Round Table, MoRAST, the Tribal Coordination Group, and state congressional delegations. Our final comment is that the MRRIC should not focus on consensus to the point of becoming ineffective. On some issues, usually the difficult ones, consensus will never be reached, and there should be a formal mechanism built into the groundrules or charter that establishes when consensus becomes deadlocked and a majority vote is needed so that progress can be made. Thank you for the opportunity to comment.

Ken McDonald
Montana Fish, Wildlife and Parks March 31, 2006

The Assessment relies too much on the interview responses. In spite of what interviewees think, MRRIC exists in a legal context and cannot be all things to all people. To be useful, the Situation Assessment must clearly lay out--legally and according to the Master Manual and the BiOp--what MRRIC is and what it is not. CDR or the Corps of Engineers needs to clarify the scope, role and issues to be addressed by MRRIC. --It is important that the statutory and constitutional authorities of the States be recognized. It is important that because of these authorities, the States have strong representation. -- As noted on page 10 of the Assessment, the committee needs to be effective and functional. This does not seem possible with the process illustrated in Fig. 1 (page 20), nor the medium or large size plenary conceptualized in Table 1 (page 22). -- Montana supports the proposal brought forth by Nebraska at the Omaha meeting whereby each State is allocated 5 representatives, with two of those coming from the State water management and fish and wildlife management agencies, and the remaining three stakeholders from that State, selected by the State. --Missouri River recovery extends upstream beyond Fort Peck. Therefore, Montana's non-governmental representatives should include interests along the river below Fort Peck, on the lake, along the river above Fort Peck, and Montana WAPA consumers. --The section looking at other basin organizations could do a better job comparing those other basins with the Missouri. What aspects of these organizations are relevant to the circumstances of the Missouri? What might be useful in helping MRRIC to be successful? We recommend a more thorough analysis of other basin efforts to answer these questions.

Thomas Martin, P.E.
Water Resources Engineer
Pacific Northwest National Laboratory
Environmental Technology Directorate

CDR,

The purpose of this communication is to provide information on three regional ecosystem recovery organizations. These organizations can serve as models for establishment of a Missouri River Recovery Implementation Committee (MRRIC) to assist the USACE in implementing the Missouri River Basin recovery plan. I attended the February 28, 2006 meeting in Omaha, where CDR presented draft results of the Situation Assessment on the feasibility and establishment MRRIC. During the meeting, references were made regarding other models for recovery implementation committees--specifically the Columbia River model (I recall that

Rebecca Kidder of the Cheyenne River Sioux Tribe made this reference). Your draft report listed several very prominent committees from other recovery efforts in the U.S. In response to the references made during the meeting, I would like to provide additional information on the committees of other "watershed-based" recovery organizations from the Northwestern U.S.

The three watershed-based recovery organizations were formed in response to ESA listings of salmon in the Northwest. They include the Northwest Power and Conservation Council (NWPCC), the Lower Columbia River Estuary Partnership (LCREP), and the Shared Strategy for Puget Sound (Shared Strategy). In 2005, the NWPCC completed one of the largest locally led watershed planning efforts of its kind in the U.S., an effort that resulted in separate plans for 58 tributary watersheds or mainstem segments of the Columbia River. These subbasin plans were developed collaboratively by state and federal fish and wildlife agencies, Indian tribes, local planning groups, fish recovery boards, and Canadian entities.

NWPCC subbasin plans identify priority restoration and protection strategies for habitat and fish and wildlife populations in United States portion of the Columbia River system. Subbasin plans also integrate strategies and actions funded by others, thus ensuring that each plan serves the NWPCC's purposes under the Northwest Power Act and also accounts for Endangered Species Act and Clean Water Act requirements, and other laws governing natural resource management, as fully as possible.

LCREP is one of the other organizations that have been integrated into the NWPCC Subbasin planning efforts. As part of the National Estuary Program (NEP), LCREP was established by the Clean Water Act, which focuses on protection of water quality. LCREP is administered by EPA.

NEP focuses on building community-based processes to implement environmental protection programs with specific actions to address environmental problems in local watersheds. LCREP is one of 28 NEP organizations in the U.S. The National Marine Fisheries Service in August 2005 contracted LCREP to develop a recovery plan module for ESA listed salmon and steelhead that utilize the Lower Columbia River estuary.

One way to characterize these three watershed-based recovery organizations is as an experiment in democracy. The operating assumption of the Shared Strategy approach was that as people participate in trying to solve problems that affect them, they will become more informed about the issues and about each other's needs; this new knowledge leads to better and more durable solutions that will be supported by those involved, and success in working together will increase our communities' capacity to solve increasingly more complex problems. The first and most important element is to continue local community (watershed) recovery efforts that are consistent with the community's broader goals. This is where the connection to place and local knowledge is most powerful. Thus far, the experience from the planning phase suggest that it is important to coordinate the various functions and programs related to recovery within each watershed so that people know where to bring their issues and concerns, and more

importantly, to have a place to participate in generating mutually beneficial and durable solutions.

These organizations were not identified in Appendix VI of your draft report. The comments from the agricultural community at the meeting seemed to reflect a frustration stemming from a disconnection between the burgeoning MRRIC and local concerns. I suggest that a watershed-based recovery organization be considered by the MRRIC Charter and Process Committee that was formed during the February 28th meeting. The following web-sites provide additional information of the three watershed-based recovery organizations mentioned above:

- * <http://www.nwcouncil.org/fw/subbasinplanning/Default.htm>,
- * <http://www.sharedsalmonstrategy.org/about.htm>,
- * http://www.lcrep.org/mgmt_implementation.htm.

All of these recovery organizations are examples of several similar organizations in their regions. There tends to be redundancy among the organizations, but each has a slightly different mission. I gathered from February 28th meeting that the USACE has developed a recovery plan, but they will be relying on MRRIC to provide advice on the implementation details. The so-called side boards on MRRIC are not clear, and it appears that recovery implementation actions could possibly go as far as modification of the USACE Missouri River Mainstem Reservoir System Master Water Control Manual. Per the Columbia River Biological Opinion, an ESA Recovery Executive Committee was charged with coordinating species recovery on the mainstem lower Columbia River specifically by working to get on-the-ground projects underway, and to provide fisheries management recommendations for operation of the Federal Columbia River Power System on a weekly basis. Review of the range of Columbia River operation and recovery management organizations may be useful for the MRRIC Charter and Process Committee to determine the ultimate scope of MRRIC.

I would like the MRRIC Charter and Process Committee to consider these models during their upcoming deliberations. Any assistance you might provide in this regard would be appreciated.

Thank you.

Sincerely,

Thomas Martin, P.E.
Water Resources Engineer

Pacific Northwest National Laboratory
Environmental Technology Directorate

Boris Shmagin
Member of AIH
April 1, 2006

Situation Assessment Report missed the roots of the problem. The problem to recover endangered species exists in broader picture of nature - human systems interaction. The problem is originated by the lack of informational about strait-feedback connections of hydrological system of the Missouri River watershed (MRW) from one side, environmental and industrial human activities on second and third sides. The work of proposed the MRRIC has to be founded on a knowledgeable base with results of data analysis, a management model and strategies that may provide alternative scenarios and formal criteria for decision making. In the bigger picture, the COE is acting as a river level operator but not as MRW water resources manager. The way this report was prepared through interview leads to nowhere. From 90 interviewed people there was only one hydrologist represented. The reports of federal agencies assessing the scientific part of the problem of hydrology and wildlife conditions (GAP analysis) for MRW, and also the more successful case of water management (Rio Grande River watershed) were not taken in to consideration. The role of academia and educational institutions for research and advancing the public perceptions of scientific findings was also not considered.

Patrick J. Cassidy
Director, Environmental Services
Kansas City Board of Public Utilities
April 3, 2006

Really nice job compiling the survey results into one, easily-read report.

As a suggestion only, and you've probably considered it already, as you send out the third survey, you might consider asking questions like:

- "How often should MRRIC" meet?"
- "Should the meeting location be fixed or move around to different parts of the basin?"
- "Should the meetings be synchronized with the production of the AOPs?"

My feeling is that the answer to these kind of questions could indirectly impact the numbers that people will recommend to represent the various entities.

Thanks for your work on this!

Patrick J. Cassidy
Director, Environmental Services
Kansas City Board of Public Utilities
Fax: (913) 573-9838

Chad Smith
American Rivers
Subject: Federal agency role in MRRIC
April 4, 2006

All:

I hate to do this by e-mail, but it is the quickest way I know of to express some concerns I have about the memo put out last week talking about the federal agency role in MRRIC. I was led to believe there is some kind of federal call this afternoon to discuss MRRIC, so I wanted to send along some brief thoughts before that.

I believe we are headed down the wrong road if the federal agencies decide to not be voting members of MRRIC. This perpetuates the dichotomy that has long existed in the basin of stakeholders, and even states and Tribes, of not really having much ability to influence management decisions on the Missouri River. While I certainly understand and appreciate the fact that the federal agencies must uphold certain laws and mandates from Congress, and that funding at this point is largely federal, I am concerned about an arrangement where we form an advisory committee of states, Tribes, and stakeholders that just makes recommendations to the federal agencies that can be ignored. I am fearful of creating a body that spends enormous time and effort over many years to develop consensus recommendations without any confidence or authority built in up front that our work will be given proper consideration.

This is exactly the kind of process that was constructed for the spring rise Plenary Group, and we all went into at the time knowing that it was only really a partially collaborative effort. We simply did not have time to build a true collaborative effort, so the thought was we would do our best during the spring rise process and build a better mousetrap for MRRIC. Unfortunately, it seems like we are headed for repeating the spring rise model. Though that process worked to great degree, it is still not ideal. We still have a lot of trust issues in the basin, and frankly people have used the loophole of the federal agencies not being voting members to use political power to try and disrupt the spring rise this year. To make MRRIC work, we have to fix those trust issues, get everyone to the table on an equal level (federal agencies included), and push forward together.

I fear that by having the federal agencies already saying they will not be voting members of MRRIC, we are not building transparency or equality into the process. I don't see any reason why the federal agencies cannot be both voting members of MRRIC and still uphold all of the legal and political issues on their end. We do it on the Platte River through the Cooperative Agreement, so we should be able to do it on the Missouri. I'm

sure there is some reluctance on the part of the federal agencies to feel as though they are relinquishing some kind of power in the basin. For my part, I'm not asking them to do that, only to sit at the table with me on an equal basis so we, and everyone else, can work together in a true spirit of cooperation and collaboration.

I hope there is still time to consider this issue and hear from all parties involved about what the best way forward is. My belief is that we should form MRRIC, and then together decide what we want to work on and how best to set things up so we can make that happen. I don't think it bodes well for our work going forward for the federal agencies at this point to have already decided to remove themselves from being voting members of MRRIC. We need more time to contemplate what role everyone will have, and how we might do a better job of leveling the playing field to the greatest degree as we can.

Thanks for considering these comments.

Chad Smith, Director
Nebraska Field Office - American Rivers

Roger Patterson
(IN RESPONSE TO CHAD SMITH FEDERAL AGENCY ROLE IN MRRIC)

I agree with Chad. The MRRIC bylaws can be put together so the Federal Agencies can participate as Chad suggests without giving up any statutory authority. I believe better decisions will be made, funds will be better spent, trust will increase, and the level of controversy will be reduced if the Federal Agencies are full voting members.