

Dear Interested Stakeholder in Missouri River Basin Issues:

PLEASE NOTE: The U.S. Institute is still developing and expanding our Stakeholder Contact List, which we acknowledge is incomplete. Please feel free to distribute this email to others who may be interested.

I am following up on a previous email to address some questions and concerns that have been raised about the proposed "spring rise" process being convened by the Corps with the independent assistance of the U.S. Institute for Environmental Conflict Resolution.

However, I would first like to reiterate that you are cordially invited to help the U.S. Institute in selecting the team of independent mediators that the U.S. Institute will contract with to facilitate the proposed "spring rise" process. The same team of mediators will also be contracted to conduct a second effort to work with governmental and nongovernmental stakeholders in the Basin to determine how best to design and convene the Missouri River Recovery Implementation Committee (MRRIC) process.

SELECTION OF MEDIATION TEAM - Your invitation to participate

The selection of an appropriately qualified mediation team is the most pressing initial priority. The U.S. Institute wants to ensure that we select the best team available for these projects. We can only do that with the assistance of interested and affected stakeholders - both governmental and nongovernmental.

Interviews with the final candidates identified by the U.S. Institute will take place all day on Tuesday, April 12, in Omaha, NE. (NOTE: This date has been changed from the 14th.)

You are welcome to participate in the selection process for the mediation team one of four ways:

1. You can review the proposals submitted by the final candidates and then participate directly in their in-person interviews;
2. You can review the proposals submitted by the final candidates and then participate in their interviews via conference call;
3. You can review the proposals of the final candidates identified by the U.S. Institute and submit your written comments on their qualifications;
4. You can attend and observe all or part of the interviews.

PLEASE RESPOND BEFORE FRIDAY, APRIL 1, IF YOU WOULD LIKE TO PARTICIPATE IN THE PROCESS TO HELP SELECT THE MEDIATION TEAM. You can contact me by email or by phone at the number listed below to indicate how you would like to participate. I will provide you with the proposals of the final candidates, as soon as possible, to review in advance of the interviews. For those participating by conference call, I will provide a toll-free (800) Call-In Number.

If you choose to attend the interviews, we will provide as many participants as possible with an opportunity to ask questions of the candidates, as well as to indicate your preferences among the different candidates at the conclusion of the interviews. Although the U.S. Institute will be making the final selection decision, we have a strong interest in identifying a mediation team that is both highly skilled at helping parties reach agreement on solutions to difficult problems and who are also acceptable to all stakeholders with an interest in Missouri River endangered species recovery and restoration issues. The U.S. Institute will contract with and directly oversee the work of the selected mediation team.

As the U.S. Institute's Senior Program Manager assigned to this project, I will be facilitating the interview process. You can expect it to be a very long day, but also hopefully productive and informative. I understand and appreciate that attending the interviews is a big commitment of your time. Without your assistance, however, and your willingness to engage in a good faith effort to work with other stakeholders and the responsible agencies in developing a viable spring rise proposal, is vital to a successful process. So, the contribution of your time and your thoughtful perspectives on the qualifications of the different mediation teams would be greatly appreciated. In fairness to all the prospective candidate teams, if you do intend to participate in the selection process, I will ask that you prepare by reading all the proposals in advance of the interviews.

If you cannot participate in the interviews but would like to review the proposals of the final candidates and provide your written comments on their qualifications, I will need to receive your written comments no later than Friday, April 8, so they can be considered in making the final selection decision.

And now, some additional clarification about the Proposed "Spring Rise" Process.....

NOTE: A "spring rise" is a temporary increase in water flow during the springtime that is designed to partially mimic the behavior of a natural river system to enhance the development of favorable conditions for successful spawning of pallid sturgeon, while also minimizing unintended or undesirable impacts to others.

PLENARY GROUP, WORKING GROUPS, CORE PLANNING GROUP

The U.S. Institute currently envisions that all substantive deliberations about a proposed "spring rise" would take place within a fairly large **Plenary Group** that includes broad participation by representatives designated by the tribes, the states, and other state and federal agencies, as well as interested and affected nongovernmental stakeholders and organizations. The first meeting of the Plenary Group would probably not take place any sooner than mid-May. It is not yet clear how many participants in the Plenary Group will be required to ensure adequate representation of all the different interests that would need to be addressed to achieve broad support for a "spring rise" proposal.

We are also anticipating that the Plenary Group may wish to establish one or more **Working Groups** to gather information on different technical aspects of a "spring rise" recommendation and to develop options or a proposal for consideration by the full Plenary Group. Although the Working Groups would likely be composed in part of Plenary Group members, they also would provide opportunities for the direct participation of additional stakeholders with expertise or interest in the specific areas being addressed by the particular Working Group. The Working Group meetings would take place in between the meetings of the larger Plenary Group.

In addition, the U.S. Institute is proposing to establish a **Core Planning Group** to assist the selected mediation team quickly develop an appropriate specific design for the "spring rise" process. To function efficiently in the short amount of time available, the Core Planning Group needs to be relatively small and composed of individuals who would be willing to focus on helping the mediation team design a fair and inclusive Plenary Group process, within the constraints that it must operate. The Core Planning Group will not be engaging in negotiations over the "spring rise" proposal. Negotiations and deliberations will be the task and responsibility of the Plenary Group.

The Core Planning Group's role will be to help the mediation team more quickly identify the different stakeholder interests that would need to be addressed through the Plenary Group

process in order to build broad support throughout the Basin for the "spring rise" proposal. In addition, it is envisioned that the Core Planning Group will advise the mediation team about how best to coordinate outreach and communication efforts to keep interested stakeholders informed about the "spring rise" process. The Core Planning Group will also help the mediation team determine where and when to conduct the Plenary Group meetings.

The U.S. Institute is seeking your suggestions of appropriate individuals to serve on the Core Planning Group to assist the mediation team in developing the specific design of the "spring rise" process.

The U.S. Institute will be using the following criteria for inviting and selecting individuals to serve on the Core Planning Group:

- Knowledge of stakeholder interests and points of contact throughout the Basin.
- Demonstrated support from a constituency to serve on the Core Planning Group.
- Established and efficient communication channels to constituencies of interested stakeholders.
- Willingness to conduct outreach efforts to interested and affected stakeholders.
- Availability to participate in 2-3 Core Planning Group meetings at different locations throughout the Basin and possibly additional conference calls, as well as related email communications.
- Ability to cover all travel costs associated with attending Core Planning Group meetings.
- Willingness to focus on assisting mediation team design an inclusive Plenary Group process, where the actual deliberations on the "spring rise" will take place.
- Constructive communication and collaboration skills.

If you would like to recommend yourself or someone else to serve on the Core Planning Group, please provide complete contact information and a brief statement that addresses how the person meets the criteria listed above.

We would like to ensure we have representation on the Core Planning Group of the following interests:

- Agencies and organizations helping to fund the "spring rise" process
- Tribal Nations
- Basin states
- Hydropower interests
- Water supply interests (thermal, nuclear, municipal)
- Agricultural interests
- Navigation interests
- Environmental and conservation interests
- Recreation interests

Invitations to serve on the Core Planning Group will be extended by the U.S. Institute, which will make the final selection decisions in consultation with the chosen mediation team, so **please submit your suggestions before Friday, April 15th.**

Additional Background Information

As you may know, the U.S. Fish and Wildlife Service, which has responsibility for implementing the Endangered Species Act, stipulated a "spring rise" in its 2003 Amended Biological Opinion that allowed the U.S. Army Corps of Engineers to proceed with its 2004 revision of the Missouri

River Master Water Control Manual. The Corps needs to include its spring rise proposal in the 2006 Draft Annual Operating Plan, which must be released for formal public comment in August.

In response to calls for greater transparency and openness, the Corps has made a public commitment to work more closely with others in making future decisions regarding operation of the Missouri River. However, with regard to the proposed "spring rise" process there are two significant constraints: 1) a very tight timeframe due to the August deadline; and 2) designing a process that provides for the involvement of nongovernmental stakeholders without violating the provisions of the Federal Advisory Committee Act (FACA).

Because of its unique status as an independent federal agency and reputation for providing impartial expertise in helping parties reach agreement on solutions to difficult and controversial issues, the U.S. Institute for Environmental Conflict Resolution was asked by the Corps, and others, to design a way to meaningfully involve tribes, the states, and other agencies, as well as interested and affected stakeholders in the 2006 spring rise decision, despite the very tight timeframe. In addition to the Corps, the Missouri River Basin Association and its members, U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, U.S. Bureau of Reclamation, and the National Park Service, as well as The Nature Conservancy and American Rivers have thus far indicated their support for the involvement of the U.S. Institute. Their support, I believe, indicates a collective sentiment that assistance from an independent entity with conflict resolution expertise is needed to help stakeholders in the Basin reach agreement on workable solutions to the challenges associated with protecting and recovering endangered species, while also addressing the needs and concerns of upstream and downstream stakeholders.

Unfortunately, with such severe time constraints, the U.S. Institute believes that only an abbreviated form of collaboration is feasible for the "spring rise" process. Although the time constraints create less than ideal circumstances for collaboration in the Basin, the U.S. Institute is hearing a strong desire to try to make the most of the spring rise opportunity and to use it as a building block for then designing a truly collaborative effort with stakeholders through the Missouri River Recovery Implementation Committee (MRRIC) process to develop implementable long-term solutions in the Basin.

The normal practice of the U.S. Institute, especially in very complex situations, is to spend considerable time up front getting to know the different needs, concerns, and perspectives of interested and affected stakeholders and to work with them in assessing the feasibility of collaboration. We also prefer close consultation with stakeholders in designing the actual process, if the collective determination is to proceed. Unfortunately, for the proposed "spring rise" effort, the time is not available to conduct this kind of information gathering and inclusive assessment process. We are forced instead to find another way to engage stakeholders in helping our mediation team to fairly and quickly develop an appropriate design for the "spring rise" process, through the initial establishment of the proposed Core Planning Group and then the Plenary Group and Working Groups.

Please feel free to contact me if you have questions, concerns, or suggestions about how the U.S. Institute is approaching designing of the "spring rise" process. Thanks very much.

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