

DRAFT

**SITUATION ASSESSMENT REPORT
ON THE
FEASIBILITY AND CONVENING
OF A
MISSOURI RIVER RECOVERY
IMPLEMENTATION COMMITTEE**



Prepared by

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Executive Summary

**To be prepared for Final Situation Assessment Report after
input has been received from interviewees
and other concerned parties**

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Background

The Missouri River (Missouri) is one of the longest and most important rivers in the United States. It is also one of the most ecologically and politically complex. The source of the Missouri and a number of its tributaries are in the Rocky Mountains. From high-country beginnings, the river flows for 2,341 miles through a range of diverse ecological regions and eight different states until it joins the Mississippi River. It encompasses 529,350 square miles and drains one sixth of the United States.

The Missouri River is one of the longest in the United States. It flows for 2,341 miles through a range of diverse ecological regions and eight different states until it joins the Mississippi River.

Management of the Missouri has never been easy. It is currently the only major river in the U.S. that is not regulated by a formal interstate water compact. To a significant extent this unique status is due to the large number of political entities and interest groups that are concerned about the river. These include multiple Federal agencies, twenty-eight sovereign tribal nations, eight states and a large number of diverse interest groups, some of which include farmers and irrigators, interior drainage and bank stabilization organizations, municipalities, shipping and navigation interests, hydropower and other energy producers that need cooling water, environmentalists and conservation organizations, and recreationists.

The agency with overall responsibility for management of the Missouri is the U.S. Army Corps of Engineers (COE). The COE's mandate and authorizing legislation requires it to find a balance between competing needs and uses of the river by concerned political entities and stakeholders. Integrated management requires preventing floods, enabling navigation and shipping on the river, guaranteeing hydropower generation, preserving water supply for multiple uses, protecting water quality, facilitating recreation, meeting Tribal Trust responsibilities and protecting wildlife and their habitat, especially endangered species.

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The COE's approach to management of the river is detailed in its Missouri River Master Water Control Manual (Master Manual). In recent years, the development of this manual has been highly controversial, and the subject of intense debates and conflicts. However, after important revisions, the COE released the new manual in 2004.

Another important document that influences how the river is managed is the Endangered Species Act (ESA), which defines procedures for listing and recovery of endangered species. In 2002, the U.S. Fish and Wildlife Service (USFWS) issued a Biological Opinion (BiOp) and in 2003, amended it. According to the BiOp, flora and fauna living in or along a river are often highly dependent on certain patterns of streamflow and

habitat to assure their sustainability. The USFWS believes that past management and regulation of the Missouri, as well as changing hydrological patterns, have significantly adversely impacted three endangered species – the piping plover, the interior least tern and the pallid sturgeon. The BiOp outlined specific measures that needed to be taken by the COE to recover the three endangered species.

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In addition to the Endangered Species Act, the COE is required to comply with the National Historic Preservation Act, Archeological Resources Protection Act, the American Indian Religious Freedom Act of 1978, the Native American Graves and Repatriation Act of 1990, and the Antiquities Act of 1906.

Beyond the COE and the USFWS, numerous other parties are also concerned about the way the river is managed and potential impacts of changes on the recovery of endangered species and other uses, especially in years of drought.

Environmentalists are concerned because they see management changes as critical to the recovery of the endangered species, other non-listed flora and fauna and the ecological health of the river. Tribes want to protect their access to water and water intakes for diverse economic and social uses, and their cultural resources and burial grounds. Power producers want predictable amounts of water for hydropower production and cooling power plants. Upstream farmers, the tourist industry, fish and game interests and recreationists want to maintain water in reservoirs for their various uses, and fear that releases early in a year, especially under draught conditions, may adversely impact availability later in the season. Downstream farmers are concerned about potential impacts on interior drainage and prevention of flooding, preservation of agricultural land use along the river, maintenance of local tax bases and barge shipping costs. Municipalities on various reaches of the river want to assure water availability for various uses and to avoid adverse impacts on water intakes. Navigation and terminal interests and are worried about impacts of any management changes on their economies and the length of the navigation season. Finally, many people living



Pallid Sturgeon



Piping Plover



Interior Least Tern

along the river want bank stabilization to protect their property and property values. These are just a few, but not all, of the parties who are concerned about the future management of the river.

The COE is exploring ways to encourage and support more collaborative approaches to water management challenges in the Missouri Basin. The COE Record of Decision (ROD) on the Master Water Control Manual commits the COE to initiate a comprehensive Missouri River Recovery Implementation Plan (MRRIP) to restore the river's ecosystem and protect and recover threatened and endangered species. To explore the feasibility of implanting such a plan, the ROD specified that actions associated with the MRRIP will be implemented through coordination with a Missouri River Recovery Implementation Committee (MRRIC), composed of a cross section of government entities and stakeholders, to ensure a comprehensive approach and broad based support for recovery implementation.

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The Situation Assessment process described below is designed to assist in the design and implementation of the MRRIC initiative.

The Situation Assessment and Scope of Work

In the Spring of 2005, the U.S Institute for Environmental Conflict Resolution (USIECR), after consultation with the COE, USFWS and a number of other cooperating Federal agencies, agreed to secure consulting services of an independent conflict management firm to conduct a situation assessment on the feasibility and procedures to convene a Missouri River Recovery Implementation Committee (MRRIC). In April of that year, USIECR contracted with CDR Associates, an international collaborative decision making and conflict management firm, with a specialization in water management and endangered species issues, to conduct the situation assessment. (See Appendix I for a description of CDR Associates and the CDR Team.)

The Scope of Work for the Situation Assessment included the following activities:

- ◆ *Review of background information relevant to the establishment of the Missouri River Recovery Implementation Committee (MRRIC)*
- ◆ *Convene an Organizational Meeting of a Situation Assessment Coordination Group*
- ◆ *Develop an Interview Protocol and Letter of Introduction*
- ◆ *Identify Key Stakeholder Interests and Specific Individuals to be Interviewed*
- ◆ *Schedule and Conduct Confidential Interviews*
- ◆ *Conduct an Analysis of Assessment Findings and Convene a Meeting to Consider Implications*
- ◆ *Prepare Draft and Final Situation Assessment Report*
- ◆ *Meet with Stakeholders to Discuss Results of the Situation Assessment*

Situation Assessment Process

The process for doing a Situation Assessment relies primarily on personal interviews and background research on relevant issues, as means to identify and gain insight into 1) key topics for discussion; 2) diverse perspectives on those issues; 3) stakeholders (groups and/or individuals) who might participate in collaborative decision making initiative; and 4) possible organizational structures for information exchange, dialogue, deliberations and decision making. The assessment process is designed to identify and gather this information from reliable primary and secondary sources and interviews with a representative cross-section of organizational, interest group and agency leaders and opinion makers.

Information gained by the situation assessment process is presented to key agency decision makers and potential stakeholders as a means to assist them in deciding whether and how to proceed with a collaborative effort.

CDR's approach to conducting the situation assessment can be found in Appendix II.

Identification of Key Individuals, Groups, Organizations and Agencies to Interview

At the Core Planning Group meeting of the Spring Rise Facilitation (SR), another Federal initiative to promote recovery of the pallid sturgeon on the Missouri River, an informal self-identified Situation Assessment Advisory Group (SAAG) was formed to advise the CDR Team on the Situation Assessment process. The SAAG had three initial tasks: 1) to advise the CDR Team regarding potential first-round interviewees to talk with regarding the feasibility and convening of the MRRIC; 2) to identify what other information might be helpful in considering a future structure for the MRRIC; and 3) to review key questions to be asked of interviewees.

The process of interviewee identification was incremental and occurred in several rounds. The SAAG had its first meeting in Bismarck, North Dakota on June 30th. CDR asked the 18 member Advisory Group to make recommendations for interviewees who 1) would have valuable insights into relevant historical and current Missouri River issues, 2) were perceived as leaders of key interest or stakeholder groups or government entities in the basin, 3) would be likely to play a significant role in reaching solutions to Missouri River issues in question, or 4) might challenge the outcome of a collaborative process if they did not have input or were not involved. The Advisory Group recommended that the CDR Team cast its nets widely when pursuing interviewees. They suggested a first round of interviews with members of the SR Plenary Group, and a second round with people recommended by these interviewees. They recommended that CDR especially interview parties in the Upper Basin as they had not been as involved in the SR process. CDR took this advice and explored how an extensive set of interviews could be conducted within the Situation Assessment budget. (See Appendix III for the final list of Advisory Group members.)

In addition to providing advice on whom to interview, the SAAG reviewed and provided input on potential interview questions. The interview questions used by the CDR team can be found in Appendix IV.

Because of the intensity and time required of SR participants and the CDR Team to engage in and facilitate the SR process, the need to move funds for the MRRIC Situation Assessment to the budget for extended SR negotiations, and the need for parties and agencies to focus on the Annual Operating Plan (AOP) process, USIECR in consultation with concerned Federal agencies, decided that Situation Assessment interviews should not begin until after the conclusion of the COE's public meetings on the AOP, in late November of 2005.

Conducting Interviews

Based on inputs from the SAAG, the Team selected a balanced cross-section of diverse groups and people to interview. The original Scope of Work for the Situation Assessment called for 50 interviews to be conducted with concerned stakeholders, many of which were projected to be face-to-face group meetings held in various reaches of the Missouri River. After consultation with USIECR, it was decided that since CDR had worked closely with members of the SR Plenary Group (some of whom were to be among the first set of interviewees), it would probably not be necessary to conduct face-to-face interviews with them. Resources would be better spent by conducting a larger number of interviews by telephone.

CDR contacted all SR Plenary Group members to request interviews, and based on their interest and responses, was able to interview almost all of them. By following up on recommendations for further people to talk with, and using a combination of individual and group in-person and telephone interviews, the CDR Team ultimately interviewed over 90 individual stakeholders throughout the basin, as well as many from agencies in Washington D.C., Portland and the region. A list of interviewees can be found in Appendix V.

The CDR Team interviewed over 90 individual stakeholders throughout the basin, as well as many from agencies in Washington D.C., Portland and the region.

Interviewees often wanted to know how their input would be reported in the Situation Assessment Report. Interviews were conducted on the basis of confidentiality, and an agreement with interviewees that the Team would not identify or attribute specific views or comments to any one individual. The Team informed all interviewees that it would prepare a Situation Assessment Report for USIECR, concerned Federal agencies and all interviewees, and that the document would identify aggregated themes, issues and general perspectives gained from interviews.

Conducting Background Research on Similar Multi-party Initiatives

In addition to conducting interviews, the CDR Team conducted background research on similar multi-party initiatives to address recovery issues. The Team utilized primary resources and a limited number of interviews of parties involved in these efforts, and who were familiar with Missouri River issues.

Assessing and Analyzing Data Gained from Interviews and Background Research

Analysis and interpretation involves the identification, organization, and elaboration of key themes, issues, and interests garnered from interviews. CDR examined potential mandates, authority, organizational structures, membership and member selection procedures, decision making processes, data needs and funding of a future MRRIC. We also looked at relationships among individuals and groups that may influence how current or future issues are raised and conflicts resolved.

While the results of the Situation Assessment process are primarily qualitative and subjective, there are also certain quantitative components. CDR paid close attention to issues, perspectives, or strategies that arose in a majority of interviews, and typically saw these as “key” or “significant” themes. However, a perspective that may not have been shared by the majority of interviewees may also have been deemed to be significant if it provided a potentially valuable insight, option or recommendation. In the report, the Team has tried to distinguish between majority views, and insights held by a small number of interviewees. CDR followed the process described above when conducting and analyzing the results of Situation Assessment interviews on the feasibility of convening, the structure and possible areas of focus of the MRRIC.

Results of Background Research on Similar Multiparty Initiatives to Address Recovery Issues

The CDR Team was advised to “not reinvent the wheel” and to consider lessons from prior multi-stakeholder initiatives conducted to address public policy environmental and habitat recovery issues. In conducting secondary research on past efforts, the CDR Team reviewed the following four initiatives:

- ◆ The Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin
- ◆ The Lower Colorado River Multi-Species Conservation Plan
- ◆ The Platte River Cooperative Agreement
- ◆ The South Florida Ecosystem Restoration Task Force

In reviewing the focus and work of these committees, the CDR Team analyzed:

- ◆ The mandates, focus and authorities of the organizations
- ◆ The structure of the organizations
- ◆ The use of facilitators and/or chairpersons

- ◆ Deliberative and decision making roles and procedures
- ◆ How relevant and acceptable data was obtained
- ◆ Funding mechanisms

A summary of our research on the four initiatives identified above can be found in Appendix VI. This information has been integrated with data gained from interviews, and included in recommendations by the CDR Team in the next section of this report.

Findings and Conclusions from Interviews

Described below are the themes gleaned from more than 90 interviews and recommendations from the CDR Team. Where appropriate, we have also included some of the results of our background research.

The Focus and Mandate for MRRIC

The visions of many interviewees concerning the future focus and mandate of the MRRIC are generally shaped by their views of congressionally authorized uses of the Missouri River, other Federal legislation related to its management, their definition of “long-term recovery” and what they believe that it will take to accomplish it. Congressionally authorized uses of the Missouri River, as contained in the Pick-Sloan Plan and Flood Control Act of 1944, include: hydropower, recreation, water supply, navigation, flood control and fish and wildlife. As one Federal agency representative said “MRRIC must address all authorized purposes and uses in a holistic manner.” A representative of a conservation group expressed a similar view, “Success for MRRIC and “recovery” means a lot of different things. Not just ESA delisting but also people out fishing and hunting, communities and businesses benefiting from the ecosystem, hydropower revenue and the public being interested in the River”. A representative of terminal and agricultural interests said “We need to look at ESA recovery but also socio-economic (recovery), as in terminals, recreation and protection of cultural resources”.

As stakeholders discuss their hopes and fears for the long term recovery effort of the MRRIC, they almost universally focus on three components, the need for: 1) changed attitudes and relationships among and between concerned parties, 2) effective collaborative (and consensus-based) processes, 3) basin-wide ecosystem level initiatives, with greatest emphasis on where recovery efforts were likely to be most successful, and (4) broadly based recovery in a social and economic sense affecting communities within the basin.

Attitudes and Relationships -Almost across the board interviewees identify and stress the destructiveness of past narrow and parochial interest group attitudes and views toward issues related to species recovery and various aspects of river use and parties who hold different opinions. Coupled with this are damaging past adversarial strategies, tactics and behaviors used by diverse parties concerned about management of the River.

A large majority of interviewees note that if the MRRIC is to be successful in any initiatives that are undertaken, concerned parties will have to be willing to significantly change some of their attitudes about the issues and the other parties who are involved in addressing them. Parties will need to step back from old views, positions and tactics and explore how greater trust can be built. They will also need to be willing to entertain and explore how interests that are not their own can be recognized, seen as legitimate and be met; and balance other uses of the river, and minimize harm to various users to the greatest extent possible.

A large majority of interviewees note that if the MRRIC is to be successful in any initiatives that are undertaken, concerned parties will have to be willing to significantly change some of their attitudes about the issues and other parties who are involved in addressing them.

Many interviewees are not sure if these changes are possible, but believe that at least minimal positive shifts in attitudes have occurred. For some this is all that is needed to begin the process of building greater trust and rapport, which are seen as the minimum preconditions for the beginning of a dialogue.

It should also be noted that a number of interviewees say that they saw some of these changes beginning to occur in the SR Facilitation. While the Plenary Group of this body did not come to a consensus, a number of interviewees indicated that they had seen a greater willingness among its members to educate and be educated by each other, explore issues in depth, engage in respectful dialogue and deliberations, and at least entertain how solutions could be developed that would try and to address the range of interests of concerned stakeholders.

Process - Regarding process, a large majority of interviewees note that adversarial procedures that had been used in the past, and which are currently being considered, or used in the present, are probably not the best way to resolve complex river and ecological issues. However, a smaller group, less than fifteen percent of all people interviewed, stressed that they were not willing to give up their right to litigate, if they felt that laws or their rights were being violated. However, this same group too also noted that they too, believed that another process was both desirable and possible.

The words about prospective procedures that came up most in interviews was the need to engage in some form of “cooperative problem solving” and to effectively use “adaptive management”. A number of interviewees noted that while the Spring Rise facilitation did not result in a consensus agreement, it did demonstrate in part that there are other procedural options other than long-term multi-decade litigation.

The words about prospective procedures that came up most in interviews was the need to engage in some form of “cooperative problem solving” and to effectively use “adaptive management”.

Interviewees recognized that in whatever process was developed, there would need to be significant learning from each other, willingness to explore and evaluate diverse ways to achieve agreed upon ends, and some give and take in a collaborative negotiation process to develop mutually acceptable recommendations. Adaptive management, while a concept that many interviewees supported, was one that almost all parties believe needs to be defined. Many interviewees indicate that a successful process will involve adaptive management as a way to move toward recovery, but such a process will need to have clear mileposts to measure success, joint agreements on how it will be implemented and monitored and early warning mechanisms to identify projected river management changes and to allow stakeholders adequate time to plan their responses to avoid or mitigate any potential harm.

Ecosystem Recovery – When asked about what long-term recovery meant, the Team heard a variety of responses. Some of these included:

- ◆ A process that will promote the general (ecological) health of the river;
- ◆ Recovery of the three identified endangered species, and measures that will prevent other species from being listed;
- ◆ A process to avoid a jeopardy decision by the USFWS;
- ◆ Tangible measurable progress toward delisting the targeted endangered species;
- ◆ A process that will achieve delisting of targeted endangered species;
- ◆ Recovery of a specific amount, kind and quality of habitat necessary for endangered species recovery, as identified by the USFWS;
- ◆ Tangible and measurable progress toward achieving mutually agreed upon goals and measures for endangered species recovery;
- ◆ A process to develop and protect the habitat of endangered species so that they can recruit and sustain themselves with minimal human intervention;
- ◆ A process that will protect and balance various uses of the river, which at the same time will result in the recover of endangered species;
- ◆ A system-wide process that will protect, promote and recover all important uses of the river – economic, social, cultural and ecological - including endangered species, and will not place one use in higher priority over others or eliminate any existing uses;
- ◆ Utilize ecosystem enhancement as a basis for broader economic and social revitalization

Out of the themes above, the ones that interviewees mentioned most frequently were:

- ◆ A process that will promote the general (ecological) health of the river;
- ◆ Development of a concrete strategy for ecosystem recovery, specifically as it relates to the habitat of endangered species, so that they can breed/spawn and recruit with minimal human intervention.
- ◆ Tangible measurable progress toward delisting the targeted endangered species and avoid listing other ones;
- ◆ A process that will protect and balance various uses of the river, which at the same time would result in the recovery of endangered species.

- ◆ Utilize ecosystem enhancement as a basis for enhancing broader economic and social revitalization

All other themes were mentioned less frequently and by smaller groups of interviewees, of generally under ten people.

Development of a Possible Focus and Mandate for MRRIC

Given input from a significant majority of interviewees in Situation Assessment interviews and insights and models from other initiatives, what might a draft focus/mandate statement for the MRRIC look like? Described in the box below is one possible alternative for the consideration by concerned agencies and stakeholders.

A Possible Five-Component Focus/Goal/Mandate Statement for the MRRIC

- 1) To establish an effective and functioning representative committee - which includes representatives of Federal, Tribal, state government agencies and non-governmental user and interest groups in the Missouri River Basin - that is mandated to develop and forward recommendations on endangered species issues to concerned Federal agencies;*
- 2) To have members of the committee learn from each other and experts on endangered species, river management issues and various uses of the river, engage in collaborative deliberations and decision making and develop recommendations that have broad based support throughout the basin on endangered species issues;*
- 3) To make specific recommendations that utilize adaptive management, for the improvement of the health of the Missouri River ecosystem, with emphasis on the ecosystem and habitat of the three listed endangered species, so that they able to sustain their populations with minimal human intervention and move toward being de-listed as detailed in the Endangered Species Act.*
- 4) Make specific recommendations for the management and improvement of the Missouri River ecosystem that will prevent additional species from being listed under the Endangered Species Act; and*
- 5) Make recommendations as described above, and at the same time respect, balance impacts on and protect other congressionally authorized uses; maximize social, economic and cultural benefits to them; minimize adverse impacts to the greatest extent possible; and use ecosystem enhancement as a basis to enhance broader economic and social revitalization.*

Recommendation of the CDR Team regarding the Focus and Mandate of MRRIC

The Team recommends that the involved Federal agencies and other members of the MRRIC utilize information gained through interviews, research on other recovery initiatives and parameters established by the Federal Committee Advisory Act to draft a potential focus/goal/mandate statement. One possible process is to use the language in the box above as a single-text negotiating document, and to change or modify it until such time as members of the Committee can agree on a common statement.

The final answer to “what will be the focus and mandate of the MRRIC” must arise from the members of the MRRIC themselves, both individually and collectively. The ideas and input above should be seen as a temporary starting point until such time as the MRRIC can deliberate and draw its own conclusions about its focus.

Accountability and Reporting Relationships of MRRIC

There is a significant level of agreement regarding what agency, agencies or entities the MRRIC should be accountable and report to. All interviewees agree that at a minimum, the MRRIC should be accountable, report to and make recommendations to the COE. This conclusion is generally based on the COE’s legislative mandate as manager of the Missouri River, the terms of the agreement between the COE and the USFWS concerning the BiOp on endangered species on the mainstem of the Missouri, and the fact that the COE is mandated and has the resources to be the implementing agency for Federal recovery-related initiatives.

A significant majority of respondents in interviews think that that the MRRIC should report to and make recommendations to both the COE and the USFWS. They saw these two Federal agencies as necessary partners in recovery efforts.

A significant majority of respondents in interviews think that that the MRRIC should report to and make recommendations to both the COE and the USFWS.

A still smaller group, but nonetheless substantial group, believes that the MRRIC should be accountable to all Federal agencies involved in recovery efforts. They suggest that the MRRIC should report to the Missouri River Basin Federal Roundtable and that these agencies should decide among themselves which recommendations will be accepted and which agencies would lead on implementation.

A smaller group of interviewees suggest that the MRRIC should report to all Federal, Tribal and state agencies involved in Missouri River recovery efforts. These interviewees believed that the MRRIC should forward recommendations to any and all appropriate entities engaged in endangered species recovery efforts on the Missouri River.

Recommendations by the CDR Team regarding Accountability and Reporting Relationships of MRRIC

The CDR Team concurs with recommendations of the vast majority of interviewees and suggests that, MRRIC should report to both the COE and the USFWS as co-partners in recovery efforts, and make recommendations to them jointly. These two agencies must agree on overall recovery efforts for any actions to take place. They must also agree on the adequacy of actions to achieve mutually agreed upon agency standards. Clearly the COE will have to be the lead agency concerning implementation of recovery efforts.

While the two agencies identified above will have primary responsibility for final decision making and implementation on recovery activities on the mainstem, other Federal agencies have legal mandates and authorities to make decisions in other areas – the EPA on water quality issues, the Bureau of Reclamation on tributary issues, the National Park Service in National Parks, the Western Power Administration on power related issues, and so forth.

The CDR Team sees that the COE and USFWS have two options to formalize their working relationship: First, that the two agencies sign a joint Memorandum of Agreement (MOA). Second, craft a MOA that incorporates and defines the roles and responsibilities of all Federal agencies working on recovery efforts in the basin.

Under either option, the MOA would describe: 1) the mandate, authority and commitments each agency will make concerning recovery efforts in the basin; 2) how collective decisions will be made; and 3) financial arrangements that are appropriate or necessary for them to accomplish their joint goals. The long-term effectiveness of the MRRIC will be seriously compromised if members of the Federal family cannot collaborate, reach mutually acceptable agreements and carry out designated roles and responsibilities related to recovery implementation.

Authority of MRRIC

Authority refers to the degree and capacity of the MRRIC to make decisions that are final and binding on the Federal agency or agencies to which it reports, or on its constituent members (states, Tribes or other entities). There is strong agreement, and perhaps a universal agreement among all interviewees, that the MRRIC could and should have only advisory authority to make recommendations to the Federal agency or agencies to which it reports. Final decision making and implementation authority should rest exclusively with the Federal government or other governmental agencies designated to receive recommendations from the Committee.

There is strong agreement, and perhaps a universal agreement among all interviewees, that the MRRIC could and should have only advisory authority to make recommendations to the Federal agency or agencies to which it reports.

A question of concern for some interviewees is how much discretion governmental agencies should have to deviate from recommendations made by the MRRIC. While many recognized that governmental agencies could not legally delegate their authority to make final and binding decisions to a non-governmental entity, they want the Federal agency or agencies to whom the MRRIC reports to either accept the MRRIC's recommendations (especially if they are a consensus recommendations), or be required to report back to the MRRIC if they do not concur and take different actions, and explain the logic and rationale for their decisions.

Recommendations by the CDR Team regarding Authority of MRRIC

The consensus of interviewees, the MRRIC having only advisory and not binding decision making authority over agency policies, projects or implementation measures, should be formally recognized by concerned governmental agencies. This proviso should be included in any future charter, protocol, bylaws or meeting guidelines of the MRRIC.

Concerned Federal agencies should make a good faith statement at the first meeting of the MRRIC, both verbally and in writing, in which they commit to fully consider the implementation of recommendations made by the committee providing they fall within their mandate, adequately address a component of recovery of the three endangered species, comply with relevant laws and regulations and are financially and technically feasible. The Committee and concerned agencies will need to discuss whether the latter will report back to the group, if they do not follow recommendations of the MRRIC.

Potential Structural Components of MRRIC

Listed below are possible components of a comprehensive Missouri River Recovery Committee, identified in interviews. They include a Plenary Committee, technical committees and other kinds of working groups, stakeholder caucuses, an executive committee and/or chairperson, an executive secretary and secretariat, facilitators, and a public involvement/input process.

The MRRIC Plenary Committee

Virtually everyone interviewed believes that the MRRIC needs to have a Plenary Committee, and that the membership of this body should be large enough to include and represent the range and diversity of stakeholder views in the basin.

Conversely, almost all interviewees are concerned that the MRRIC be small enough to function effectively—i.e. be able to reach decisions on recommendations that would be forwarded to appropriate Federal agencies for their consideration and implementation. There was significant concern among a large majority of interviewees, that if the MRRIC was too large, deliberations and decision making would be cumbersome and it would not be able to reach agreements.

A third interest of interviewees is consistent attendance by the same members. A majority of interviewees want members of the MRRIC to attend all or most meetings, and believe that consistent participation will help the functioning of the committee regardless of its size. Consistent attendance will help build ongoing working relationships between members, and keep everyone up to speed on substantive issues under discussion.

Addressing and satisfying the above concerns, some of which are in tension with each other, will pose a dilemma in the formation of the MRRIC.

Addressing competing concerns that the MRRIC be both large enough to reflect the spectrum of stakeholder interests in the basin, and at the same time be small enough that effective decision making or recommendations can be accomplished is a dilemma for concerned parties.

There is not a consensus on how large the Plenary Committee should be. However, there are several significant clusters of views that should be explored.

On one end of the spectrum is a group of interviewees, less than fifteen percent of the of people with whom the Team talked, who want the committee to be fairly large, with 70 plus members. They believe that a large number of participants will be necessary for all parties to be represented, and have at least two members at the table from each stakeholder group. When asked how a group of this size could make decisions, some noted that even a group of this size can make consensus decisions, and if this is not possible, that some form of super majority voting might be used. Others proposed that with a large group, more decision making authority would have to be delegated by the Plenary to issue-based working groups, technical committees, groups solving problems on specific reaches of the river or an executive committee.

On the other end of the spectrum is another small group of interviewees, approximately twenty percent of respondents, who suggest that the MRRIC should be a fairly small committee with between 15 to 35 members. While this group wants the MRRIC to be broadly representative, they also want a committee that can make decisions. They believe that this goal will be difficult to achieve with a large group.

Some of the above interviewees also believe that states, which represent and have to reconcile the interests of a broad spectrum of stakeholders, should have more influence in the MRRIC than non-governmental entities, which often represent only single or more limited interests. A number of these interviewees believe that while non-governmental interests should be a part of the MRRIC, they should represent a smaller proportion of the whole committee than was the case in the Spring Rise facilitation. They also propose that many of these interests groups can best participate, have input and be heard through involvement in technical working groups and public meetings.

When the above interviewees were asked how a small group could be selected and constituted that represented the diversity of the basin, many of them said it might be impossible. They believe that the basin is so large and has so many interest groups, that

many groups will be dissatisfied with and will not accept a small MRRIC. They also noted that many groups would be unable coalesce and delegate authority to an individual or very small delegation that would represent a coalition of similar interests.

A third group of interviewees, composed of a majority of interviewees with whom the Team talked with, believe that the committee should be approximately the same size as the SR Plenary Group (49 members), with the possibility of a few more or less members depending on how seats are allocated between stakeholder groups. Ideally, if at all possible, it should be smaller than the SR Plenary Group. Members of this group of interviewees also believe that if the committee is much larger than the SR Plenary Group, it will be ungainly and unable to reach decisions, and one that was much smaller will not allow for adequate representation.

(The) majority of interviewees, whom the Team talked with, believe that the committee should be approximately the same size as the SR Plenary Group (49 members), with the possibility of a few more or less members depending on how seats are allocated between stakeholder groups.

A small number of the above interviewees also suggest the possibility of an executive committee, with some decision making authority, which could perform either coordinating functions or could be given authority to make decisions on some issues between Plenary Committee meetings. More will be said about the potential roles of an executive committee a section below.

Recommendations by the CDR Team regarding size of the MRRIC Plenary Committee

The CDR Team suggests that a very small MRRIC, of less than 25 members, will probably be politically and organizationally unacceptable to stakeholders in the basin. A committee of this size will not provide adequate representation of the diversity of views and groups in the region. We also believe that based on many interviewees' experience in the SR Plenary Group, that they support and live with a Plenary of this size, and think that it will be able to function and make decisions.

The CDR Team believes that the MRRIC should probably be similar in size as the Spring Rise Plenary Group, but ideally will be a bit smaller. However, if members attend consistently, build positive working relationships, keep up to speed on issues being discussed and adhere to meeting protocols (see below), the CDR Team thinks that it could be a bit larger and that the size will not impede decision making.

If concerned Federal agencies or some form of convening committee of the MRRIC decide to have a much larger committee, the following suggestions:

- ◆ A larger committee should be used to generate input, but should not necessarily be asked to make whole group decisions.
- ◆ Consider breaking issues to be addressed by the MRRIC into four categories: 1) whole basin issues, 2) regional issues (Upper/Lower Basin), 3) state issues and 4) reach issues. Have the MRRIC Plenary Committee determine which issues should be

addressed by the committee as a whole, such as general policy issues, targeting and prioritizing projects, allocation of funds to specific projects, etc., and then delegate authority with parameters to develop recommendations to smaller groups based on region, states, reach of the river or Technical Committees. (The latter should include a representative cross-section of Plenary Group members as well as substantive experts.) The Plenary might only have to review recommendations from subgroups to assure that they had been made within agreed upon parameters.

If the concerned Federal agencies or a convening committee of MRRIC decide to have a much smaller committee of less than 35 members, we would recommend that:

- ◆ The process include a robust public input and involvement component,
- ◆ A broad range of stakeholders should be actively involved in technical committees, which should play a strong role in developing proposals for recommendation to the Plenary Committee and ultimately to Federal agencies.
- ◆ The small MRRIC Plenary Committee should consider breaking issues to be addressed by the committee into the same four categories identified for the large group above. The committee should then determine which issues must be addressed by the committee as a whole, and which could be delegated with parameters to smaller groups based on similar criteria as described above. As in the previous process, the Plenary might only have to review recommendations from subgroups to assure that they had been made within agreed upon parameters.

MRRIC Technical Committees and other Kinds of Working Groups

There is a consensus of interviewees that the MRRIC Plenary Committee will need a number of Technical Committees or Working Groups to support its deliberations and development of recommendations. Interviewees indicated that these groups should be created on an as-needed basis, and have defined mandates, members and durations for operations. A number of interviewees stress that members of these groups should be experts in their fields – by formal training, profession, or experience – and should not be open to people merely interested in the subject matter but without specific areas of expertise. A significant number of interviewees say that provisions should be made for the removal of members of technical committees who are either not qualified or impede the work of groups.

...members of these groups (Technical Committees and Working Groups) should be experts in their fields – by formal training, profession, or experience – and should not be open to people merely interested in the subject matter but without specific areas of expertise

Stakeholder Caucuses

A number of interviewees suggest that interest groups with representatives on the MRRIC should form caucuses to broaden participation in the process, enhance discussions and deliberations and help develop common views for stakeholder group on issues, options and proposals under discussion. Some groups, such as Federal agencies,

some states and Tribes already have or are forming such caucuses. Some interest groups also have associations, forums or meetings that may be able to serve these functions.

Interest groups with representatives on the MRRIC should form caucuses to broaden participation in the process, enhance discussions and deliberations and help develop common views for their stakeholder group on issues.

Executive Committee

A small number of interviewees suggest that an executive committee should be formed to help organize and guide the activities of the MRRIC. This would especially be the case for a large Plenary Committee.

Some believe that an executive committee might be useful in helping to guide the overall process by helping plan for and focus discussions, package recommendations and act as liaison between the full committee and appropriate agencies. Others say that the executive committee could or should be given significant authority and empowered to break deadlocks and make recommendations to appropriate agencies if a consensus can be not reached by the MRRIC Plenary Committee.

Executive Secretary and/or Secretariat

A few interviewees recommend that in the long-run for the MRRIC to be fully functional, it will need an executive secretary and secretariat to carry out administrative, logistical and financial tasks. However, those making this recommendation indicate that having this role and body in place will not be necessary to get the MRRIC started. A number of interviewees indicate that initial administrative and logistical arrangements should be handled by the facilitation team hired to assist with the the MRRIC process.

Chairperson(s)

A small group of interviewees, largely from Federal and state agencies, suggest that the MRRIC should have a chairperson or chairpersons. One Federal interviewee indicated that he believed that it should be a senior military or civilian official from the COE – Division Headquarters or the Omaha District. He indicated that the COE had the legal mandate to lead on recovery efforts and should play a leadership role on the MRRIC. He also noted that the presence and full participation of a senior leader from the COE will demonstrate the agency’s commitment to the process, provide the MRRIC direct access to high level agency decision makers, assure that the Committee will have authorized agency views regarding sideboards on issues under discussion, will help assure that recommendations were fully considered, and when appropriate or feasible, implemented by the COE.

Other interviewees, all from states, recommend that one or more co-chairs be selected by the MRRIC members or appointed with the concurrence of all Federal, Tribal and state governmental representatives. Chairs or co-chairs should be widely respected and

independent individuals who were either members of the MRRIC, or respected outsiders. It is suggested that if chairs are appointed, the first chair should not be from the COE in order to assure independence of this role, and to build trust for the process among the MRRIC members. However, a senior leader of the COE could serve as chair later in the rotation, once the process has been started.

State interviewees generally view the role of a chair as the formal and designated spokesperson for the MRRIC, a person who could go to Washington or to individual states to brief Congressional or leaders, agency heads or Governors on the activities of the Committee. This individual could also have influence among Committee members and could help forge a consensus. However, state interviewees saw the Chair working closely with professional facilitators in the design of agendas and meetings, and the latter expected to facilitate them.

If a chair is necessary to help convene the MRRIC, this small group of interviewees said that all Federal, Tribal and state governmental agencies would need to agree on the candidate who would initially be appointed and his or her role/function and term of office.

Recommendations of the CDR Team regarding an Executive Committee and Chairpersons

The decision as to whether the MRRIC should have an executive committee or a chair, and what roles they might play, should rest with the MRRIC Plenary Committee.

Facilitators

Interviewees generally agreed that the MRRIC should be facilitated, and that professional facilitation will be needed, at least in the beginning, to get the process started and to keep the group on track. Professional external facilitation was recommended because interviewees did not think that any potential member of the MRRIC would be neutral or impartial enough to serve in this role, have the trust that would be required from a broad spectrum of involved, have the time necessary to perform the task or have requisite process expertise to work with a large group.

Many emphasized the facilitation must be strong and transparent. This includes facilitators having a consistent and comprehensive and competent plan for developing agendas and taking and disseminating meeting notes. It would also include facilitators consistently assuring adherence to meeting protocols by group members.

Interviewees generally agreed that the MRRIC needed to be facilitated, and that professional facilitation would be needed

Federal interviewees emphasized the need for the facilitation teams to provide administrative and logistical support to the MRRIC, including making arrangements for

meeting space, sending out meeting announcements, distribution of pre-and post meeting materials, and management of a web-site.

Recommendations of the CDR Team concerning Facilitation

The MRRIC needs to be professionally facilitated, at least at the beginning of the process. At some time in the future, the committee may decide that it can be self facilitating, but at this time many interviewees perceived that it would be difficult to find potential members of the MRRIC who would have the trust of the group and skills to provide process assistance.

In the future, consideration might be given to securing services of facilitators who live in the basin to facilitate Technical Committees, other working groups or reach-based initiatives. Involvement of local facilitators could help lower costs, build local capacities and promote a sustainable Committee process.

A Public Involvement and Input Process

Many interviewees stress the need for the MRRIC process to be inclusive, and to have diverse ways that members of the public, Tribes, interest groups/organizations and governmental agencies, which were not directly involved in the MRRIC Plenary Committee or technical groups can be informed about and have input into the process. Interviewees stress the need for a robust public involvement process with regular public meetings and workshops, as well as diverse ways that information on the work of the MRRIC can be widely disseminated, such as newsletters, regular e-mails, and a dedicated website.

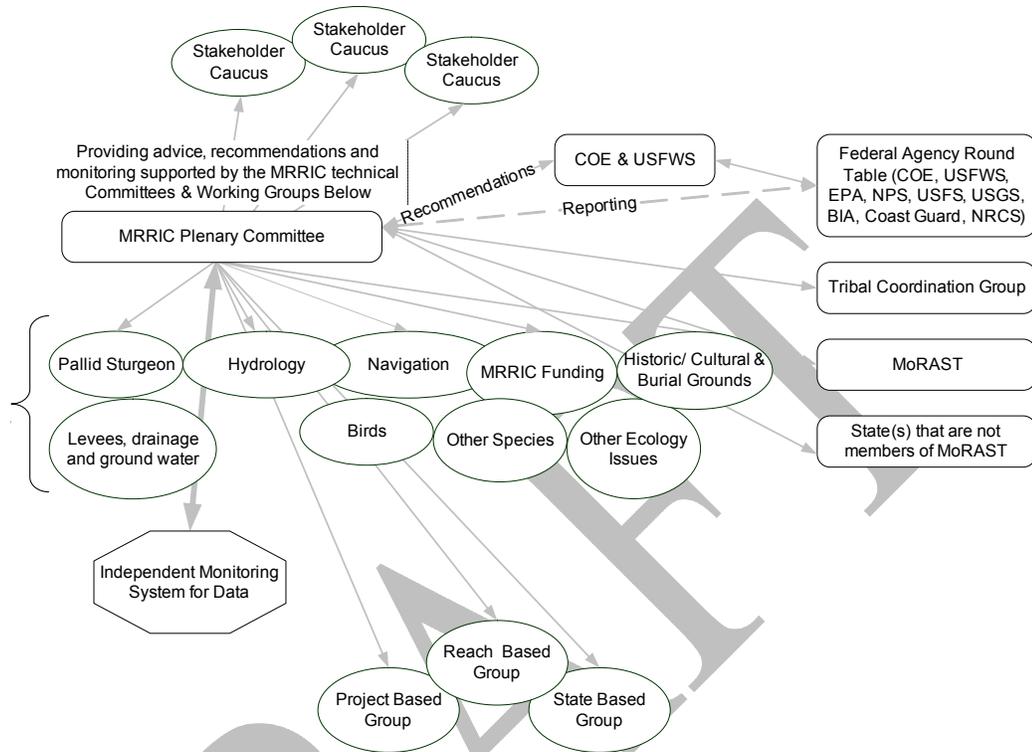
Interviewees stress the need for a robust public involvement process.

A number of interviewees stressed the need to create a public communications committee and communications plan that identifies various key audiences (Congressional delegates, Governors, state legislatures and legislators, Tribal leaders, etc.), and specifies activities to keep them informed about the MRRIC's deliberations and recommendations, and garner their support.

Possible Structure for MRRIC

Based on interviewee input on possible components of a comprehensive MRRIC, there are a number of possible options for its structure. The diagram below illustrates one possible option that sponsoring Federal agencies and members of the MRRIC can use as a basis for discussion on the future organizational architecture of the new entity.

Figure 1. Potential Organizational Structures for MRRIC



Membership of the MRRIC Plenary Committee

This section outlines who interviewees believe should be members of the MRRIC and how members might be identified, nominated, selected and appointed.

Broad Stakeholder Organizations that should be Members of the MRRIC

One small group of stakeholders, one member of which represented a Federal agency and the others agricultural interests in the Lower Basin, recommend that the MRRIC be composed exclusively of non-governmental interest groups and possibly Tribes. All other groups, Federal agencies and states would be either *ex officio* members or observers. The logic and rationale for this view is that non-governmental stakeholder groups are in the best position to know and be responsive to the issues and concerns of people in the basin, and that they should have the right and authority to develop and make recommendations to the government on how to address them without undue influence of states or Federal agencies. Advocates of this position are concerned that states or Federal agencies could easily overpower other stakeholders, and unduly influence decision making on recommendations. A small sub-group of these interviewees believe that Federal and state agencies should not even attend the meetings, and should not be involved in any of the Committee’s deliberations or decisions on recommendations.

Another subgroup of interviewees, generally from state governments, want states and Tribes to play a stronger role and have more authority in the MRRIC than these governmental entities did in the Spring Rise Facilitation.

In contrast to the views expressed here, a large majority of those interviewed believe that there should be broad representation of groups, such as was the case in the Spring Rise facilitation, in the MRRIC. As one interviewee representing terminal operators said, we need “basin wide participation from all interest groups, with no specific interest group having more clout than others”.

Specific Categories of Stakeholder Organizations that should be involved in MRRIC

Beyond identification of the size and broad membership of the MRRIC, this report must also address the specific categories of organizations from which potential members should be recruited and selected. Past experiences of many stakeholders prompt them to recommend that members be recruited from groups, organizations or agencies with the following characteristics: 1) organizations with missions or activities related to one or more of the authorized purposes of the COE’s enabling legislation for the Missouri River; 2) organizations with ESA or environmental concerns related to the river, and 3) Tribes located in the Basin. These categories are illustrated by table 1 on the following page, which was adapted from one developed for the SR Facilitation.

A large majority of those interviewed believe that the broad representation of groups, such as was the case in the Spring Rise facilitation, is the membership model that should be followed for the MRRIC.

Note, numbers of potential members on the table are for illustrative purposes to demonstrate possible allocations of seats for various size Plenary Committees. Actual allocations will need to be determined by input from stakeholders on the Draft Situation Assessment Report, input from Federal agencies or possibly determined by a MRRIC Selection and Planning Committee, which will be described in the later section of this report on “*Procedures for Nomination, Selection and Appointment of MRRIC Members*”.

Recommendations of the CDR Team regarding Categories of Membership

The CDR Team concurs with the majority view of interviewees regarding the desirability of broad participation in the MRRIC. The Committee should have members from non-governmental organizations and stakeholder groups, and from Federal, state, Tribal and municipal governmental agencies. We believe that the precedent of an inclusive process in the Spring Rise Facilitation, and the majority opinion of interviewees in this Situation Assessment will not allow for anything but broad participation. Limiting participation exclusively to non-governmental stakeholders would be politically unacceptable for a number of key stakeholders in this process.

Table 1. Categories and Potential Numbers of Members of MRRIC (Based on a Spectrum of Missouri River Interests)*

		Flood Control/ Interior Drainage	Hydro power	Power/ Cooling water	Navi- gation/ Term- inals	Water Supply	Agri- culture/ Irrigation	Rec- reation	Fish and Wildlife/ Environ- mental	Water Quality	Riparian Land Owners/ Bank Stabiliz- ation	Socio- Cultural resources	Federal Govt.	Tribal Govt.	State Govt.	Munici- palities	Total
Large Plenary (70 or more members)	Upper Basin		2			1	2	1	2	1	1	1	12	28	16	1	87
	Lower Basin	3	1	2	3	2	2	1	1	1	1	1				1	
Medium Size Plenary (45 – 60 members)	Upper Basin		1			1	1	1	1	1	1	1	12	8+	16	1	57
	Lower Basin	2	1	1	2	1	1	1	1	1	1	1				1	
Small Plenary (20-35 members with alternates)		1	1	1	1	1	1	1	1	1	1	1	6	6+	8		31

*** Numbers are for illustrative purposes only, to demonstrate the challenges of adequate representation and functional group size.
+ All tribes will have one seat per tribe on MRRIC. Illustrative lower numbers are possible if tribes can designate a smaller group of representatives.**

An initial list of potential stakeholder groups, organizations, Tribes and agencies from which nominations might be sought can be found in Appendix VII.

It should also be noted that Federal agency stakeholders may play different roles and have different levels of authority in deliberations and development of recommendations than would other members. We will explore some of these options in the section on “Deliberations and Decision Making” presented later in this report.

Numbers and Balance among MRRIC Members

Interviewees were asked how the numbers of representative members of the MRRIC should be apportioned between various interest groups. Some of their responses included:

- ◆ based upon the population of the states
- ◆ based upon the number of members of a state’s congressional delegations
- ◆ based upon the number of parties potentially impacted by changes in basin uses
- ◆ equal numbers between upper and Lower Basin
- ◆ apportionment based upon the COE’s authorized uses
- ◆ apportionment based upon the COE’s authorized uses, Federal ESA/environmental mandates and according to the COE’s Tribal Trust responsibilities
- ◆ apportionment based on the criteria immediately above with a somewhat equal balance between all stakeholder or interest groups (including states and Tribes) that allows members to adequately represent their stakeholder group and have a roughly equal voice in deliberations.

(There should be) a somewhat equal balance between all stakeholder or interest groups (including states and Tribes) that allows members to adequately represent their stakeholder group and have a roughly equal voice in deliberations

Recommendations of the CDR Team regarding general balance and representation on MRRIC

Representation should be based on the last point above, a combination of authorized uses, environmental mandates and laws, and laws related to tribal trust and Native American rights, while keeping in mind the Upper/Lower Basin balance.

An additional issue that must be addressed, which will be elaborated on later in this report, is representation of Tribes.

General Characteristics and Qualities of Future MRRIC Members

Interviewees are in significant agreement on the characteristics and qualities of people who should be representatives of key basin stakeholders on the MRRIC. Many of these views were shaped by interviewee observations of the functioning and behavior of members of the Spring

Rise Facilitation, and their understandings of what promoted or hindered effective interaction and work between and among members.

Many interviewees noted that the ideal MRRIC member would take a balanced view toward issues under discussions. As one state representative said, “Err on the side of including people that are trying to balance interests; not trying to push or advocate a single interest”

Comments on characteristics or qualities of future MRRIC are described in the box below.

Desirable Characteristics and Qualities of Future MRRIC Members

- ◆ Be formally designated as representatives of and spokespersons for key stakeholder agencies, Tribes or non-governmental interest groups in the basin which have the authority to represent a geographic, political or ethnic constituency, or a significant number of members who are concerned about or who have a “stake” in the resolution of issues that will be the focus of the committee;
- ◆ Be able to commit the time and energy required to fully engage in the process, and consistently attend all, or most, MRRIC meetings;
- ◆ Have an alternate who either attends consistently or is fully briefed on issues under discussion so that they are fully informed and ready to step into the process if the regular member is absent;
- ◆ Have extensive knowledge, expertise and interest in issues to be discussed by the MRRIC;
- ◆ Be willing to support, adhere to and be accountable to behavioral and meeting groundrules approved by the members of the MRRIC;
- ◆ Be willing to engage in cooperative and collaborative communications and behaviors between and among other members of the MRRIC, related agencies and facilitators, both within the MRRIC meetings and in communications or interactions between meetings;
- ◆ Be thorough and conscientious in advance of meetings, reading all background material provided and being prepared to discuss them at meetings;
- ◆ Be able to effectively articulate and communicate orally and/or in writing the interests and concerns of stakeholders, organizations or agencies whom they represent;
- ◆ Be able to listen and willing to try and understand the interests and concerns of stakeholders other than those whom the member represents, particularly those with whom s/he has the least in common with;
- ◆ Be willing to engage in good faith and work toward development of recommendations that satisfy as many stakeholders interests as possible, and which “do no harm” or minimize adverse impacts to other members or stakeholders;
- ◆ Be willing and able to brief and consult with their constituents or organizational leaders on a regular basis, to apprise them of the status of talks at the MRRIC and to solicit their input;

- ◆ Be able to garner and mobilize constituent, organizational or political support for issues under discussion, or decisions on recommendations reached by the MRRIC;
- ◆ Be willing to consider a commitment to suspend for a defined period of time, any unnecessary adversarial communications or actions, which might inhibit or jeopardize the functioning or work of the MRRIC; and
- ◆ Be willing to inform the MRRIC members in a timely manner if they, their organization or their constituents will be or are taking actions (such as lobbying, issuing press statements, or initiating litigation) that may result in tensions, create conflicts or jeopardize the functioning of the MRRIC or its members.

Recommendations by the CDR Team regarding the Qualifications of MRRIC Members

The CDR Team agrees with the “Characteristics and Qualities” identified by interviewees. Although it is critical that all those involved with the MRRIC process feel comfortable debating issues and disagreeing with their colleagues they must also be firmly committed to the process and not undermine it at Plenary, technical or work group meetings or “away from the table”.

Levels of Authority of MRRIC Members within Their Organizations/Agencies

As mentioned above, virtually all interviewees see the MRRIC Plenary Group as a policy, programmatic and project advisory body. Most suggest that individual members of the Committee should come from senior levels in their organizations and agencies, be knowledgeable about the issues, and have authority to influence and make a range of recommendations. This will mean senior agency personnel from Federal and state agencies, senior Tribal leaders, and executive director levels from non-governmental organizations.

Individual members of the Committee should come from senior levels in their organizations and agencies, be knowledgeable about the issues, and have authority to influence and make a range of recommendations.

Interviewees expect that the MRRIC will create a number of technical committees to gather data and develop proposals for the Plenary Group’s consideration. Interviewees stressed that members of technical groups should be able to draw on sound scientific and technical experts when conducting their deliberations, drawing conclusions or making recommendations to the Plenary Committee.

Recommendations of the CDR Team regarding level of authority of MRRIC and its membership

The Team concurs and supports the recommendations of the majority of interviewees regarding levels of authority and expertise needed by members of the Plenary Committee and technical committee, that being senior agency personnel from Federal and state

agencies, senior Tribal leaders, and executive director level leaders from non-governmental organizations.

Procedures for Nomination, Selection and Appointment of MRRIC Members

Almost all interviewees agree that identifying prospective members, securing nominations, selecting and appointing members of the MRRIC will be one of the most difficult and potentially contentious tasks in convening the MRRIC. They recognize that this may especially be the case for non-governmental agency members, as there is a high level of interest in and demand for participation and membership on the committee.

It should be noted that Federal agency decisions regarding whether the MRRIC is subject to the Federal Advisory Committee Act (FACA) may significantly affect the nomination, selection and appointment process. (See the section later in this report for a description of FACA and convening and management considerations related to its application.)

When asked how potential members might be identified and selected, there were a number of responses.

- ◆ Since the MRRIC is to be a basin-wide initiative, potential candidates for membership should be identified and nominated from across the basin.
- ◆ Approximately a quarter of interviewees suggested using members of the SR Plenary Group as a core group for the MRRIC, and adding additional members who lived in the Upper Basin and on tributaries to create a regionally balanced membership.
- ◆ A significant number of interviewees suggested that the MRRIC should be a new group, and not automatically be composed of former members of the SR process. People stressed that there should be an explicit commitment from each new nominee or member to support the process and adhere to its protocols.

Since the MRRIC is to be a basin-wide initiative, potential candidates for participation should be identified and nominated from across the basin.

Interviewees identified the following considerations regarding identification, nomination, selection and appointment of the MRRIC members.

Federal and State Members

Interviewees suggest that members from Federal and state agencies should be appointed based on the principles in the Levels of Authority and *Characteristics and Qualities* sections above. Federal agencies will need to appoint members who are authorized to speak with one voice for their agency.

Many interviewees from states believe that their representatives should be directly appointed by Governors.

The number of representatives from each Federal agency or state will depend on overall decisions concerning membership and the size of the Committee.

Tribal Members

Tribes as sovereign nations want a place at the table on the MRRIC. Interviews and written correspondence with tribal representatives and one Native American association indicate that Tribes want to have one seat on the MRRIC for each tribe in the basin. However, interviewees from the Tribes indicate that it is quite unlikely that all 28 tribes will attend each meeting, due to distance, cost of attendance, interest in the specific topic being discussed, staff availability, etc.

Because representatives of all Tribes may not attend all meetings, it will be important for Tribes to meet and designate a smaller group of delegates who will consistently attend all the MRRIC meetings. These individuals, while not necessarily speaking for all tribes, will provide continuity in attendance, present a range of tribal views on issues under discussion, be able to stay up to speed on issues, serve as liaisons between the MRRIC and Tribes and be able to inform and bring other Tribal representatives, as appropriate, to meetings when issues of special concern to them are being discussed.

To assist in the coordination of tribal input and participation on the committee, it will also be important to have an overall administrative or coordinating body to assure that Tribes are consistently informed about the committee's activities and decisions, able to discern when it is most important to attend a specific meeting, and guarantee that they are well-represented (as all Tribal interviewees agreed was the case during the Spring Rise process). This administrative body might also function as a repository for information, a central point for dispensing travel funds, and a mechanism for setting up conference calls. Each tribe will also need to designate a specific point of contact to which information will be directed.

Non-Governmental Members

The identification, nomination, selection and appointment of non-governmental representatives to the MRRIC is more complicated than the appointment of representatives from Federal, Tribal and state agencies. This is the case because of the large number of concerned interest groups in the basin, and the number of people who want to represent them and participate in the process.

When interviewees were asked how this might be done, a significant number said that it would be a very difficult task, that they did not have any recommendations for how it should be done.

When asked about some of the considerations that should go into a quality and qualified member, a number of interviewees reported that that candidates should meet at least some of the standards identified in the *Characteristics and Qualities* and *Levels of Authority* sections above.

When pushed about the process, they said that any procedure for nomination and selection should:

- ◆ depoliticize to the greatest extent possible, the way that people are selected;
- ◆ require an extremely well qualified slate of nominees;
- ◆ encourage the consideration of several candidates for each member “seat”;
- ◆ result in representative and balanced representation within an interest group;
- ◆ allow for at least two representatives for each interest group or one permanent member and an alternate;
- ◆ be transparent, efficient and timely;
- ◆ be widely perceived to be fair; and
- ◆ comply with FACA guidelines, if they apply.

When possible identification, nomination, selection and appointment procedures were explored with interviewees, they came up with two possible options:

1. If the overall number of members of the MRRIC Plenary Committee can be agreed upon, and the overall number of seats that will be allocated to each interest group determined, each stakeholder group could caucus and select and appoint its representatives.
2. Regardless of whether the overall number of members of the MRRIC Plenary Committee could be agreed upon, and the overall number of seats that will be allocated to each interest group determined, a MRRIC Membership Selection and Planning Committee could be formed, which would be a balanced and broadly representative group of stakeholders. This body could be mandated to solicit nominations and make selections and appointments to the MRRIC. If the final size of the MRRIC and number of seats per interest group has not already been determined, this body could also make a decision on this issue.

When asked how members of a Selection and Planning Committee might be identified and selected, most interviewees who like the idea say that its members could be chosen by USICER, the facilitators, concerned Federal agencies, states, Governors or a combination of the above. For the most part, interviewees are not supportive of agency selection of members of this committee.

When asked how the Selection and Planning committee would get nominees, most interviewees who responded to the question say that interest groups should caucus and select several candidates from which the committee can make selections.

When interviewees were asked whether members of a Selection and Planning Committee should be eligible or pre-selected for membership of the MRRIC, they said that either process could probably work.

Recommendations of the CDR Team regarding selection of MRRIC members

The CDR Team believes that the most efficient processes for selecting members of the MRRIC have been identified by the few interviewees who had answers to this question. These are the: (a) nomination and selection of the MRRIC members by interest group, which is premised on an agreement regarding the appropriate number of representatives per stakeholder group; or (b) selection by a Selection and Planning Committee composed of nominees proposed by interest groups, such as was done by the Core Planning Group in the SR Facilitation. One of these procedures will need to be selected by the Federal agencies in consultation with potential stakeholders in the MRRIC.

It should be noted that each of the procedures cited above have potential difficulties related to their implementation. Two potential difficulties with the direct selection of representatives by stakeholder groups include: 1) there may be competition or lack of cooperation between interest groups, even if they are from the same sector, and they may have difficulty reaching an agreement on their representative(s); and 2) competition between stakeholder groups may limit the scope of candidates that are put forth or considered. These problems might be overcome by encouraging interest groups to form widely representative caucuses, to cast their nets widely for nominees, and institute a broadly accepted democratic selection process.

Similarly, there are two potential difficulties with the Selection and Planning Committee process: 1) stakeholders may not accept the selection of an initial committee by an independent third party; and 2) members of this group, who may have been identified by an independent third party, may want to automatically appoint themselves to be members of the MRRIC. This is what occurred in the SR Core Planning Group process.

The first problem could be addressed by having proposed members of a Selection and Planning Committee nominated by the independent third party be approved by a second group such as Governors, Tribes, MRBA/MoRAST and states that are not members of one of these organizations. The second issue could be addressed by having members of the Selection and Planning Committee rescues themselves from future membership in the MRRIC.

Deliberations and Decision Making by MRRIC and Technical Working Groups

A significant amount of time in the Situation Assessment interviews was spent soliciting interviewee opinions regarding how decisions should be made by the MRRIC, and who should be involved in providing input, deliberations and making decisions on recommendations to Federal agencies. Described below is the thinking of interviewees on this question.

The MRRIC Decision Making Process

By a large majority, interviewees believe that the MRRIC should seek to reach consensus decisions. They think that this is the only way to develop integrative solutions, and that a decision by voting would be neither representative of the broad range of stakeholder interests nor politically acceptable. One interviewee from a conservation group summed up the views of a broad spectrum of stakeholders when he said, “Decision making must serve all – not a few select and powerful interests”.

The only real concern was avoiding getting stuck when a consensus could not be reached. Many interviewees want a fall back process that will enable them to reach decisions. As one tribal interviewee noted, “we need clearly spelled out decision making procedures. Consensus, (what does this mean, and how do we ask for it?) We need to know whether we are counting or not counting votes for and against (a view). This needs to be settled and a consistent protocol followed throughout [the process]”.

By a large majority, interviewees believe that the MRRIC should seek to reach consensus decisions.

Those interviewed who participated in the Spring Rise Facilitation generally subscribed to the definition of consensus used in the Protocol and Groundrules:

Consensus is a process for reaching agreement that does not rely on voting. A consensus is the strongest decision making process a group can use, because it is a settlement or solution with which all participants can agree.

A consensus decision is built by identifying and exploring all parties' interests, and by assembling agreements that satisfy their interests to the greatest extent possible. A consensus is reached when all parties agree that their major interests have been taken into consideration and addressed in a satisfactory manner.

A consensus does not necessarily mean unanimity. Some parties may strongly endorse a particular solution while others may accept it as a workable agreement. This situation may still constitute a consensus. Each party participates in the consensus without embracing each element of an agreement with the same fervor as other parties, or necessarily having each of his or her interests satisfied to the fullest extent. However, given the combination of gains and trade-offs in the decision package, a consensus is the strongest agreement that the involved parties can make given current circumstances and alternative options available to them. (Based on the *Operating Protocol and Groundrules for the Facilitation of an Intergovernmental and Stakeholder Process to Develop Agreement on a “Spring Rise” Proposal*. June 1st, 2005.)

Some interviewees think that there is another persuasive reason for participants in the MRRIC to make every effort to achieve consensus. They believe that if members of Congress and other leaders see such a diverse group reaching agreements on

recommendations for restoration or recovery, the potential for successful funding and implementation is exponentially greater. However as one interviewee said, “Congress will drop this like a hot potato if they see a fight coming.”

While there is general agreement that a consensus process should be used by the MRRIC for making decisions, there is significant concern that the group should not become deadlocked and unable to make any recommendations if there is not total agreement on a recommendation. (A number of participants in the Spring Rise Facilitation process were frustrated that the Plenary Group of that process could not make partial recommendations on components of a spring rise because of an early agreement by members that a total consensus on all components of a recommendation would be required for the group to make any recommendations to the Federal agencies.)

There is significant concern that the group should not become deadlocked and unable to make any recommendations if there is not total agreement on a recommendation.

Interviewees came up with a number of options to address some of the procedural constraints of a consensus process. If a total consensus can not be reached by the Plenary Group of MRRIC, the group could:

- ◆ Not require consensus on all issues in order to make recommendations on issues where some or partial agreement is possible;
- ◆ Submit recommendations on those issues where there is consensus, and have the Committee remain silent on those where agreement is not possible;
- ◆ Make recommendations on those issues where there is consensus, and allow minority reports on those issues where agreement is not possible;
- ◆ Build a consensus decision by all parties on some issues, construct two or more interest-based recommendations on those issues where there is not agreement and forward all of them to relevant agencies for their consideration;
- ◆ Develop a list of mutually agreed upon standards or criteria for decision making on issues where there is not agreement, and forward them to concerned agencies for their use in making decisions;
- ◆ Develop a list of key interests of concerned parties on issues on which they cannot agreement, and forward these to agencies to take into consideration when making decisions; and
- ◆ Have a voting process, where the group would utilize a super-majority vote to go forward, after all other options for consensus decision making have been exhausted. While the above was a minority view, it did reflect the frustration that some parties felt about the ability of a small group to block decisions that were overwhelmingly supported by a majority. One interviewee representing rural water interests said, “Decision making process? Super majority, voting. Consensus doesn’t work because one group/person can veto....Simple majority wouldn’t work either. Need 89-90%, so threat always over their heads—“they can do this without me so I’ll have to play.”

Who Should Provide Input, Be Involved In Deliberations And/Or Make Decisions On Recommendations

There were significant discussions regarding the issue of who should be involved in the MRRIC in making decisions on recommendations that would be forwarded to responsible government agencies for their final decision and implementation. The vast majority of interviewees believes that the MRRIC members from Tribes, states and non-governmental stakeholder organizations should be involved in and have authority to participate in make final decisions on recommendations to Federal agencies. However many think that the role of Federal agencies in providing input to the Committee, engagement in deliberations and involvement in final recommendations needs to be clarified. Table 2, below, “Possible Roles and Potential Involvement of Federal Agencies in MRRIC”, outlines some of the options for Federal agency involvement in input, deliberations and decision making.

The role of Federal agencies in providing input to the committee, engagement in deliberations and involvement in final recommendations needs to be clarified.

Table 2. Possible Roles and Potential Involvement of Federal Agencies in MRRIC

<i>Agency Role</i>	<i>Agency Involvement</i>
1) Non-participant and not physically present in MRRIC meetings	◆ Provide input or information as requested by MRRIC stakeholders
2) Observer or ex-officio member of MRRIC meetings, but not direct participant	◆ Provide input or information as requested by MRRIC stakeholders
3) Observer or ex-officio member of MRRIC meetings, and provider of technical assistance or analysis	◆ Provide technical staff and assistance to MRRIC Plenary Group
4) Participant in MRRIC meetings with circumscribed level of involvement and input	◆ Provide technical staff and assistance to MRRIC Plenary Group as requested, and information on agency “sideboards” (legal, technical, financial, feasible)
5) Participant in deliberations and development of concrete proposals or recommendations	◆ Provide assistance in 4 above, and participate in all MRRIC discussions, with direct involvement in development of specific proposals or recommendations, but <u>not</u> be involved in decisions on final recommendations to agencies
6) Participant in deliberations and decision making	◆ Provide assistance as in 5 above, and be directly involved with all other committee members in building a consensus on recommendations that will be forwarded to Federal agencies for final decisions and implementation.

The majority of interviewees, including those from Federal agencies, indicate that they want the agencies to provide data and insight, conduct technical research, engage in technical committees and provide parameters or sideboards (Option 4) to MRRIC.

Interviewees from several Federal agencies say that they especially want to be involved where issues under discussion specifically relate to their mandates. A number of Federal agency interviewees also say that agency involvement will be especially appropriate where their input would be needed for the development of feasible solutions that will be technically or financially implementable.

Many interviewees also hope that representatives of Federal agencies will be directly involved in *deliberations* on both general and specific issues related to recommendations. Interviewees advocating this view base their thinking on the following assumptions: if agency staff in positions of authority are involved in providing sideboards and developing specific options or recommendations, they will be more likely to meet agency standards and criteria for acceptability, will be advocated for by agency members of MRRIC and are more likely to be approved as proposed, than if agency staff have not been involved in their development.

There was not a consensus regarding whether Federal agency members of the MRRIC should be involved in *final decision making on recommendations* that would be forwarded by the committee to appropriate agencies. A large majority of interviewees want them involved in deliberations and development of options, but approximately half of the group that wanted higher level Federal involvement, did not want them involved in final decision making on recommendations. Some Federal interviewees concurred with this view and believe that formal involvement in final decisions on recommendations could pose a conflict of interest with their role as legally authorized decision makers.

Recommendations by the CDR Team on involvement of Federal agencies

It is clear that robust and continuing involvement, commitment and engagement of high level Federal officials is important and critical to the MRRIC process. However, Federal agencies must discuss internally among themselves and decide what appropriate roles and levels of involvement in the MRRIC deliberations and decision making on recommendations is appropriate. It may not be necessary for all agencies to play the same roles or have the same level of involvement. We therefore suggest that the Federal Round Table consider accepting roles on the MRRIC similar to numbers 4, 5 or 6 in the chart above.

Once these discussions have been conducted, agencies should engage in discussions and make proposals to the MRRIC's Plenary Committee and reach mutually acceptable agreements on the appropriate level for their involvement.

Intergovernmental and Interagency Cooperation and Commitments

Interviewees from both governmental and non-governmental entities identified three major issues or questions in this category:

The Missouri River Association of States and Tribes (MoRAST)

A number of interviewees indicated that the relationship between the MRRIC and MoRAST needs to be clarified to define the division of labor between the two organizations and avoid any future competition. A number of these interviewees are from states. The key question to be addressed is - What will be the relationship, mandates, focus, roles and responsibilities of the MRRIC and MoRAST (and non-member states if all do not join MoRAST)? Some interviewees see the two organizations as being totally separate, with only a need for coordination. Others believe that MoRAST can serve a role as a lobbying organization for recovery efforts in the basin and as a state/Tribal caucus for the MRRIC. As one interviewee from a state agency said, the “relationship of MRRIC and MORAST is important, MORAST is strong because it links MRNRC and water folks together at the policy level to address larger issues... MORAST will provide a state perspective to MRRIC”.

These interviewees strongly recommend that discussions be held at the earliest possible time among MoRAST (and any states that are not members), Tribes, Federal agencies and possibly new members of the MRRIC, to define the areas of focus of the MRRIC and MoRAST so as to maximize each organization’s effectiveness and minimize confusion.

A number of interviewees indicated that the relationship between the MRRIC and MoRAST needs to be clarified to define the division of labor between the two organizations and avoid any future competition.

Federal Agency Cooperation

How will Federal agencies cooperate and coordinate to a) accomplish the goals of the MRRIC, b) make collaborative and unified decisions, c) define and allocate their roles and responsibilities, and c) fund the initiative? Many interviewees felt that there was inadequate coordination or development of common views among agencies involved in the SR Facilitation. They would like to see this improved in the MRRIC process. A number of agency and non-agency interviewees recommend that the agencies work together either bilaterally or multilaterally, perhaps in the context of the Federal Missouri River Basin Interagency Roundtable to develop formal MOAs on their process for working together within the MRRIC.

A number of agency and non-agency interviewees recommend that the agencies work together...to develop format MOAs on their process for working together within the MRRIC.

Tribal Cooperation

Interviewees, both from Tribes and non-tribal organizations, indicate that coordination of tribal involvement in the MRRIC will be essential for its success. This means that Tribes will need a permanent forum in which to discuss issues related to the MRRIC’s mandate,

and to develop common strategies. They will also need an institutional mechanism to handle inter-tribal communications, deliberations and decision making.

Tribes will need a permanent forum in which to discuss issues related to the MRRIC's mandate, and to develop common strategies.

Recommendations of the CDR Team regarding Interagency Coordination

MoRAST and MRRIC - There are two possible approaches to address the concern about relationships among MoRAST, non-member states and the MRRIC. The first is that as soon as MoRAST has been formed, conversations about each organizations roles and responsibilities should be initiated between its leadership and the Federal agencies involved in the formation of the MRRIC. Ultimately these discussions need to be taken over by the MRRIC. It will be critical that these discussions are open and transparent, and the substance of which be transmitted to the MRRIC once it is formed.

A second approach is to delay discussions between MoRAST and MRRIC until both organizations have been formed, and have them work together to define their respective the roles and responsibilities in a manner that maximizes synergy and complementarity and minimizes completion or overlapping or roles.

Interagency Cooperation - The Situation Assessment team strongly recommends that involved Federal agencies develop a MOA regarding their working relationship in the MRRIC process. In that context, as for other groups participating in the MRRIC, the CDR Team is available to provide facilitation assistance for meetings between or among parties to help them coordinate their participation in the MRRIC.

In addition to the development of MOAs between Federal agencies, the Team suggests close coordination between agencies perhaps through the regular forum of the Missouri River Basin Federal Interagency Roundtable.

Tribal Coordination – Because of the large number of tribes involved in the MRRIC's deliberations and decision making, the Team recommends that funding be made available to the Tribes to enable them to secure administrative and logistical support. In addition, it may be advisable to secure funding so that Tribes can secure the services of an internal facilitator who can work with and them and help them build internal consensus on issues related to the MRRIC.

Possible Issues to be Addressed by MRRIC

Issues identified by interviewees that should be addressed by the MRRIC can be grouped into five categories:

1. Agreement o the broad mandate for the MRRIC;
2. Finding productive ways to deal with change;
3. How the MRRIC can be strategic;

4. Clarifying roles and working more effectively;
5. Addressing the most difficult issues while taking action on the easiest issues.

Agreement on the Broad Mandate

All interviewees agree that the MRRIC needs a clear mandate, and that one of the first tasks of its Plenary Committee will be to reach agreement on its focus, purpose and mandate. Issues raised in the mandate section earlier in this report should be a main topic for discussion. As an interviewee from a conservation group noted, “MRRIC must approach the River broadly and holistically – not just flow or habitat restoration. It must address all interests”.

Finding productive ways to deal with change.

Although not as universal as concerns about the mandate, many stakeholders recognize that the Basin has suffered from tensions and hard feelings about past or projected future changes. There is also significant anxiety about potential adverse impacts that may result from future changes in the way the river is managed and the ability of people to plan for them. As one interviewee from the power sector said, “We are not opposed to dealing with environmental issues, but want to minimize impacts on the rest of us. We need predictability and do not want to be surprised. We can accept change but want changes in a way that we can plan ahead...a project approach”.

Many see change as an issue that must be addressed. It is reflected in the following observations or generalizations:

- ◆ The Basin must change to focus on recovery and the status quo resists change
- ◆ The complex basin geography (both physical and social/economic) make change difficult
- ◆ There is a history of conflict, often involving the Missouri vs. other states
- ◆ To get some change, stakeholders will have to move out of narrow perspectives, learn to collaborate better and stop having any one party overwhelm the process or other stakeholders
- ◆ Federal agencies must deal better with each other and with stakeholders for change to work.
- ◆ The different mandates of the Federal agencies must be reconciled
- ◆ Change will require long term thinking in the face of short term budget and administrative cycles

Many stakeholders recognize that the Basin has suffered from a great deal of tension and hard feelings. Many see this as an issue that must be addressed.

How MRRIC can be Strategic.

Because the MRRIC mandate may be so broad, and the Basin is so complex with a large number of stakeholders, interviewees believe almost universally that the committee must be strategic in its choices regarding where and on what issues to focus. This will mean

that MRRIC will have to make some micro decisions on the basis of MRRIC's macro mandate. Money and resources are limited, so MRRIC will have to make good choices for its work, and perhaps focus on what its members identify as "easy" issues where there is a potential for significant impact on species, and limited negative impacts on other river uses. Others say that the focus should be on habitat immediately while working more strategically on long-term "balancing of Uses."

Clarifying Roles and Working more effectively together.

This issue reflects in part the comments on dealing with change above. Interviewees believe that there is a strong need to clarify the roles of various groups that will be involved in the MRRIC, and find ways that complementary action can be initiated. Some of the roles and issues that will need clarification include:

- ◆ How should roles, functions and responsibilities of states and Tribes, as compared with Non-Governmental Organizations, be defined?
- ◆ How can the mandates of Federal agencies be aligned, and division of roles and responsibilities accomplished?
- ◆ How can the MRRIC be as efficient as possible, and not get overloaded with an elaborate structure or staff?
- ◆ How can plans and recommendations be developed that will be effective and defensible?
- ◆ How can the MRRIC's individual members and the group as a whole develop an attitude of "looking for opportunities" rather than getting caught up in barriers or challenges?
- ◆ What will be the ultimate scope for the work of the MRRIC? (Some interviewees believe that the COE sees it fairly narrowly, while a number of stakeholders see it as being much broader).

Addressing the most difficult Issues while taking action on the easiest

The hardest issues identified by interviewees include, but are not limited to:

- ◆ ***Water allocation.*** The most difficult issue identified with regularity is that of river flow management and competition for water; referred to by some as water management and others water allocation. Within this there is the issue of "how flow changes are justified?" Many interviewees noted that that having a plan is not enough. How will it justified?
Very important sub-issues include:
 - Upstream and downstream challenges related to different water needs;
 - Release and preclude levels, as discussed in the Spring Rise facilitation, and which is of special concern to diverse Upper Basin users (Tribal, recreation, fish and wildlife, etc.) and downstream power operators and navigation interests; and
 - Interior drainage, which many farmers in the Lower Basin are very worried about; (As one interviewee from the agricultural sector noted, "One man's protection is another man's destruction. We do not want to tear out the dikes".)
- ◆ ***Intergovernmental Relations*** – Ensuring that the process gives proper respect to the Tribes' position as sovereign governments, and to recognition of the validity of Tribal concerns.

- ◆ **Monitoring.** This issue is seen by some interviewees as both easy and difficult. At its core, the issue is “what are the potential or actual impacts on various uses of proposed or undertaken changes?” “What are the positive and negative impacts to various uses?” “How will any negative effects on various uses be avoided, limited and mitigated?”
- ◆ **Hot button issues and politics.** There are a number of hot button issues for various parties who will be involved in the MRRIC. Some of them include conducting a Spring Rise, potential interior drainage impacts of rises, limitations on the navigation season, protection of cultural resources and burial grounds and assuring the functioning of water intakes. There is significant fear around these issues. As one agricultural interviewee said, the “ultimate goal is to flood land, make us poor and allow land purchases (by environmentalists)”. These issues have and can become rapidly politicized. Parties may move their resolution to forums outside of the MRRIC if effective ways to address them are not found within the committee. Members of the MRRIC need to discuss how these and other politically sensitive issues will be handled so that continued working relationships among and between members and the functioning of the MRRIC can be preserved.
- ◆ **How to develop Science that has Integrity and in which there is Public Confidence.** Many interviewees identified conflicts over what constitutes good, compelling and defensible science as some of the major issues that must be dealt with by the MRRIC. Some of the approaches for addressing these issues are in the following section of this report on Obtaining Necessary and Acceptable Data.

The easiest issues as perceived by the majority of interviewees were those that related to the creation of plans and recommendations for the development and/or enhancement of habitat for endangered species. This would include physical rehabilitation and the development of locally sponsored projects.

Obtaining Necessary and Acceptable Data

As noted above, a significant number of interviewees believe that having adequate data and reaching agreement on it will be critical for the committee to make progress on recommendations. As one business representative said. “MRRIC needs to get away from indirect answers and poor science – we need agreement on science. Success will be accurate and impartial science”.

Issues around data fall into four categories:

1. Why does the MRRIC want or need “data”?
2. What are the current gaps in data that will be needed by the MRRIC?
3. What data dynamics and politics are present?
4. How the MRRIC can better approach data and some possible solutions.

Why does the MRRIC want or need “data”?

There were a number of data issues on which there was widespread agreement – perhaps approaching consensus. One such issue is the “need” for data. Many interviewees report that there is a very strong need for quality data. But many also say that data collection should not be an end unto itself. They say we “are not collecting data just to do so.”

Rather, data are needed:

- ◆ so the MRRIC can make the best decisions based on the best science,
- ◆ to develop credible and defensible recommendations,
- ◆ that follows professional standards and procedures concerning data collection and analysis,
- ◆ to build a common knowledge base among stakeholders,
- ◆ to increase understanding in stakeholders and the public, and
- ◆ that are empirical and field based, rather than theoretical or based in conjecture.

What are the Current Gaps in Data that will be needed by the MRRIC?

The gaps in data fall into several can be put into several categories:

- ◆ Social data
- ◆ Impact data
- ◆ Lack of a data structure
- ◆ Specific data gaps

Social data. Although the Spring Rise process showed many differences in how to manage the River, many stakeholders think that the data about hydrology was generally quite complete. An exception is on interior drainage and flooding information. The most common frequent about a data inadequacy was what may be called economic and social data (referred collectively as “social data”). Social Data would need a more complete definition by the MRRIC but could include all forms of data about the economics and society living along the River and within the basin. This Social Data includes the economics and relative value of all the industries tied to the congressionally authorizes uses including recreation and cultural and historic value. In whatever way eventually defined, stakeholders believe that Social Data is not the traditional domain of the COE, and other approaches will be needed to compile and assess this data.

Impact data. This gap is described as the absence of real data about how proposed interventions or changes in river management -such as flow releases, spring rise, increase in habitat - will impact goals for recovery (referred to as “Impact Data”). Comments about the lack of Impact Data were quite common, and point to a larger concern reflected elsewhere in the situation assessment that the MRRIC must be able to better define “recovery” – what is the desired outcome or state of the basin? What data or indicators would permit the MRRIC and stakeholders to determine whether the proposed actions were having an impact on the River and the species? Because many stakeholders perceive that this logic has not been completed, they are only able to say that Impact Data are not available and are unable to define it in more detail. Some interviewees suggest that Impact Data may include species, habitat, economics, etc.

To have high quality Impact Data, the MRRIC will need to develop good baseline data on the various issues on which impact is being assessed (such as populations, habitat, economics, recreational use). Some stakeholders suggest that this type of work and that concerning the data structure mentioned below, are appropriate topics for technical working groups that support the MRRIC.

Data framework and protocol. Tied to the comments on lack of Impact Data, was that the MRRIC needs a coherent data framework that is tied to professionally accepted protocols. This would be a framework that guides the MRRIC about what research is needed, what data are needed for that research, how data will be collected, methods of analysis and importantly, how disputes about data will be resolved. As many issues to be addressed by the MRRIC are interconnected, the issue of data structure is linked to the use of independent science.

Specific data gaps. Some stakeholders identified specific data gaps such as interior drainage problems, flood gate elevations, acreages of habitat, river temperature, and economics of various industries (such as navigation usage and economics).

What Data Dynamics and Politics are Present?

More strongly than ‘what data are needed’ were comments on the dynamics and politics of data. As one Federal interviewee noted, “We must get out of data politics and get back to using credible science”.

Many stakeholders felt that trust of current data was very low, especially among non-governmental stakeholders. Many interviewees attributed this to various behaviors of Federal agencies. Conversely, other parties saw some non-governmental stakeholders as trying to delay any decisions until an unreasonably high level data or predictability was available or assured for decision making.

More strongly than ‘what data are needed’ were comments on the dynamics and politics of data.

Complaints about data dynamics or politics, from all sectors, are as follows:

- ◆ Data arrogance – “my data are better than yours” or “let me tell you what this data means”;
- ◆ Data ownership – reluctance to share data with others, spend time needed to explain it and actions that indicate that the data is owned by the agency or even the person who collected it;
- ◆ Reluctance to engage in data review or peer review;
- ◆ Data ‘games’ – withholding data or not disclosing its existence until repeatedly requested
- ◆ Data isolation – researchers appearing to work in isolation and not conferring with each other;
- ◆ Data politics – the unfortunate but not unusual practice of politicizing science and data, or politicians telling scientists what to say; and

- ◆ Data censorship – complaints that persons or agencies censor data in an effort to make peace or avoid problems with other agencies or individuals.

Stakeholders also stated that data need to be presented in useable and understandable ways. Some suggest finding better ways to use charts and diagrams to show data and the potential conclusions. Stakeholders, perhaps reflecting on the time demands of the Spring Rise process, said that they need adequate time to receive and review data.

How can the MRRIC better approach and obtain acceptable Data – some possible solutions.

Stakeholders proposed several solutions to the above situations.

Independent science. A large number of interviewees asked for a credible independent science review process using NAS, or USGS or creating some form of a MRRIC independent science review panel. Most who suggest this believe it to be an essential step toward data and science credibility. In addition to a independent science panel, many suggest bringing in to the MRRIC process other outside sources of aid, such as universities and experts from state agencies (such as state hydrologists). Other existing groups will add to this data collection (such as the prior work of MRNRC). One representative of power interests said, “We (MRRIC) will need reliable, vetted (data and an) independent scientific review. Non-government review is important, by universities, for example. Government has too much of a vested interest (in results). As one tribal leader noted, “All information and data must be considered including data from all governments that are participants (in the MRRIC). Credibility of all data should be evaluated by the group, by an outside firm that compiles and evaluates it, or by a Federal agency without a vested interest in Missouri operations”.

Some stakeholders suggest that this approach to independent science will:

- ◆ provide a nongovernmental review of the proposed science and options for River recovery,
- ◆ promote resolution of data disputes,
- ◆ keep the MRRIC focused on issues and not personal or institutional agendas,
- ◆ get input from outside of the basin,
- ◆ Let the MRRIC settle on factual findings,
- ◆ Provide a system of “checks and balances”,
- ◆ Assess costs and benefits of various actions, and
- ◆ Help the MRRIC find ways to value human endeavors such as tourism, recreation, cultural values, etc.

A large number of interviewees asked for a credible independent science review process using NAS, or US Geological Survey (USGS) or creating some form of a MRRIC independent science review panel.

Review of Data by MRRIC Members. One suggestion was to use procedures that are commonly followed in state legislatures to assess data. MRRIC can appoint a

subcommittee of its members to hear presentations of experts. This committee will then make a decision regarding what science it will accept or use and make a recommendation to the Plenary Committee.

MRRIC Technical Teams. Many expect that a great deal of data work (decisions on what to monitor, how to collect and analyze and presentation) can be accomplished by Technical Committees created by the MRRIC. Stakeholders state that these teams must work at the specific direction of the MRRIC. Some stakeholders emphasize that membership in technical teams must be based on scientific credentials, not mere interest in the topic.

Joint Scoping and Commissioning of Future Studies, and Joint Hiring of Experts to conduct them. A number of interviewees believe that the MRRIC should be able to commission studies to explore new area of science or socio-economic issues, or test the results of previous research. However, the scope and methodology should be jointly agreed upon by the MRRIC, and consultants should be hired with the MRRIC as their client.

Professional standards. The use of professional standards will avoid complaints that action proposals have been based in politics or guesswork rather than science.

Create and use a data framework. This proposal was discussed above and is intended to make data identification, collection and analysis more professional and predictable.

Data transparency. As discussed above, data transparency is needed to avoid the data arrogance, ownership, games, politics and isolation that are perceived by stakeholders. For some stakeholders, data transparency also means presenting data to the public, in forms such as “primers” that explain the various key issues about the River (such as how the dams are operated).

Interventions are combined with credible data. Some stakeholders believe that the MRRIC can progress when options to various interactions are credibly tied to the data that suggest that the intervention will produce the desired results in the field.

Recommendations of the CDR Team concerning Science and Data

One of the first orders of business of the MRRIC should be the appointment of a Technical Committee or Working Group to develop recommendations for the Plenary on how s issues related to data and science should be addressed. Agreement on at least some of these issues will have to be reached, especially if particularly contentious recovery issues are to be addressed successfully.

In addition to suggestions made by interviewees concerning how to address data issues, this committee might also consider the use of collaborative modeling to get broadly acceptable information on issues such as hydrology and social impacts, and use of GIS decision support systems to organize data that has been collected.

Funding

Almost universally interviewees believe that the MRRIC should be funded by the Federal government. Initially, they believe that the majority of funding should come from COE appropriations for species recovery activities. In the long term interviewees believe that the MRRIC might need its own congressional authorization, but funds should still be administered by the COE.

Almost universally interviewees believe that the MRRIC should be funded by the Federal government.

A number of other parties, both governmental and non-governmental, believe that other Federal agencies involved in recovery efforts should also contribute to the MRRIC's budget, though they recognized that some may have both limited funds and constraints on how they receive funding and its utilization for interagency recovery efforts.

In general interviewees from state and Tribal governments said that their contributions should be in kind – providing funds for their representatives to attend meetings, making facilities available for meetings, providing technical experts, etc, and that they should not be required to make cash contributions

A small number of interviewees noted that the Federal government should financially support mitigation measures to affected uses. One interviewee noted “If Congress really wants this to happen, they should be funding necessary modifications. For example, if there is a navigation preclude, Congress should pay to change intakes, subsidize transportation people, etc”.

A number of interviewees indicated that a fund should be developed to support participation in the MRRIC by members whose organizations did not have funds to send them to meetings. An interviewee representing recreational interests stated a view that was common among stakeholders from recreation, agricultural and Tribal parties that have fewer resources, “This is ad Federal process, so travel expenses and per diem funding should be provided for (by Federal agencies)”.However, a number of interviewees believe that funding should be available on the basis of need, and should not be given to all members of the MRRIC.

A small number of interviewees indicated that funding may need to be available to secure the services of independent technical experts beyond those that can be provided by Federal and state agencies.

Other Issues of Concern to Interviewees

Trust Building

Many interviewees addressed this question. Suggested actions that both facilitators and MRRIC participants might take to build trust include;

- ◆ Adhering to ground rules, especially those regarding mutual respect, and treating each participant equally in that regard
- ◆ Listening carefully to one another and demonstrating understanding
- ◆ Establishing accountability mechanisms, to consistently enforce the guidelines which have been mutually agreed upon, regardless of status or position
- ◆ Equitable and transparent sharing of data—addressing some fears that data can be manipulated and/or shared selectively
- ◆ Clear and consistent sharing of notes from meetings, which all agree must be taken by a neutral party (from the facilitator team or a court reporter, for example)
- ◆ Encouraging an open, honest atmosphere, in which people can openly disagree without fear of being attacked or shut down
- ◆ Avoiding actions or even the perception of actions which would undermine the credibility or the work of the MRRIC (or other individual members)
- ◆ Encouraging social gatherings, field trips and other ways for participants to engage and learn more about one another
- ◆ Meeting in locales that members consider neutral ground
- ◆ Giving one another the benefit of the doubt, not rushing to judgment, and always clarifying assumptions (even if there is a historical reason for making that assumption)
- ◆ Creating a charter which provides a clear picture of how the MRRIC will operate, clarifies expectations—and can be amended (by agreement of the parties) as the group gains experience with its operations

CDR Team recommendations regarding the building of trust in this process

The MRRIC should take adequate time to build a charter and protocols, including guidelines for participation, to help members build greater trust in one another. Members should also insist on consistent feedback mechanisms to assess whether the levels of trust that they are hoping to build are actually in place.

Federal Advisory Committee Act (FACA) Issues

As part of the Situation Assessment, the CDR Team’s Co-Leads participated in an interagency conference call on the implications and potential requirements of the Federal Agency Advisory Committee Act (FACA or Act 5, U.S.C. App.2) regarding the convening, formation, structure and functioning of the MRRIC. “FACA governs the establishment, management, and termination of advisory committees within the executive branch of the Federal government. FACA ensures that Federal advisory committees are accountable to the public by maximizing public access to advisory committee

deliberations and minimizing the influence of special interests through balanced committee membership.” (*Collaboration and FACA at EPA*, EPA public document)
Federal agencies that will potentially be involved with the MRRIC are continuing their research to determine if the Committee needs to go through a FACA process, or whether the mandate and process for creating the Committee qualifies it for exemption from FACA. Involved agencies and their legal counsel will have to make a decision regarding the status of the MRRIC and FACA prior to initiating any formal convening efforts.

Protocols, Meeting Guidelines and Enforcement of Ground Rules

A significant number of interviewees say that having clear protocols, meeting guidelines and groundrules to guide the operation of the MRRIC and conduct of its members will be very important. They also noted that procedures will be needed for their enforcement.

A number of interviewees note that the protocols and groundrules for the SR could be used as the basis for the MRRIC process with several additions including:

- ◆ Accountability and enforcement provisions,
- ◆ Procedures for communications by e-mail between meetings,
- ◆ Procedures for dealing with the press,
- ◆ Procedures for determining acceptable lobbying practices during the MRRIC deliberations;
- ◆ Procedures for raising issues of concern regarding the performance of individual or group members; and
- ◆ Procedures for addressing issues involving the facilitators and meeting facilitation

A significant number of interviewees say that having clear protocols, meeting guidelines and groundrules to guide the operation of the MRRIC and conduct of its members will be very important.

Recommendations by the CDR Team regarding protocols

Detailed examination of prospective protocols and groundrules will be essential to the functioning of the MRRIC. Use of SR protocols and recommended additions should be discussed at initial MRRIC meetings and, if appropriate, incorporated into its charter.

Interest and Availability of Interviewees to Be Considered As Representatives of Stakeholder Groups for Participation in MRRIC

Most interviewees expressed a keen interest personally and on behalf of their stakeholder groups in being considered for membership on the MRRIC, either on the Plenary Committee or in participating in technical working groups. The majority of interviewees indicated a desire to be involved so that they could be part of a positive change. Others, albeit a minority of people interviewed, viewed involvement as a way to protect their interests. One interviewee noted “We may have no choice (for involvement). If we are not there we are shooting ourselves in the head. Our involvement will be critical to keeping our head off the block”.

Term of Appointment and Service

Some interviews indicated that while they were interested in participating in some capacity in the MRRIC, they did not want to “sign up for life”. They felt that it would be important prior to the convening of the Plenary Committee has been convened to define term limits for members.

Meeting Schedule

A small group of interviewees indicated that they were interested in participating in the MRRIC, but did not want to have the compressed schedule that was required for the Spring Rise Facilitation. These respondents indicated that they would be more likely to participate in the MRRIC’s Plenary, at least in its first year, met on a quarterly basis, and interim business was handled by an broadly representative Executive Committee.

Other interviewees believe that the MRRIC will have to meet more frequently, at least during the first year. They suggested a two-day meeting every two months.

Recommendations of the CDR Team regarding schedule

It is clear that the MRRIC must be free from the burdensome time constraints of the Spring Rise process. Further, meetings for the first year of the process will probably need to be more frequent than in subsequent years. However, beyond that, the MRRIC must make its own decisions regarding time and schedule.

Proposed Timeline for Acting on the Situation Assessment and Convening the MRRIC

A number of prospective participants in the MRRIC expressed an interest in the timeline for convening of the MRRIC. They stressed the urgency of getting started as soon as possible. One state agency interviewee said “For MRRIC to work, the Federal agencies must pay attention to the stakeholders and MRRIC must be able to move quickly to substance”. A business interviewee noted that “MRRIC needs to get going – we made progress in the Spring Rise and delay will hurt MRRIC”.

Listed below are potential dates and a time frame for various convening activities. The dates below are only suggestions, and are highly dependent on agencies’ and potential stakeholders’ time lines for making decision on convening.

Tentative Schedule for the MRRIC convening activities that CDR will propose in the Draft Situation Assessment Report:

February 28th – Presentation and release of Draft Situation Assessment Report (report may be released earlier than that date if it is completed).

February 28th – March 10th – Public Comment period on Draft Report

March 13th – 17th – Revisions of Draft Report and Preparation of Final Situation Assessment Report

March 17th – Release and distribution of Final Situation Report to all interviewees, posting on USIECR’s website and forwarding report and all comments received on it to USIECR and all concerned Federal Agencies.

March 20th -24th – Agencies’ decision making on how to proceed (if this timeframe is feasible for them)

Conclusion

MIRRIC is needed to coordinate activities and initiatives of concerned governmental, Tribal and non-governmental stakeholders in the basin as they develop recommendations on recovery activities for three endangered species. There is now significant interest among these groups, a commitment to work on the issue and funding to start this initiative. Governmental and non-governmental parties need to meet as soon as possible after the completion of the Final Situation Assessment Report and reach decisions on how the MRRIC will be convened and how issues identified by interviewees in the report can begin to be addressed and progress can be made in recovery of the species and achieving a balanced uses of one of the nation’s most valuable resources, the Missouri River.

APPENDICES

APPENDIX I	Description of CDR Associates and Members of the CDR Situation Assessment Team
APPENDIX II	CDR's Approach to Conducting a Situation Assessment
APPENDIX III	Membership of MRRIC Situation Assessment Advisory Group
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APPENDIX I: Description of CDR Associates and Members of the CDR Situation Assessment Team

CDR Associates is an internationally recognized collaborative decision-making and conflict resolution firm, based in Boulder, Colorado, with an office in Washington, DC. The organization provides professional decision-making, facilitation, mediation, public participation, and conflict management assistance to the public, private, and non-governmental sectors.

CDR has a staff of professional facilitators and mediators who assist people to design and implement issue-specific and culturally appropriate negotiation, cooperative problem solving, and public involvement processes in a productive and constructive manner. CDR has worked on formal government-to-government initiatives as well as interactions among government agencies, the private sector, and non-governmental organizations. Substantive areas of specialization include water, land use, endangered species issues, and socio-economic development.

In the arena of water and water law, CDR offers a range of services to support the successful resolution of water-related issues including interstate allocations and deliveries; integrated basin planning, development, and quality; hydropower facility relicensing; facility operations; and protection of threatened and endangered species. Listed below are selected examples of the firm's projects.

The CDR Team on the MRRIC Situation Assessment

Dr. Christopher Moore, Partner, CDR Associates – Co-Team Leader for the Assessment

Mary Margaret Golten, Partner, CDR Associates – Co Team Leader for the Assessment

Joseph McMahon, Jr., P.E., J.D. – Facilitator and mediator in private practice

Dr. Matthew McKinney – Associate, The Consensus Building Institute and the University of Montana

Leigh Price, J.D. – Principal, Indian Environmental Law and Conflict Resolution

APPENDIX II: CDR's Approach to Conducting a Situation Assessment

CDR usually conducts Situation Assessments with a team. Members of the CDR team on the MRRIC Situation Assessment were CDR Partners, Christopher Moore and Mary Margaret Golten, who were Team Co- Leads; and Joe McMahan, Matt McKinney and Leigh Price (See Appendix I for description of CDR Associates and the CDR Team.). In conducting situation assessments, CDR commonly creates a Situation Assessment Advisory Group (SAAG) to consult with and provide advice to the CDR Team on issues to address in its research and interview process, and for preliminary advice on parties to talk with.

The situation assessment process involves ten steps that are detailed in the box below:

Steps for Conducting a Situation Assessment

1. Identifying a balanced cross-section of prospective individuals, groups, organizations or agencies concerned about the issue in question, and contacting appropriate and key leaders to interview;
2. Researching similar multiparty committee initiatives, and developing a list of relevant and targeted questions to ask interviewees;
3. Making a determination regarding the appropriateness of either face-to-face, telephone, individual or group interviews, and scheduling them;
4. Conducting the first round of interviews;
5. Identifying gaps in the interview list or following up on recommendations by interviewees regarding other people to interview;
6. Assessing and analyzing data gained and identification of key themes, areas of consensus or clue ideas that are relevant to consider;
7. Conducting, if necessary a third round of interviews to fill gaps;
8. Writing a Draft Situation Assessment Report;
9. Presenting the Draft Report, either verbally or in written form, to interviewees for input and comments;
10. Considering comments, revising the Report where appropriate, and preparing a Final Situation Assessment Report that is forwarded to relevant agencies and disseminated to interviewees and the general public.

APPENDIX III: MRRIC Situation Assessment Advisory Group

- ◆ **Randy Asbury**, Coalition to Protect the Missouri River
- ◆ **William Beacom**, Passenger Vessel Association
- ◆ **Paul Danks**, Three Affiliated Tribes
- ◆ **Denise Garnier**, Missouri Department of Conservation
- ◆ **Thomas Graves**, Mid-West Electric Consumers Association
- ◆ **Rebecca Kidder**, Cheyenne River Sioux Tribe
- ◆ **Sue Lowry**, Wyoming State Engineer's Office
- ◆ **Milo Mattelin**, Upper Basin Bank Stabilization
- ◆ **Lanny Meng**, Missouri Levee Drainage Association
- ◆ **Lynn Muench**, American Waterway Operators
- ◆ **David Murphy**, Conservation Federation of Missouri
- ◆ **Wayne Nelson-Stastny**, South Dakota Game Fish & Parks Missouri River Fisheries Center
- ◆ **Dawnette Owens**, Mni-Sose Intertribal Water Rights Coalition, Inc.
- ◆ **Jim Peterson**, Missouri River Bank Stabilization Association
- ◆ **Robert Riehl**, Western Area Power Administration, Upper Great Plains Region
- ◆ **Todd Sando**, North Dakota State Water Commission
- ◆ **Chadwin Smith**, Nebraska Field Office - American Rivers
- ◆ **Nick Stas**, Western Area Power Administration
- ◆ **Gene Zuerlein**, Nebraska Game & Parks Commission

APPENDIX IV: MRRIC Situation Assessment Questions*

1. **What are the major issues that you, your agency or organization consider to be important in the development of a Long-Term Recovery Plan for the Missouri River?**
 - ◆ Substantive issues?
 - ◆ Procedural issues?
 - ◆ Organizational/structural issues?
2. **What are your major concerns about each of these issues? What is most important to you or your group?**
 - ◆ What do you believe will be the hardest issues on which to reach recommendations or agreement in a long-term deliberative forum? Easiest issues?
 - ◆ Do you feel there should be limits to the issues that are open for discussion or negotiation?
3. **What does the term “long-term recovery” in the Missouri River Basin context mean to you?**
 - ◆ Ecosystem? Wildlife? ESA species?
 - ◆ Socio economic or cultural systems recovery?
 - ◆ Basin wide recovery?
4. **What will success mean for MRRIC? What is your vision for success?**
 - ◆ Working relationships among the parties?
 - ◆ Data development, exchange, use?
 - ◆ Specific substantive outcomes?
5. **What data and/or modeling do you think is required in order to work on a long term recovery effort?**
 - ◆ What data are needed to build a common base of knowledge for all the stakeholders; to support, inform and evaluate management scenarios; to develop a defensible recommendation or agreement?
 - ◆ How can necessary data be obtained and whose information would be most credible?
 - ◆ What kind of technical expertise/support will you and others need during the MRRIC process?

* *Note, all questions were asked to all interviewees. Some interviewees had no information or comments on some of the questions.*

6. What should be the mandate, structure and authority of the MRRIC?

- ◆ To whom should the MRRIC be accountable? The COE? Other entities?
- ◆ What type of organization should it be?
- ◆ What should be the relationship between the MRRIC and implementing entities/agencies?

7. What agencies, institutions or organizations should participate in MRRIC?

- ◆ What should be the roles/responsibilities of Federal agencies, tribes and states in MRRIC? Of NGOs?
- ◆ How many members should MRRIC have and what would balanced membership and representation look like?
- ◆ Are there stakeholders who are critical to the process who may be reluctant to participate?
- ◆ Are there organizations or individuals who would have to participate to ensure authoritative decisions/recommendations?

8. How do you think internal decisions should be made within MRRIC?

- ◆ Who should have decision making authority within MRRIC? All members?
- ◆ How should decisions be made? Voting? Consensus? Other means?
- ◆ Should decisions by MRRIC bind its members or implementing agencies to act?

9. What thoughts do you have regarding funding for MRRIC?

- ◆ How and where do you think funding should or could be secured?
- ◆ Are there funding sources that would cause you to have concerns, such as those that might place limitations on MRRIC's functioning, credibility or outcomes?
- ◆ Is there funding that individual members of the MRRIC might need?

10. Are there external dynamics likely to influence the convening of the MRRIC?

- ◆ Will Federal, state and tribal intergovernmental roles and politics affect initiation of this process? How can these best be handled?
- ◆ Who are the leaders best able to help in getting this process off the ground, and how should they be involved?
- ◆ What is your advice for creating trust in the process and for maintaining transparency?

11. Opportunities and Barriers posed in convening a MRRIC

- ◆ Are there any significant opportunities or advantages of convening an initiative of this type at this time?
- ◆ What do you see as the major barriers, if any, to such a collaborative process?
- ◆ How might these barriers be overcome?

APPENDIX V: Situation Assessment Interviewees

Interest	State	Name	Organization/Affiliation
Agriculture	South Dakota	Jim Peterson	Volunteer, Missouri River Bank Stabilization
Agriculture/ Lower Basin	South Dakota	Don Jorgensen	Hydrologist, Civil Engineer, Missouri River Technical Group
Agriculture/Interior Drainage	Missouri	Lanny Meng	Farmer
Agriculture/Interior Drainage	Missouri	Tom Waters	Chairman, Missouri Levee & Drainage District Association
Agriculture/Interior Drainage – Lower Basin	Missouri	Bill Lay	Farmer
Agriculture/Upper Basin	Montana	Buzz Mattelin	Farmer
Agriculture/Upper Basin	Montana	Boone Witmer	Upper Basin Bank Stabilization
Agriculture/Upper Basin	North Dakota	Dave Johnson	Benson County Representative, Board of Directors, Garrison Diversion Conservancy District
Environmental/ Conservation	Missouri	Dave Murphy	Executive Director, Conservation Federation of Missouri
Environmental/ Conservation	Nebraska	Jason Skold	Missouri River Program Manager, The Nature Conservancy
Environmental/ Conservation	Nebraska	George Cunningham	Missouri River Basin Group Delegate, Missouri Valley Group, Sierra Club
Environmental/ Conservation	Nebraska	Chad Smith	Director, Nebraska Field Office, American Rivers
Multi-Focus	Missouri	Dan Fuhrman	Chairman, Schutte Lumber Company/ MO-ARK
Multi-Focus	Missouri	Steve Taylor	Chairman, Coalition to Protect the Missouri River
Multi-Focus	Missouri	Randy Asbury	Executive Director, Coalition to Protect the Missouri River

Interest	State	Name	Organization/Affiliation
Multi-Focus	Missouri	Bob Bacon	Former Interim Director, Coalition to Protect the Missouri River
Navigation/Terminals	Iowa	Kevin Nepper	General Manager, Big Soo Terminal
Navigation/Terminals	Iowa	Bill Beacom	Passenger Vessel Association
Navigation/Terminals	Missouri	Bill Jackson	General Manager, Agriservices of Brunswick
Navigation/Terminals	Missouri	Lynn Muench	Vice President – Midcontinent, American Waterways
Navigation/Terminals	Missouri	Paul Davis	Interstate Marine Terminal, Inc.
NGO	Iowa	Skip Meisner	Retired Executive Director, Sioux Land Inter State Metro Planning Council (SIMPCO)
Power	Region	Tom Graves	Mid-West Electric Consumers Association
Power	Missouri	Darrell Dorsey	Manager of Electric Production, Kansas City Board of Public Utilities
Power	Montana	Tom Huntley	Manager, Central Montana Electric Power Cooperative
Power	Nebraska	Brian Barels	Water Resources Manager, Nebraska Public Power District
Recreation	North Dakota	Lee Klapprodt	Missouri River Coordinator, Board of Directors, ND Sportfishing Congress Member (Recreation), Board of Directors, Friends of Lake Sakakawea
Recreation/ Municipalities	Nebraska	Kim Harman	Acting Director of the City of Omaha Department of Parks & Recreation
State	Iowa	Harold Hommes	Director of Marketing, Department of Agriculture and Land Stewardship
State	Iowa	Mike McGhee	Department of Natural Resources—Coordinator of Rivers and Lakes Program
State	Kansas	David Barfield	Manager of Interstate Water Issues, Department of Agriculture, Division of Water Resources
State	Kansas	David Pope	Chief Engineer, Department of Agriculture, Division of Water Resources
State	Missouri	Mike Wells	Director, Department of Natural Resources
State	Missouri	Denise Garnier	Assistant Director, Department of Conservation
State	Missouri	Dan Engemann	Assistant to the Director, Department of Agriculture
State	Missouri	Brian Weiler	Multimodal Director, Department of Transportation
State	Missouri	Sherrie Martin	Waterway Program Manager, Department of Transportation
State	Missouri	Bill Bryan	Deputy Chief Counsel of the Agriculture and Environment Division, Attorney General’s Office
State	Montana	Ken McDonald	Management Bureau Chief, Fish, Wildlife & Parks Fisheries Division

Interest	State	Name	Organization/Affiliation
State	Montana	Tim Bryggman	Water Management Bureau Economist, Department of Natural Resources & Conservation
State	Montana	Mary Sexton	Director of MT, DNRC (water agency)
State	Nebraska	Ann Bleed	Acting Director, Department of Natural Resources
State	Nebraska	David Cookson	Special Counsel, Attorney General's Office
State	Nebraska	Roger Patterson	Retired Director, Department of Natural Resources
State	Nebraska	Kirk Nelson	Assistant Director, Game & Parks
State	Nebraska	Gene Zuerlein	Game & Parks Commission
State	Nebraska	Don Nelson	State Director, U.S. Senator Ben Nelson Office
State	North Dakota	John Cooper	Secretary, Department of Fish, Game, and Parkss
State	North Dakota	Todd Sando	Assistant State Engineer, State Water Commission
State	North Dakota	Dale Frink	State Engineer, Director State Water Commission
State	South Dakota	Garland Eberle	Chief Engineer, Water Rights, Department of Environment and Natural Resources
State	South Dakota	Jack Erickson	Missouri River Fisheries Center, Department of Game, Fish & Parks
State	South Dakota	Mark Rath	Natural Resources Engineer, Surface Water, Water Rights, Department of Environment and Natural Resources
State	Wyoming	Jodee Pring	Water Planning Coordinator, State Engineers Office
State	Wyoming	Sue Lowry	Interstate Streams Administrator, State Engineers Office
Tribal	Tribal	Rebecca Kidder	Tribal Attorney, Cheyenne River Sioux Tribe
Tribal	Tribal	Deb Madison	Assiniboine and Sioux Tribes of Fort Peck
Tribal	Tribal	Dawnette Owens	Mni Sose Intertribal Water Rights Coalition Program Coordinator
Tribal	Tribal	Edgar Bear Runner	Tribal Council Member Oglala Sioux Tribe
Tribal	Tribal	John Bechen	Natural Resources Office, Flandreau Santee Sioux Tribe
Tribal	Tribal	Gary Collins	Mni Sose Delegate, Northern Arapaho Tribe

Interest	State	Name	Organization/Affiliation
Tribal	Tribal	Paul Danks	Natural Resources Administrator, Mandan, Hidatsa & Arikara (MHA) Nation
Tribal	Tribal	Tony Provost	Environmental Protection Director, Omaha Tribe President, Mni Sose Coalition
Tribal	Tribal	Pemina Yellow Bird	Acting Tribal Historic Preservation Officer, MHA Nation
US ACE	Federal	George Dunlop	Principal Deputy Assistant Secretary of the Army (Civil Works), US Army Corps of Engineers
US ACE	Federal	Michael George	PM for BiOp Implementation, US ACE
US ACE	Federal	Col. Jeffrey Bedey	Commander and District Engineer of the Omaha District, US Army Corps of Engineers
US ACE	Federal	Larry Cieslik	Chief, Mo Riv Water Management
US ACE	Federal	Jody Farhat	Water Management, Omaha Division
US ACE	Federal	John Seeronen	Legal Council, Portland
USBOR	Federal	Maryanne Bach	Former Regional Director, Great Plains Region
US BOR	Federal	Mike Collins	US BOR, Great Plains Region, Montana Area Office
US BOR	Federal	Jerylin Beek	Manager for Water and Environmental Resources, Office of Program and Policy Services
US BOR	Federal	Don Moomaw	Assist. Regional Director, Great Plains Region
US EPA	Federal	Jim Berkeley	Missouri River Coordinator, Resource Protection and Stewardship Unit, US EPA Region VIII system Protection Program
US EPA	Federal	Joe Cothorn	NEPA Team Leader, Environmental Services Division, US EPA Region VII
US EPA	Federal	Gale Hutton	Director, Environmental Services Division, US EPA Region VII
US EPA	Federal	John Houlihan	Environmental Monitoring & Water Compliance Branch, Environmental Services Division, US EPA Region VII
US FWS	Federal	Gary Frazer	USFWS Liaison to the USGS, research coordination
US FWS	Federal	Robyn Thorson	Regional Director, Midwest Region, U.S. Fish and Wildlife Service
US FWS	Federal	Wayne Nelson-Stastny	MRNRC Coordinator, USFWS Former Senior Fishery Biologist, SDGF&P (State)

Interest	State	Name	Organization/Affiliation
US FWS	Federal	Charlie Scott	Field Supervisor, Ecological Services, Region III,
US FWS	Federal	Mitch King	Region 6 Director (USFWS coordinator for Missouri River)
US FWS	Federal	Chris Nolin	Chief, Division of Candidate Conservation and Listing, Endangered Species, Washington (acting Assistant Regional Director, Ecological Services, Region 6)
US FWS	Federal	Rick Sayers	Chief, Division of Consultation, Habitat Conservation Plans, Recovery and State Grants, Endangered Species, Washington
US FWS	Federal	Marorie Nelson	Chief, Branch of Consultation and Habitat Conservation Plans, Endangered Species, Washington
US FWS	Federal	Renne Lohofener	Assistant Director, Endangered Species, Washington
US NPS	Federal	Sue Jennings	Wild and Scenic Rivers Coordinator, National Park Service-Midwest Regional Office
WAPA	Federal	Nick Stas	Regional Environmental Manager
WAPA	Federal	Bob Riehl	Regional Power Marketing Manager

APPENDIX VI: Results of Background Research on Similar Multiparty Initiatives to Address Recovery Issues

Mandates, focus and authorities of the organizations

- ◆ ***Recovery Implementation Program - Upper Colorado River Basin*** – The mandate and focus of this initiative was fairly narrow – “to recover and de-list the three endangered species and to manage the razorback sucker so it would not need the protection of the Endangered Species Act” (The Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin, U.S. Department of the Interior, Fish and Wildlife Service, Region 6, Denver, Colorado, September 29, 1987, p 2.1); “identify reasonable and prudent alternatives that would preserve the (endangered) species, while permitting new water development to proceed in the Upper Basin.” (IBID, p 1.6). Later expanded to “a comprehensive program is needed to implement a broad range of measures designed not only to preserve the listed species but to ensure their full recovery and eventual delisting under the Endangered Species Act” (IBID, p 1.6).
- ◆ ***Lower Colorado River Multi-Species Conservation Plan (MSCP)*** - The MSCP's purposes are to (1) protect the lower Colorado River environment while ensuring the certainty of existing river water and power operations; (2) address the needs of threatened and endangered wildlife under the Endangered Species Act; and (3) prevent the listing of additional species on the lower Colorado River. The MSCP covers areas up to and including the full-pool elevations of Lakes Mead, Mohave and Havasu and the historical floodplain of the Colorado River from Lake Mead to the United States-Mexico Southerly International Boundary, a distance of about 400 river miles. Conservation measures currently focus on the area from Hoover Dam to the border. The LCR MSCP is unique in that it provided Section 7 coverage under the ESA for Federal actions and Section 10 coverage for nonFederal actions.
- ◆ ***Platte Cooperative Agreement*** – This initiatives’ mandate is to “Implement certain aspects of the U.S. Fish and Wildlife Service’s recovery plans for the target species that relate to their associated habitats by providing for the following during the term of this Cooperative Agreement:
 1. implementation of research, analysis and other measures that will benefit the target species and their associated habitats, as set forth in Attachment I, "Milestones for the Cooperative Agreement";
 2. implementation of efforts to acquire, restore, and manage land or interests in land so as to provide and improve associated habitats for the target species, as set forth in Attachment I, "Milestones for the Cooperative Agreement";
 3. development and implementation of certain water management, conservation and supply measures, as set forth in Attachment I, "Milestones for the Cooperative Agreement" and in Attachment II, "Water Conservation/Supply Component";
 4. development of a basin-wide program to be implemented following evaluation of the Proposed Alternative, as defined in Paragraph III and as set forth in

Attachment III, and a range of reasonable alternatives in compliance with the National Environmental Policy Act ("NEPA"), 42 U.S.C. 4331 *et seq.*, and the ESA, the intent of which is to: (1) secure defined benefits for the target species and their associated habitats to assist in their conservation and recovery through a basin-wide cooperative approach that can be agreed to by the three states and DOI; and (2) serve as the reasonable and prudent alternative to offset the effects of existing and new water related activities.”

- ◆ ***South Florida Ecosystem Restoration Task Force*** - Restoring the South Florida ecosystem requires the cooperation and coordination of multiple Federal, state, tribal and local organizations. In recognition of the need for intergovernmental collaboration, Congress established the South Florida Ecosystem Restoration Task Force (Task Force) in the Water Resources Development Act (WRDA) of 1996, and codified the following duties: (1) coordinate the development of consistent policies, strategies, plans, programs, projects, activities, and priorities addressing the restoration, preservation, and protection of the South Florida ecosystem; (2) exchange information regarding programs, projects and activities of the agencies and entities represented on the Task Force to promote ecosystem restoration and maintenance; (3) facilitate the resolution of interagency and intergovernmental conflicts associated with the restoration of the South Florida ecosystem among the agencies and entities represented on the Task Force; (4) coordinate scientific and other research associated with the restoration of the South Florida ecosystem; and (5) provide assistance and support to agencies and entities represented on the Task Force in their restoration activities. A Florida-based Working Group and Science Coordination Group assisted the Task Force in fulfilling its responsibilities.

In addition to the duties specified in the WRDA of 1996, the charter establishing the South Florida Ecosystem Restoration Task Force spells out the administrative and personnel support to the Task Force. The 2003 Programmatic Regulations for the Comprehensive Everglades Restoration Plan specify that the Task Force will be notified and given an opportunity to review and provide consultation on specific programmatic and project level activities.

The Organizational Structure of Initiatives

- ◆ ***Recovery Implementation Program - Upper Colorado River Basin*** – The foundation of this program is a cooperative agreement among the Secretary of the Interior and the Governors of the three upper-basin states enacted under the statutory authority of the Endangered Species Act. The agreement established an Implementation Committee composed of Federal, state and nongovernmental organizations. The latter - water development associations and conservation groups – entered into a Supporting Resolution that sets out the respective parties’ expectations and responsibilities for the program’s provisions.

Committee members include representatives of the U.S. Fish and Wildlife Service, U.S. Bureau of Reclamation, National Park Service, Western Area Power

Administration, State of Colorado, State of Utah, State of Wyoming, The Nature Conservancy, Western Resource Advocates, Colorado Water Congress, Utah Water Users Association, Wyoming Water Development Association and the Colorado River Energy Distributors Association.

- ◆ ***Lower Colorado River Multi-Species Conservation Plan*** – This initiative was created by a Memorandum of Agreement (MOA) among involved parties that created a multi-stakeholder process. The Steering Committee is a broad-based state/Federal/tribal/private regional partnership, which includes water, hydroelectric power and wildlife management agencies in Arizona, California and Nevada. The stakeholders include the U.S. Fish and Wildlife Service, Bureau of Land Management, Bureau of Reclamation, Bureau of Indian Affairs, and National Park Service; Arizona Department of Water Resources and Arizona Game and Fish Department; Colorado River Board of California and California Department of Fish and Game; Colorado River Commission of Nevada and Nevada Division of Wildlife; Chemehuevi, Cocopah Indian Tribe, Colorado River Indian Tribes, Fort Mojave Indian Tribe, Fort Yuma Quechan Tribe, and Hualapai Tribe; and the Arizona Power Authority, Central Arizona Project, Coachella Valley Water District, Los Angeles Department of Water and Power, Imperial Irrigation District, Metropolitan Water District of Southern California, Nevada Power Company, Overton Power District No. 5, Palo Verde Irrigation District, San Diego County Water Authority, Silver State Power, Southern California Public Power Authority, Southern Nevada Water Authority, Valley Electric Association, Wellton-Mohawk Irrigation and Drainage District, Southern California Edison, San Diego Gas and Electric, Pacific Gas and Electric, and Trout Unlimited/Bass Anglers Sportsman Society.
- ◆ ***Platte Cooperative Agreement*** – This initiative is based upon a cooperative agreement between the Department of the Interior and the States of Colorado, Nebraska and Wyoming. It has a ten-member Governance Committee with one member per signatory state, selected by Governor of each state; two Federal members (U.S. Fish and Wildlife Service and U.S. Bureau of Reclamation) selected by the Secretary of Interior; two environmental members representing environmental entities in the three states; one member representing water users on the South Platte above the Western Canal Diversion; and one member representing water users downstream of Lake McConaughy or the Western Canal. Each representative has an alternate. The Committee has an external executive director, and organization that provides technical assistance.
- ◆ ***South Florida Ecosystem Restoration Task Force*** - This Task Force consists of 14 members from four sovereign entities: seven Federal agencies (U.S. Department of the Interior, U.S. Department of Agriculture, U.S. Department of Justice, U.S. Department of Transportation, U.S. Department of Commerce (National Oceanic and Atmospheric Administration), U.S. Department of the Army (Corps of Engineers) and the Environmental Protection Agency); two tribal representatives (Miccosukee Tribe of Indians of Florida and Seminole Tribe of Florida); and five state and local government representatives (Florida Department of Environmental Protection,

Executive Office of the Governor, City of South Bay, Miami-Dade County, and South Florida Water Management District).

The Task Force is led by a chair and vice chair. It is assisted by an executive director, two advisory committees, a Working Group (with issue and regional-based task teams), and a Science Coordination Group. The executive director is appointed by the Secretary of the Interior and is an employee of the U.S. Department of the Interior. The WRDA of 1996 designates the Secretary of the Interior as the chair of the Task Force. A protocol adopted in 2001 specified the appointment of a non-Federal vice-chair. Project Development Teams (PDTs), composed of participants with technical expertise from Federal, tribal, state, regional, and local governmental entities, have been established for some specific projects. The most notable has been the Combined Structural and Operating Plan (CSOP) PDT, which has engaged in a collaborative NEPA process to model ecosystem and hydrologic systems, develop and evaluate benefits and impacts of alternative water management scenarios according to the performance measures they established, and then negotiate a recommendation on a preferred alternative. Throughout its work together, the PDT has received advice and feedback on draft products from a multi-stakeholder Combined Structural and Operating Plan (CSOP) Advisory Team that was established by the Task Force to assist the governmental entities in developing recommendations to the Corps of Engineers.

The use of Facilitators or Chairpersons

- ◆ ***The Recovery Implementation Program - Upper Colorado*** – Meetings are chaired by a Chairperson, who is generally from a Federal agency.
- ◆ ***The Lower Colorado River Multi-Species Conservation Plan*** - The Steering Committee has been facilitated/mediated. Collaborative decision making consultants provided group facilitation and meeting management, including a record of the negotiations. They also mediated on and off throughout the process.
- ◆ ***The Platte River Cooperative Agreement*** – This group uses a chair who is a Federal agency representative for formal Governance Committee meetings to pass policy recommendations. An internal facilitator from a consulting firm is used for general discussions, and an external mediator has been used on several occasions to break deadlocks on contested issues.
- ◆ ***The South Florida Ecosystem Restoration Task Force*** - The Task Force and its sub-groups have routinely used facilitators as circumstances warrant. The U.S. Institute for Environmental Conflict Resolution provided critical interagency mediation assistance in reaching some interim agreements on how to address endangered species issues. This effort eventually led to the formation of an intergovernmental Project Development Team (PDT) for the Combined Structural and Operating Plan (CSOP) that has been engaging in a facilitated collaborative NEPA process. A multi-stakeholder CSOP Advisory Team represents the most recent example of the role of

facilitators involved in the work of the Task Force. The Florida Conflict Resolution Consortium works with the Team to facilitate discussion and assist members in reaching agreement on recommendations to the CSOP Project Development Team, for incorporation into the NEPA analysis. Other sub-teams chartered to assist the Task Force and its Working Group, such as the Biscayne Bay Regional Restoration Coordination Team, also use neutral entities to carry out the function of facilitation and mediation in an effort to reach consensus.

Deliberative and decision making roles and procedures

- ◆ ***Recovery Implementation Program - Upper Colorado River Basin*** – Consensus is the process used for deliberations and decision making.
- ◆ ***Lower Colorado River Multi-Species Conservation Plan*** - The intent of the Steering Committee is to reach consensus. If consensus cannot be achieved participants used a voting procedure (which is spelled-out in the MOA). To the extent that the Steering Committee achieves consensus, the consensus recommendation was included in the final conservation plan.
- ◆ ***Platte Cooperative Agreement*** – Consensus and voting are both used. Voting is required for decisions on policy issues and a decision requires a super-majority (9 out of 10 representatives of all states, Federal Agencies and three other members). Consensus is used to reach decisions on most issues. Consensus decisions are then formally approved by voting.
- ◆ ***South Florida Ecosystem Restoration Task Force*** - From its inception the Task Force has sought to achieve consensus among its members as it carries out its duties. The voting protocol reinforces this preference for consensus when approving final reports or making recommendations to decision making bodies. When complete consensus is not possible, the group takes final actions by a two-thirds majority vote. Dissenting members have the opportunity to submit a minority report.

How relevant and acceptable Data was obtained

- ◆ ***Recovery Implementation Program - Upper Colorado River Basin*** - Parties set up a data management system and quality control system. Data is provided by parties. A research plan jointly defined by USFWS and states, which is approved by Implementation Committee.
- ◆ ***Lower Colorado River Multi-Species Conservation Plan*** - The Steering Committee used subcommittees to address scientific and technical issues. The Steering Committee hired, through an open, competitive process, a consulting firm to help develop the scientific and technical information and compliance documents.

- ◆ ***Platte Cooperative Agreement*** – Data is provided primarily by Federal agencies and states, and on occasion by non-governmental parties and independent technical consulting groups.
- ◆ ***South Florida Ecosystem Restoration Task Force*** - The Task Force uses a multi-agency Restoration Coordination and Verification (RECOVER) Team to evaluate and assess the actual performance of implemented restoration projects and to ensure that a system-wide perspective and approach is maintained throughout the restoration program, while pursuing an Adaptive Management approach to continuous improvement to the overall ecosystem restoration plan.

Funding Mechanisms

- ◆ ***Recovery Implementation Program - Upper Colorado River Basin*** – Funding is by the Federal government, as well as States of Colorado, Utah and Wyoming, power and water users and private donations. Receives Congressional appropriation. New water projects also contribute to recovery program.
- ◆ ***Lower Colorado River Multi-Species Conservation Plan*** - Funding for the stakeholder process is split 50-50, with the Federal government providing one-half of the funds, and non-Federal partners providing the other half. The program development costs were \$7.4 million for planning needs and implementation of interim conservation measures.
- ◆ ***Platte Cooperative Agreement*** – Funding is by the Department of Interior and the three states (Colorado, Nebraska and Wyoming). The latter cash and cash-equivalent contributions.
- ◆ ***South Florida Ecosystem Restoration Task Force*** - Members of the Task Force retain full authority and jurisdiction for their traditional responsibilities including the responsibility for funding the implementation of their restoration projects. An initial estimate indicated that CERP implementation will cost in 1999 constant dollars \$7.8 billion; and that an additional \$182 million will be needed annually to operate, maintain and monitor the plan. The Federal government and the State of Florida split the cost.

Conclusions from the above research have been integrated with the findings from interviews, and combined in a series of recommendations from the CDR Team that are presented in the Situation Assessment Report.

**APPENDIX VII: Recommended Tribal and Non-Governmental
Organizations from which Nominations for
Members of MRRIC should be Solicited**

- ◆ Agriservices of Brunswick
- ◆ American Rivers
- ◆ Assiniboine and Sioux Tribes of Fort Peck
- ◆ Big Soo Terminal
- ◆ Blackfeet Tribe
- ◆ Central Montana Electric Power Cooperative
- ◆ Cheyenne River Sioux Tribe
- ◆ Chippewa Cree Tribe
- ◆ City of Omaha Department of Parks & Recreation
- ◆ Coalition to Protect the Missouri River
- ◆ Conservation Federation of Missouri
- ◆ Crow Creek Sioux Tribe
- ◆ Rosebud Sioux Tribe
- ◆ Standing Rock Sioux Tribe
- ◆ Iowa Tribe of Kansas
- ◆ Crow Tribe
- ◆ Flandreau Santee Sioux Tribe
- ◆ Fort Belknap Indian Community
- ◆ Friends of Lake Sakakawea
- ◆ Garrison Diversion Conservancy District
- ◆ Interstate Marine Terminal, Inc.
- ◆ Kansas City Board of Public Utilities
- ◆ Kickapoo Tribe in Kansas
- ◆ Lower Brule Sioux Tribe
- ◆ Mandan, Hidatsa & Arikara (MHA) Nation
- ◆ Midcontinent, American Waterways
- ◆ Mid-West Electric Consumers Association
- ◆ Missouri Levee & Drainage District Association
- ◆ Missouri River Bank Stabilization
- ◆ Missouri River Technical Group
- ◆ Mni Sose Intertribal Water Rights Coalition
- ◆ MO-ARK
- ◆ ND Sportfishing Congress
- ◆ Nebraska Public Power District
- ◆ Northern Arapaho Tribe
- ◆ Northern Cheyenne Tribe
- ◆ Oglala Sioux Tribe
- ◆ Omaha Tribe of Nebraska
- ◆ Passenger Vessel Association
- ◆ Ponca Tribe of Nebraska
- ◆ Prairie Band Potawatomi Nation
- ◆ Sac & Fox Nation of Missouri
- ◆ Santee Sioux Nation
- ◆ Schutte Lumber Company
- ◆ Sierra Club
- ◆ Sioux Land Inter State Metro Planning Council (SIMPCO)
- ◆ Sisseton-Wahpeton Oyate of the Lake Traverse Reservation
- ◆ Spirit Lake Tribe
- ◆ The Nature Conservancy
- ◆ Three Affiliated Tribes of Fort Berthold
- ◆ Turtle Mountain Band of Chippewa Indians
- ◆ Upper Basin Bank Stabilization
- ◆ Wind River Reservation (Eastern Shoshone & Northern Arapaho Tribes)
- ◆ Winnebago Tribe of Nebraska
- ◆ Yankton Sioux Tribe

APPENDIX VIII: Summary of Recommendations by the CDR Team

CDR Team Recommendations on:

The Focus and Mandate of MRRIC

The Team recommends that the involved Federal agencies and other members of the MRRIC utilize the information gained through interviews, research on other recovery initiatives and parameters established by the Federal Committee Advisory Act to draft a potential focus/goal/mandate statement. One possible process is to use the language in the box above as a single-text negotiating document, and to change or modify it until such time as members of the Committee can agree on a common statement. The final answer to “what will be the focus and mandate of the MRRIC” must arise from the members of the MRRIC themselves, both individually and collectively. The ideas and input above should be seen as a temporary starting point until the MRRIC can deliberate and draw its own conclusions about its focus.

Accountability and Reporting Relationships of MRRIC

The CDR Team concurs with recommendations of the vast majority of interviewees and suggests that at a minimum, the MRRIC should report to both the COE and the USFWS as co-partners in recovery efforts, and make recommendations to them jointly. These two agencies must agree on overall recovery efforts for any actions to take place. They must also agree on the adequacy of actions to achieve mutually agreed upon agency standards. Clearly the COE will have to be the lead agency concerning implementation of recovery efforts.

The Authority of MRRIC

The consensus of interviewees of the MRRIC having only advisory and not binding decision making authority over agencies policies, projects or implementation measures should be recognized by concerned governmental agencies. This proviso should be included in any future charter, protocol, bylaws or meeting guidelines of the MRRIC.

Concerned Federal agencies should make a good faith statement at the first meeting of the MRRIC in which they commit fully consider the implementation of recommendations made by the committee providing they fall within their mandate, adequately address a component of recovery of the three endangered species, comply with relevant laws and regulations and are financially and technically feasible. The Committee and concerned agencies will need to discuss whether the latter will report back to the group, if they do not follow the recommendations of the MRRIC.

The size of the MRRIC Plenary Committee

The CDR Team suggests that a very small the MRRIC, of less than 25 members, will probably be politically and organizationally unacceptable to stakeholders in the basin. A committee of this size will not provide adequate representation of the diversity of views and groups in the region. We also believe that based on many interviewees’ experience in the SR Plenary Group, that they support and can live with a Plenary of this size, and think that it will be able to function and make decisions.

Categories of Membership

The CDR Team concurs with the majority view of interviewees regarding the desirability of broad participation in the MRRIC. The Committee should have members from non-governmental organizations and stakeholder groups, and from Federal, state, Tribal and municipal governmental agencies. We believe that the precedent of an inclusive process in the Spring Rise Facilitation, and the majority opinion of interviewees in this Situation Assessment will not allow for anything but broad participation. Limiting participation exclusively to non-governmental stakeholders would be politically unacceptable for a number of key stakeholders in this process.

General balance and representation on MRRIC

Representation should be based on the last point above, a combination of authorized uses, environmental mandates and laws, and laws related to tribal trust and Native American rights, while keeping in mind the Upper/Lower Basin balance.

Qualifications of MRRIC Members

The CDR Team agrees with the “Characteristics and Qualities” identified by interviewees. Although it is critical that all those involved with the MRRIC process feel comfortable debating issues and disagreeing with their colleagues they must also be firmly committed to the process and not to undermine it at Plenary, technical or work group meetings or “away from the table”.

Level of authority of MRRIC and its membership

The Team concurs and supports the recommendations of the majority of interviewees regarding levels of authority and expertise expected for Plenary Committee and technical committee members, that being senior agency personnel from Federal and state agencies, senior Tribal leaders, and executive director levels from non-governmental organizations.

Selection of MRRIC members

The CDR Team believes that the most efficient processes for selecting members of the MRRIC have been identified by the few interviewees who had answers to this question: (a) nomination and selection by interest group or (b) selection by a Selection and Planning Committee from nominees proposed by interest groups, such as was done by the Core Planning Group in the SR Facilitation. One of these procedures will need to be selected by the Federal agencies in consultation with potential stakeholders in the MRRIC.

Involvement of Federal agencies

It is clear that robust and continuing involvement, commitment and engagement of high level Federal officials is important and critical to the MRRIC process. However, Federal agencies must discuss internally among themselves and decide what appropriate roles and levels of involvement in the MRRIC deliberations and decision making on recommendations is appropriate. It may not be necessary for all agencies

to play the same roles or have the same level of involvement. We therefore suggest that the Federal Round Table consider accepting roles on the MRRIC similar to numbers 4, 5 or 6 in the chart above.

Once these discussions have been conducted, agencies should engage in discussions and make proposals to the MRRIC's Plenary Committee and reach mutually acceptable agreements on the appropriate level for their involvement.

Interagency Coordination

MoRAST and MRRIC - There are two possible approaches to address the concern about relationships among MoRAST, non-member states and the MRRIC. The first is that as soon as MoRAST has been formed, conversations about each organizations roles and responsibilities should be initiated between its leadership and the Federal agencies involved in the formation of the MRRIC. Ultimately these discussions need to be taken over by the MRRIC. It will be critical that these discussions were open and transparent, and the contents of which be transmitted to the MRRIC once it is formed.

A second approach would be to delay discussions between MoRAST and the MRRIC until both organizations have been formed, and have them work together to define their respective the roles and responsibilities in a manner that maximizes synergy and complementarity and minimizes completion or overlapping or roles.

Interagency Cooperation - The Situation Assessment team strongly recommends that involved Federal agencies develop a MOA regarding their working relationship in the MRRIC process. In that context, as for other groups that may potentially be involved in the MRRIC, the CDR team is available to provide facilitation assistance for meetings between or among parties to help them coordinate their participation in the MRRIC.

In addition to the development of MOAs between Federal agencies, the Team suggests close coordination and perhaps a regular forum with the Missouri River Basin Federal Interagency Roundtable.

Tribal Coordination – Because of the large number of tribes involved in the MRRIC deliberations and decision making, the Team recommends that funding be made available that will enable the Tribes to secure administrative and logistical support. This will promote all tribes to be fully informed, have easy access to data and documents, have conference calls when necessary, and have a central point of coordination for the reimbursement of specifically approved travel expenses. In addition, it may be advisable to secure funding so that Tribes can secure the services of an internal facilitator who can work with and them and help them build internal consensus on issues related to the MRRIC.

Science and Data

One of the first orders of business of the MRRIC should be the appointment of a Technical Committee or Working Group to develop recommendations for the Plenary on how some of the issues related to data and science should be addressed.

Agreement on at least some of these issues will have to be reached, especially if particularly contentious recovery issues are to be addressed successfully.

Building of trust in this process

The MRRIC group should take adequate time to build a charter and protocols, including guide lines for participation help MRRIC members build greater trust in one another. Members should also insist on consistent feedback mechanisms to assess whether the levels of trust that they are hoping to build are actually in place.

Protocols

Detailed examination of prospective protocols and groundrules will be essential to the functioning of the MRRIC. Use of SR protocols and recommended additions should be discussed at initial MRRIC meetings and incorporated into it charter.

Schedule

It is clear that the MRRIC must be free from the burdensome time constraints of the Spring Rise process. Further, meetings for the first year of the process will probably need to be more frequent than in subsequent years. However, beyond that, the MRRIC must make its own decisions regarding time and structure.

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APPENDIX IX: Proposed Timeline for Convening

Tentative Schedule for the MRRIC convening activities that CDR will propose in the Draft Situation Assessment Report:

February 28th – Presentation and release of Draft Situation Assessment Report (report may be released earlier than that date if it is completed).

February 28th – March 10th – Public Comment period on Draft Report

March 13th – 17th – Revisions of Draft Report and Preparation of Final Situation Assessment Report

March 17th – Release and distribution of Final Situation Report to all interviewees, posting on USIECR's website and forwarding report and all comments received on it to USIECR and all concerned Federal Agencies.

March 20th -24th – Agencies' decision making on how to proceed (if this timeframe is feasible for them)

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