

Missouri River Association of States and Tribes

Regular Meeting Ramkota Hotel Rapid City, SD

May 22 – 23, 2007

Attendance:

- Kirk Nelson, Nebraska Game & Parks Commission
- Antoine Provost, Omaha Tribe of Nebraska
- Don Bucky Pilcher, Sac & Fox Nation
- Dale L. Frink, North Dakota Water Commission
- Todd Sando, North Dakota Water Commission
- David Pope, Kansas Department of Agriculture, Division of Water Resources
- Terry Steinwand, North Dakota Game & Fish Department
- Mary Sexton, Montana Dept. of Natural Resources and Conservations
- Garland Erbele, SD Department of Environment & Natural Resources
- Jodee Pring, Wyoming State Engineer's Office
- Mike McGhee, Iowa State Office of Natural Resources
- Mike Hayden, Kansas Department of Wildlife & Parks
- Steve Adams, Kansas Department of Wildlife & Parks
- John Cooper, South Dakota and Chairman, MoRAST
- J. Edward Brown, Virtual Streams Consulting
- Lisa Arrow, Secretary, Yankton Sioux Tribe Council

Meeting was called to order by John Cooper, Chairman at 1:15 pm.

Everyone present introduced themselves.

Review of agenda: With two minor changes, the agenda was accepted.

Approval of minutes of February 20 & 21, 2007: Motion was made by Mike Hayden to approve the minutes, as amended. Motion seconded by Mary Sexton. Minutes approved without dissent.

Treasurer's Report: Kirk Nelson, Nebraska Game & Parks Commission
Kirk gave the treasurer's report for MRBA and MoRASTs. (Report attached)
Discussion on the 501 (c) 3 status of MoRAST and how the IRS is scrutinizing the application. Some of the questions from IRS are pretty extensive.

ACTION ITEM:

John Cooper and Kirk Nelson will contact Steve Duvall, IRS, by phone to find out the non-profit status and what can be done to expedite the process. John or Kirk will e-mail the board members with the results.

Motion was made by Mike Hayden to approve the treasurer's report. Motion seconded by Garland Erbele. Treasurer's Report was approved, without dissent.

Old Business: At the last meeting John and Dave Cookson were asked to write a letter to Assistant Secretary of Army John Paul Woodley Jr., and Lt. General Carl Strock to ask the Corps to maintain funding for Missouri River Fish and Wildlife Mitigation and Recovery at a minimum level adopted by Congress in 2006 (\$54,470,000) and preferably at the FY 2007 President's budget request of \$85 million. Also included was the resolution adopted by MoRAST on February 21, 2007 regarding funding for Missouri River Fish and Wildlife Mitigation and Recovery. ASA Woodley responded and said after coordination with the Executive Branch, he would provide a work plan to the Committees on Appropriations and the Corps will notify John by March 16, 2007. The Corps notified John and Dave Cookson that WRDA passed the House and the Senate. There is a conference issue between the House and Senate so David has been working on the conference committee issue. There are some language issues and David will address those issues tomorrow when he gets on the conference call.

Another letter was written on March 5, 2007 that addresses the issue that the Tribes are reluctant to participate in MoRAST. The concern is that Tribes do not want their participation in MoRAST to hinder or replace in any way the Corp's obligation to consult with the Tribes on a government to government basis. Chairman Ron His Horse Is Thunder from the Standing Rock Sioux Tribe also expressed his concern in a letter to John Cooper. ASA Woodley responded with a letter to MoRAST that Tribal participation in MoRAST does not replace government to government consultation with American Indian governments required by treaties, statutes, regulations and activities and does not supplant or diminish Army Civil Works trust responsibilities.

Mike Hayden made a motion to go into executive session for the purpose of conducting interviews for the position of Executive Director. Motion seconded by Mike McGhee. Motion passed. The board went into executive session for the rest of the afternoon to interview for the Executive Director position for MoRAST.

MAY 23, 2007 ~ WEDNESDAY

Call to Order by Chairman John Cooper at 8:00 am.

Motion was made by Mary Sexton to select David Pope as the Executive Director of MoRAST. The motion was seconded by Dale Frink. Motion passed with one person abstaining (David). Chairman Cooper will work with David and others to develop contractual language for subsequent board review.

Visit by ASA John Paul Woodley.....Chairman Cooper and Tony Provost
Chairman Cooper and Tony Provost described the visit by ASA Secretary John Paul Woodley in July. Tentatively the meeting is planned at the Wakpa Sica reconciliation facility in Ft. Pierre, South Dakota. The Executive Director, Stacy LaCompte will be assisting with contacting Tribal Chairman from all the Basin Tribes to invite them to the meeting with Secretary Woodley. The Great Plains Tribal Chairmen’s Association will be hosting the meeting along with MoRAST. After the meeting, Governor Rounds will host a reception for everyone in attendance. Three Tribal Chairman have already committed to attending the meeting. Joel Ames, COE tribal liaison, will be assisting.

MRRIC Issues.....John Cooper
John Cooper discussed the MRRIC process with Mike Eng. There were several issues with the process:

1. Representatives from Missouri are not fully satisfied regarding the MRRIC process
2. Letters were written by Tom Waters and the governor, Matt Blunt withdrew some of the Missouri groups from the MRRIC process.
3. Missouri disagreed with the way the drafting team was selected and they felt that the stakeholders were not adequately represented.
4. John said the MoRAST representatives on the board are attending these meetings on a voluntary basis and if there are no results from attending these meeting, then the MoRAST board will have to reconsider participation because of the cost involved and lack of progress.

John Thorson and Cheryl Chapman were selected as Co-Chairs of MRRIC.

WAPA Overview.....Nick Stass

The overview power point presentation included:

- ❖ Profile
- ❖ Western’s History
- ❖ Power and Energy Sales
 - a) Power Marketing Services
 - b) Purchase Power
 - c) The Power Marketing Plan
 - d) Customer Choice
 - e) Marketable Resource
 - f) Preference
 - g) Geographic Boundaries
 - h) Contracts
 - i) Customer Choice
 - j) Marketing Plan Development
 - k) Important Legislation/Regulations
- ❖ Transmission Services
 - a) Point to point Transmission Services
 - b) Network Integration Transmission Services
 - c) Ancillary Services

- ❖ Other Services
 - a) Energy Services
 - b) Non-Hydro Renewable Resources Program
 - c) Operation and Maintenance Services

- ❖ Responding to Change
- ❖ Western's Role in Providing Power
- ❖ Interconnection Requirements
- ❖ Contacting Western

COE Update.....Corps of Engineers Omaha, NE
 There has been a tremendous rise in reservoirs for this time year. The Yellowstone River and Upper Missouri River have good flows. There were record low releases in March and April to lower basin from Gavins Point Dam. Boat Ramp Conditions – will be similar to last year, if not higher. This will be good for states as they try to maintain access to the reservoirs. Regulation began for threatened bird species on May 19. There are no reports yet. Drought in the basin is in western North Dakota, western South Dakota and Wyoming. All other parts of the basin are wet. There is flooding along the Platte River.

Missouri River ~ Origins and Evolution of the Missouri River Recovery Implementation Committee.....Rosemary C. Hargrave, US Army Corps of Engineers
 Rosemary gave a presentation on MRRIC.

Missouri River Mainstem Reservoir System (Congressionally Authorized)

Project Purposes:

- Flood Control
- Navigation
- Hydropower
- Irrigation
- Recreation
- Water Supply
- Water Quality
- Fish and Wildlife (Including endangered species)

Multiple Purposes/Multiple Interests

- Economic:
 - a. Recreation
 - b. Water Quality
 - c. Navigation
 - d. Irrigation
 - e. Hydropower
 - f. M & I Water Supply
 - g. Flood Control

- Environmental:
 - h. Wetland Habitat

- i. Riparian Habitat
- j. Reservoir Fish
- k. Terns and Plovers (Endangered & Threatened)

➤ Tribal:

- l. Historic Properties
- m. Treaty and Trust
- n. Water Rights
- o. Environmental Justice

Challenges & Opportunities:

- Geographic extent of basin
- Diverse interests
- Long-standing differences
- Drought
- Lack of trust
- Lack of experience with collaboration
- No “champion”
- Weary of Litigation
- Watershed approach
- Power of consensus recommendations
- Stakeholders want a voice in recovery decisions
- Congressional Legislation

Missouri River Recovery Program Elements:

- Habitat Construction/Channel Modification
- Propagation/Hatchery Support
- Research, Monitoring, and Evaluation
- Flow Modifications
- Adaptive Management

What is MRRIC? ~ Missouri River Recovery Implementation Committee

- Provides a basin forum for collaboration on recovery activities
- Ensures consideration of public values in recovery decisions
- Consists of broad range of basin tribes, states, stakeholders and federal agencies
- Provides consensus-based recommendations to entities in the basin
- Serves as critical part of Adaptive Management

Why Establish MRRIC?

- Alternative means of problem- solving
- Embraces WATERSHED approach
- Similar to other recovery implementation committees:
Everglades, Upper Colorado River, San Juan Basin, CalFed Bay Delta
Chesapeake Bay, Platte River and many others

Evolution:

- Master Manual Review and Update:

- a. Section 7 Endangered Species Act -- Consultation with USF&W
- b. Biological Assessment
- c. Biological Opinion
- d. Record of Decision
- o National Research Council Report
- o Situation Assessment

Steps to MRRIC:

Step 1 ~ Federal Working Group

Step 2 ~ MRRIC Charter to be Developed by Basin Stakeholders

- o Broadly Representative Planning Group
- o Four Levels of Participation
 1. Drafting Team
 2. Review Panel
 3. Public Workshops
 4. Tribal and Public Outreach
- o Co-Chairs for Planning Group
 1. Cheryl Chapman
 2. John Thorson

Step 3 ~ Convene MRRIC

What's Next?

- o Convene the Drafting Team and Review Panel
- o Select facilitation team
- o Establish schedule
- o Begin work on Charter

COE Update (Conference Call).....Dave Cookson
 WRDA - The Senate passed their version of the bill which included the language that we have been talking about for the last two years. It includes the MRRIC components and the specific components for the upper basin states to address the Senate appropriations language from the past. The bill passed with overwhelming support in the Senate. In the House, with the support of Congresswoman Stephanie Herseth Sandlin and her staff, WRDA should pass. There is support in Congress for the bill. Dave will be going back to DC the first or second week in June when Congress reconvenes.

MRNRC Committee Update.....Wayne Nelson Stastny
 The MRNRC Conference and Bi-OP Forum were held on March 6, 7, & 8, 2007 in Nebraska City, NE. There were 220 people in attendance and approximately 50 presentations. Most of the presentations will be available online for anyone interested. Endangered Species work is getting started and is in the infancy stage (ecosystem recovery). Need to have someone from MoRAST serve on the steering committee for the next MRNRC conference. Iowa will be hosting the next conference in March.

State Reports:

South Dakota ~ Garland Erbele, Water Rights Program

Rain in the lower basin has allowed us to capture a lot of storage in the reservoir system. There are 13 boat ramps active. Not all ramps are active. A meeting is set up for July 24th with Bill Mulligan at Corps of Engineers. Subject is Title 9 with a working group. Some are with the Missouri Sediment Action Committee and Planning Commissioners.

Iowa ~ Mike McGhee, Iowa Department of Natural Resources

A new DNR director was confirmed through the legislature for Iowa. Also, a new Economic Development director was hired. Both are very interested in Missouri River issues. Mike will invite the new DNR director to the next MoRAST meeting in Montana.

Kansas ~ J. Michael Hayden, Kansas Department of Wildlife and Parks

Eastern Kansas reservoirs have had lots of water and are at the flood stage. They will be letting water out. Kansas does not currently have any drought for the first time in about 6 1/2 years. The COE has been purchasing mitigation property along the Missouri River in Kansas. The eastern side of the state is in good shape with water, but reservoirs in the western side are still low. They lost lots of wetlands because of the flooding.

Wyoming ~ Jodee Pring, Wyoming State Engineers Office

Precipitation has been good. They have had pretty good snow storms in the mountains. Reservoirs are in best shape in the last 5 years.

Montana ~ Mary Sexton, Montana Department of Natural Resources and Conservation. Snow has been sketchy in southwest Montana with some of the areas as low as 65% of normal. The southeast area is doing well. The Big Horns are low. State owned reservoirs are doing pretty well. The Upper Missouri has been closed to new development because of the Smith River law suits. Legislation was passed that allows new applications on the Upper Missouri. They are working to resolve the Blackfeet and Confederated Salish Kootenai compacts.

North Dakota ~ Terry Steinwand, North Dakota Game and Fish Department.

They received \$800,000 dollars of emergency appropriations. There are 17 usable boat ramps. They are 3 feet lower than needed for successful spawning. In Lake Sakakawea, there was 40 to 60% morality of walleye.

Kansas ~ David Pope, Division of Water Resources

The town of Greenburg was wiped out because of a bad tornado and storm. No major water legislation passed, but some new water programs were funded. The long term lawsuit with the State of Colorado over the Arkansas River is almost over.

North Dakota ~ Dale Frink, North Dakota Water Commission

Hydrologic conditions - top soil is good. The southeast is wet because of rain. No runoff in the West. The legislature finished in April and it was a good session for water.

North Dakota ~ Todd Sando, North Dakota Water Commission

Lake Audubon ~ Provides most of the water to that area of North Dakota. With new relief wells in place, there will a differential of 43 feet instead of 36 1/2 ft.

The next meeting of MoRAST will held in the Glasgow, Montana area on August 29 & 30, 2007. Meeting adjourned at 12:30 pm.

Respectively submitted,

David L. Pope
Secretary