

## Meeting Minutes

Missouri River Association of States and Tribes (MoRAST)

Pierre, South Dakota

December 11-12, 2007

Chairman John Cooper called the meeting to order shortly after 1 PM CST, December 11, 2007 and welcomed everyone to the meeting, which was held at the Ramkota Hotel in Pierre, South Dakota. Introductions were made for all in attendance:

**MoRAST Directors, alternates and other representatives present:**

MONTANA: Mary Sexton and Jeff Hagener

WYOMING: Sue Lowry and Jodee Pring

NORTH DAKOTA: Terry Steinwand and Dale Frink

SOUTH DAKOTA: John Cooper, Garland Erbele, Mark Rath, Geno Adams, Jim Riis and Jason Glodt

NEBRASKA: Kirk Nelson and Brian Dunnigan

IOWA: Mike McGhee

KANSAS: Mike Hayden, Tracy Streeter and Steve Adams

STAFF: David Pope, MoRAST Executive Director

**FEDERAL AGENCIES:** USFWS, Mike Olson, Bismarck, ND and Wayne Nelson-Stastny, Yankton, SD; WAPA, Jimmy Black, Huron, SD; USACE, Rose Hargrave, Northwest Division, Omaha, NE, Randy Sellers and Mike George, Omaha District, Omaha, NE and Mike Chapman, Kansas City District, Kansas City, MO; BIA, Darin Larson, Aberdeen, SD;

**OTHERS:** Angela Ehlers, South Dakota Conservation Districts, Pierre, SD; Tim Cowman, Missouri River Institute, Vermillion, SD; Paul Lepisto, Izaak Walton League, Pierre, SD; Dennis Todey, South Dakota State University; Betty Morford, SDDRR; Jeff Bunn, Capital Journal; Stan Schwellenbach, Pierre, SD;

**Comments on behalf of Governor Rounds:** Jason Glodt of Governor Rounds' staff welcomed everyone to South Dakota and noted the importance of the Missouri River to

everyone. He noted that the 1944 Flood Control Act (FCA) was adopted in very different times. Our understanding of the science was different, and there were no dams or interstates in 1944. At that time, we were interested in flood control, irrigation, navigation and other uses. Since then, we won the cold war, have had extensive drought, major energy problems, etc., but the USACE is still bound by the old FCA. The Governor advocates changes to the FCA that would best meet the contemporary needs of the river basin. For example, there have been recent emergency intake issues that are very important. The Governor is very supportive of efforts to review this matter.

Chairman Cooper said he appreciated Jason's work and has worked with him on these issues. Governor Rounds is hopeful of getting people to look at modern issues instead of the old issues and entitlements, etc. He noted the Sioux Falls meeting the Governor hosted with the other Governors and Tribal Chiefs a few years ago. South Dakota tried to pursue legal approaches to this problem, but Judge Magnuson ruled that the Corps had to comply with the FCA and did not find fault in their operations. Governor Janklow worked on this and now Governor Rounds. They now feel a legislative approach is needed and would like to know how other folks feel about a study of the FCA.

Mr. Cooper noted that South Dakota hosted the Missouri River Commission last summer. Governor Rounds is sincere in seeking an opportunity for change.

**Agenda:** Chairman Cooper reviewed the draft agenda for this meeting. He said they tried to make it meaningful, but not too full. There were no suggested changes.

**Minutes:** Tracy Streeter moved approval of the May 22-23, 2007 minutes, as circulated to the board. The motion was seconded by Mike McGhee and passed without objection. Dale Frink moved approval of the August 30, 2007 minutes, as circulated to the board. The motion was seconded by Garland Erbele and passed without objection. In response to a question from David Pope, the board agreed that approved minutes should be posted on the MoRAST website.

**Summary Report, Wakpa Sica meeting with Assistant Secretary Woodley, Tribal Chairs, State representatives and others, which was cosponsored by MoRAST on July 10, 2007, in Fort Pierre, South Dakota:** Chairman Cooper noted that David Pope, with his assistance, spent a lot of time preparing the report, which was also recently circulated to the board. While this was not a formal MoRAST meeting, he asked if there were comments or questions, as the plan is to provide the summary upon request. Due to its size, it was also suggested it be made available on the website.

**Executive Director's Report:** Mr. Pope provided a summary of recent MoRAST activities. He noted that he continues to update the website as time permits and was able to put out the first issue of the MoRAST newsletter a month or so ago. He noted that

guest articles were welcome for upcoming issues. He said the comment letter to the Corps regarding the 2007-2008 AOP was submitted. He received a response from Mike Wells of the Missouri DNR. He has also continued to monitor the MRRIC planning process. David noted that he made a presentation to the Missouri River Basin Interagency Roundtable about MoRAST and recently spoke to groups in North Dakota and Iowa. He also spoke at the Annual Meeting of the Interstate Council on Water Policy (ICWP), which includes significant involvement of river basin associations in the country. ICWP has asked if MoRAST would be willing to cosponsor a “USGS Cooperators Workshop” in the basin next year.

Sue Lowry, immediate past Chairperson of ICWP, provided some further background about ICWP and the series of USGS workshops it has sponsored, especially to help deal with funding shortfalls in the USGS Cooperative Water Program for stream gages and other basic data collection. Chairman Cooper said he thought this type of outreach is good and asked Sue and David to confer about alternatives and report back to the board tomorrow.

**Treasurers Report:** Kirk Nelson handed out the Treasurers Report. He noted that MRBA has now been formally dissolved, all funds and accounts have now been switched over from MRBA to MoRAST and the State of Missouri portion of the MRBA funds paid to them. There was discussion of future dues levels. Mike Hayden suggested we look forward to our future needs. Chairman Cooper suggested that he, Kirk and David work on a proposed future budget for consideration at our February meeting. It was noted that action was taken at the last meeting to waive tribal dues for 2007 and 2008. There continues to be concern about the lack of funds for tribal travel to MoRAST meetings. In addition, WRDA prohibits federal payment of travel expenses to MRRIC meetings, once it is established. A motion was made by Jeff Hagener to approve the Treasurers Report. The motion was seconded by Mary Sexton and passed without objection.

**Election of Officers for 2008:** At Chairman Cooper’s request, Mr. Pope reviewed the bylaws with the board related to the election of officers. Officers may succeed themselves for a second term. The Vice Chairperson is to succeed the Chairperson and directors from water management/other agencies and fish and wildlife agency agencies are to alternate in these roles. The Executive Committee is also to contain two directors of each type of agency and tribal directors may serve in any of these roles. Upon questioning, Chairman Cooper indicated a willingness to continue as Chairman through June of 2008.

A motion was made to reelect John Cooper as Chairman for 2008 and Mary Sexton as Vice Chairperson, with Mary to become Chairperson, if Chairman Cooper resigns prior

to the end of his term in 2008. The motion was seconded by Mike Hayden and passed without objection. A motion was made by Dale Frink to reelect Kirk Nelson as Treasurer for 2008. The motion was seconded by Terry Steinwand and passed without objection. A motion was made by Terry Steinwand to reelect Tracy Streeter as Secretary for 2008. The motion was seconded by Mike Hayden and passed without objection.

After the afternoon break, with the exception of the Legal and Legislative update, most of the time was dedicated to a series of presentations made by guest speakers. Each speaker's presentation included a Power Point slide show. These presentations are also posted on the MoRAST website at: <http://www.mo-rast.org/Meetings/PastMeetings.htm>

### **Presentations:**

#### **Invasive Species on the Missouri River; Salt Cedar in South Dakota - South Dakota Department of Agriculture:**

Kevin Fridley and Mike Stenson made a Power Point presentation and provided information regarding the history and nature of invasive species, with emphasis on Salt Cedar. It was introduced in the 1800's and now covers over a million acres nationwide. It is deep rooted, is a major water user and crowds out native vegetation. It clogs channels and decreases diversity of birds, etc. Treatment is difficult and expensive. Mechanical and chemical treatment has been used with some success, but it takes persistence. Biological treatment is new, but promising. A six state Missouri River Watershed Coalition (MT, ND, SD, WY, NE and CO) has been formed to work on the problem, reduce spreading, increase funding and partner with others. There is also some effort through federal agencies.

**Legal and Legislative Update:** Chairman Cooper and David summarized the status of work on the Water Resources Development Act (WRDA) of 2007, which became effective November 8, 2007 after Congress overrode the President's veto. It contains several important provisions related to the Missouri River, including: a) allowing recovery and mitigation work to occur throughout the river system, not just downstream, b) the authorization of MRRIC and a study of recovery, mitigation and restoration needs, and c) allowing the Corps to assist the Bureau of Reclamation with the Intake, Montana fish passage project. Appreciation was expressed for the extensive work on the bill by Dave Cookson of the Nebraska Attorney General's Office, as well as the important support by several members of the Congressional delegation from the basin.

### **Continued Presentations:**

#### **Climate Change and the Missouri River and an update on NOAA-NWS activities - Dennis Today, South Dakota State Climatologist:**

Dennis made Power Point presentations for himself and for Doug Kluck of NOAA, National Weather Service. Doug was not able to attend due to changes in travel plans, caused by weather. Dennis noted that we only have about 100 years of weather data, but the paleo record makes the 1930's drought look mild. Climate change in the Missouri River Basin is understudied compared to other basins in the country. NOAA is the lead agency for the recently authorized National Integrated Drought Information System (NIDIS) program. It has limited funding, but provides for early warning, drought monitoring, mitigation and education, etc. Projects are being planned in the Upper Colorado, Montana, Southeast U.S., Northeast U.S., as well as Missouri, Kansas and Oklahoma. There is a new drought portal: [www.drought.gov](http://www.drought.gov). There are numerous reports available on current conditions and outlooks. Dennis provided information about climate change, greenhouse warming and results from the Intergovernmental Panel on Climate Change, including trends for temperature and precipitation and model results. There is a rapid warming since the 1970's, depending on the area. In many areas, precipitation is generally expected to increase and snow cover decrease. Expect earlier snow melt and peak flow, with reduced runoff, more variability and increased ET and water demand. He suggested more research and monitoring. While the climate models are not real good, trends are occurring.

**Recess:** The meeting recessed at about 5:20 PM for the evening.

**December 12 session:** Chairman Cooper called the meeting back to order at about 8 AM. He recognized Paul Lepisto of the Izaak Walton League and Tim Cowman of the Missouri River Institute for brief comments about the work of their organizations.

### **Continued presentations:**

#### **Corps update - Rose Hargrave, Northwest Division, USACE, Omaha, NE:**

Rose noted that the new WRDA bill has about 500 items requiring implementation by the Corps. They will be working on implementation guidance within the Corps over the next several months. She noted that completion of the MRRIC planning process will be high priority since the committee is required to be established by May 8, 2008. There are also several other important authorities in WRDA related to recovery. Sec. 5018 calls for development of a

comprehensive plan for mitigation, recovery and restoration of the ecosystem in conjunction with MRRIC.

Rose summarized current conditions in the basin and reservoir system operations with a Power Point presentation. She noted there is currently about 37 MAF in storage and that it appears there may be sufficient storage to run a March 1 spring pulse in accordance with the Master Manual. She responded to some questions about the factors used to determine the amount released. She said the 2007-2008 AOP would be adopted by year end.

**MRRIC planning process - Rose Hargrave, Mark Rath and others:**

Rose noted that the MRRIC planning committee has achieved an amazing level of consensus about the draft Charter. She expects it to be submitted to the Assistant Secretary within a month or so. He will want to know how the other federal agencies feel. It appears they can live with it, as the role of the agencies appears to have been resolved in an acceptable way. There is still concern about the prohibition on travel funds for MRRIC members, especially related to tribal participation. Mark Rath indicated that a change was made to the draft Charter to address the concerns of States and Tribes role and authorities. He also provided a summary of other discussions that occurred about membership, etc. Mike Olson commented that the state representatives, like Mark Rath, Dave Barfield and Fred Rychman, did a great job on the committee, along with the stakeholders.

**Missouri River Recovery Program - Mike George, USACE, Omaha:**

Mike provided some background about his experience and current role as Program Manager for the Missouri River Recovery Program for both the Omaha and Kansas City Districts. He made a Power Point presentation about the program, which includes endangered species recovery implementation and MRRIC integration as well as the Missouri River Environmental Recovery Plan (MRERP). He provided background on the river's endangered species, the Bank Stabilization and Navigation Project (BSNP) Fish and Wildlife mitigation project, the Biological Opinion's reasonable and prudent alternatives, coordination activities and guiding principles. He noted that we are starting to see a paradigm shift in how decisions are made by the Corps. He provided an update on the proposed spending of \$85 million in the FY07 budget. He noted the power of consensus, but that if MRRIC is not able to make a recommendation, the Corps still has to meet the criteria in the BiOP. He also summarized the study called for by WRDA, the objectives of MRERP and the collaborative effort between the USACE and USFWS.

**Missouri River Ecosystem Restoration Plan (MRERP) - Wayne-Nelson Stastny, USFWS and Randy Sellers, USACE:**

Wayne and Randy made a Power Point presentation on MRERP and an integrated EIS. They emphasized the one team-one river theme, described the Project Delivery Team (PDT) and the need for collaboration with MRRIC and stakeholders and an interagency planning team that includes States and Tribes. They described a phased approach during a five year timeline and discussed what ecosystem restoration can mean to the people of the basin. They noted that Jennifer Switzer of the USACE and Heather McSharry of the USFWS are members of the PDT along with them, under the leadership of Mike George and Mike Olson for the two federal agencies.

**River Bed Degradation - Mike Chapman, USACE, Kansas City District:**

Mike made a Power Point presentation that outlined the issue of river bed degradation for the Missouri River. While some areas have experienced aggradation, several also have extensive degradation problems, including the Kansas City area that has dropped 4 or 5 feet since 1990 and an average of about 15 feet since the 1940's. He described the trends and potential causes such as channel shortening, constrictions, upstream dams and sand dredging. Adverse impacts include intake lowering, bank instability, tributary head cutting, pipeline exposure, loss of aquatic habitat and navigation hazards. He described actions taken to date, actions planned for FY08. These include a sand dredging EIS, additional data collection and analysis, A NAS "recovery" study on sediment reintroduction and plans for a comprehensive degradation study, which would include consultation with various experts. He noted that potential solutions include channel widening, addition of sediment, significant curtailment of dredging and redesign of navigation structures.

**Other business:**

Mike Olson noted that Steve Guertin had been named Acting Regional Director of the USFWS in Denver.

As a follow up to his comments during his Executive Director's report, Mr. Pope distributed copies of a letter received from Mike Wells of Missouri DNR regarding the MoRAST comment letter to the Corps regarding the 2007-2008 draft AOP. After discussion, it was decided that David should draft a brief response thanking him for the comments, but noting that it seemed to mischaracterize our letter. The draft should be circulated to the board for comment before it is sent.

Terry Steinwand requested that MoRAST review the letter and responses to the July 10, 2007 letter from Governor Rounds to Assistant Secretary Woodley regarding the 1944 Flood Control Act, at its next meeting. It was noted by John Cooper that the Governor's request was for a study, not necessarily an amendment to the FCA at this time. Others supported the request to put the matter on the agenda.

Discussion occurred regarding the opportunity to submit recommendations to the Corps regarding the implementation guidance and how to approach that by MoRAST, since work will start on this matter in early January 2008. The Chairman will work with David and others to develop a letter to the appropriate officials and circulate it for comment before it is sent.

**Next meeting dates:**

The board agreed to hold the next meeting in Nebraska City at the Lied Lodge on February 25-26, 2008. The plan will be to travel on the 24<sup>th</sup>, have an all day board meeting on the 25<sup>th</sup> and stay over for the plenary session of the MRNRC Conference and BiOP Forum on the 26<sup>th</sup>, or longer if desired.

The board also agreed to hold the May meeting in Great Falls, Montana on May 21-22, 2008. In addition, it agreed to cosponsor a USGS Cooperators Workshop with ICWP and hold a MoRAST meeting in Cheyenne, Wyoming during the period August 26-28, 2008, with the specific details of when each meeting will be held to be worked out with the other parties and our Wyoming hosts.

**State Reports and other comments:**

Mike McGhee reported on a Missouri River Summit December 7<sup>th</sup> in the Council Bluffs area, chaired by the Lt Governor with participation of five state agencies, The USACE, USFWS and stakeholders. He appreciated David attending and speaking regarding MoRAST. There continue to be different views, but also general support for recreation development so long as it is within current operational constraints.

The meeting was adjourned at approximately 1 PM.

Respectively submitted,

//signed//

Tracy Streeter, Secretary