

Minutes

Missouri River Association of States and Tribes (MoRAST)

Fort Pierre, South Dakota

October 29-30, 2009

MoRAST Chair Mary Sexton called the meeting to order around 8:30 a.m. on October 29, 2009. She welcomed everyone to the meeting which was held at the AmericInn in Fort Pierre, South Dakota. Introductions were made for all in attendance. Chairperson Sexton introduced past MoRAST Chair John Cooper and expressed appreciation for his service and attendance at this meeting.

MoRAST Directors, alternates and other representatives present:

MONTANA: Mary Sexton, MoRAST Chair, and Joe Maurier

WYOMING: Jodee Pring

NORTH DAKOTA: Todd Sando* and Terry Steinwand*

SOUTH DAKOTA: Garland Erbele, Mark Rath, Jeff Vonk, Jim Riis and John Lott

NEBRASKA: Steve Gaul, Gene Zuerlein and Justine Lavene

IOWA: Bernie Hoyer

KANSAS: Mike Hayden, Tracy Streeter* and Steve Adams*

ROSEBUD SIOUX TRIBE: Russell Eagle Bear and Syed Huq

CHEYENNE RIVER SIOUX TRIBE: Chairman Joseph Brings Plenty* and Bob Walters*

LOWER BRULE SIOUX TRIBE: Chairman Michael Jandreau, Clair Green and Brian Molyneaux

NORTHERN ARAPAHO TRIBE: Dr. Catherine Vandemoer*

FLANDREAU SANTEE SIOUX TRIBE: Elizabeth Wakeman*

THREE AFFILIATED TRIBES: Toni Fettig

STAFF: David Pope, MoRAST Executive Director

Federal agencies Present:

U.S. Fish and Wildlife Service (USFWS): Kim Greenwood, Henry Maddux, Wayne Nelson-Stastny, Mike Olson, Mike Thabault

Western Area Power Administration (WAPA): Nick Stas

U.S. Army Corps of Engineers (USACE): Col. Robert J. Ruch, Erik Blechinger, Kayla Eckert Uptmor, Joel Ames and Randy Sellers, Omaha District; David Combs, Kansas City District; and Jody Farhat, Water Management Office, Northwestern Division, Omaha, NE.

U.S. Geological Survey (USGS): Dan Driscoll

U.S. National Park Service (NPS): Michael Madell and Gia Wagner

U.S. Bureau of Reclamation (USBR): Richard Nelson

U. S. Bureau of Indian Affairs (BIA): Wayne Stone

Others present:

Governor Mike Rounds of South Dakota; Andrew Canham, Missouri River Coalition; Cheryl Chapman, Matrix; John Cooper, National Commission on Energy Policy; Angela Ehlers, South Dakota Association of Conservation Districts; Brian Henkel, Papio-Missouri River Natural Resources District; David Johnson,

Garrison Diversion District; Paul Lepisto, Izaak Walton League; Dugan Petersen, public observer; Steve Wegman, SD Wind & Energy; and Terry Breyman*, Associate Director for Natural Resources, Council on Environmental Quality.

*Attended part or all of the meeting by speaker telephone.

INITIAL BUSINESS MEETING:

Agenda: The revised draft agenda was reviewed. There were no suggested changes. The meeting packets were distributed and the contents summarized by David Pope. The packet materials had also been distributed prior to the meeting by e-mail. The packets contained copies of the draft agenda, draft minutes, Treasurer's Report and budget information, Financial Report (Audit) to MoRAST, draft MRAPS Questions and Issues document, August 21, 2009 AOP letter, the MoRAST draft AOP letter, the Missouri River Recovery Implementation Committee (MRRIC) recommendations on Purpose and Need, meeting accomplishment summaries from the July 21-23, 2009 and September 22-24, 2009 MRRIC meetings, and a USACE MRAPS Q&A document.

Minutes: A motion was made by Jeff Vonk to approve the minutes from the June 16-17, 2009 meeting as drafted. The motion was seconded by Joe Maurier. The motion passed without objection.

Treasurer's Report: The report dated October 29, 2009, was presented by Gene Zuerlein on behalf of Kirk Nelson, as well as the budget status and Financial Report (audit) for FY 2009. A motion was made by Mike Hayden to approve the Treasurer's Report. The motion was seconded by Garland Erberle and passed without objection.

Nomination Committee: Chairperson Sexton noted that officers need to be elected for the term beginning in 2010. However, she suggested that a nominating committee be appointed and that members submit ideas to the committee for consideration. The nominating committee could then provide a list of candidates well in advance of the March 16, 2010, meeting during which the officer elections could be held. Hearing no objection, Chairperson Sexton solicited names of those interested in serving on the committee and then appointed Garland Erberle, Gene Zuerlein and Toni Fettig.

Executive Director's Report: David Pope reported on the MoRAST AOP Technical Committee meeting, which resulted in a letter, dated August 21, 2009, to USACE regarding preliminary recommendations on the 2009-2010 AOP process. Final recommendations will be considered later today. He indicated that he spent time following up from the last meeting and making arrangements for this meeting. In August, he attended a USACE National Collaborative Water Conference and visited several congressional offices. Mr. Pope noted that he also attended a Sediment Conference in Kansas City sponsored by Soil and Water Conservation Society and several universities. He also reported on attending a meeting of the National Research Council Sediment Committee meeting that is studying the role of sediment in the Missouri River and also attended the ICWP Annual Meeting. He also attended other events and worked on issues related to MRAPS, Missouri River Recovery and a variety of other matters on a day to day basis.

Old Business: Mr. Pope summarized recent activities related to the Missouri River Authorized Purposes Study (MRAPS). He indicated we would be hearing from the Corps today and considering the draft list of questions and issues.

Mr. Pope also indicated that he had been contacted by the editor of the Daily Republic Newspaper in Mitchell, South Dakota, who had invited MoRAST and others to submit articles for “opinion pieces” that could be published in the newspaper. He asked the Board whether we should accept this invitation. Several Board members indicated that it would be a good opportunity to provide information to the public and that the information could be further distributed to member agencies so that public information officers could further distribute it as appropriate.

OTHER AGENDA ITEMS:

Current Conditions and Corps update: Jody Farhat, USACE, Chief of Missouri River Basin Water Management, Northwestern Division, Omaha, NE., provided an update on current water management operations. She noted that current reservoir system storage is about 56.2 million acre-feet, a little below the crest for the year. She indicated that each of the reservoirs had filled except Fort Peck but that the Corps is keeping releases low in order to help accumulate more water in storage at Fort Peck Reservoir which is still 14 feet below top of conservation storage, but up 11 feet from a year ago. Garrison and Oahe Reservoirs are still in the annual flood storage pool. She noted the runoff forecast is 133% of normal for this year and there is currently no drought in the basin. The Corps was able to provide a full navigation season this year for the first time since 2002. She said given the status of storage, they are planning a little higher winter releases to help avoid ice jams. The draft Annual Operating Plan (AOP) for 2009-2010 was released in August 2009. She said with good storage conditions they expect to have a full navigation season again next year and that storage conditions will be met for both the March and May spring pulses, but that the specific circumstances will determine what happens for each spring pulses. She also described the Corps’ draft proposal related to favoring rising conditions at Fort Peck and Oahe Reservoirs next year and an unbalancing schedule similar to that originally provided by MRNRC several years ago before the drought. She noted that each of the Tribes had been offered government to government consultation regarding the draft AOP. The AOP public meetings held in October were well attended and she noted that the comment period would close November 20, 2009. She expects the final AOP to be adopted mid-December 2009.

Ms. Farhat also discussed various items in the MoRAST letter providing preliminary comments related to the draft AOP for 2009-2010. She noted that the Corps appreciated the comments regarding the Kansas River reservoirs and that the Corps is trying to minimize their use, but they may need to use them from time to time. She said they expect to favor refilling Fort Peck and Oahe Reservoirs as recommended by MoRAST and are willing to work with the States and Tribes to benefit forage fishing. She also noted that the draft AOP does not explicitly use the unbalancing schedule in the MoRAST letter but their proposal is somewhat similar. She noted some apprehension about holding Oahe Reservoir too high, as that reduces flood storage significantly. She noted there were significant restrictions on the Corps ability to limit hydro-peaking from Fort Randal Reservoir but that conditions should be more normal now after the drought. With regard to cultural resources, information has been included in the draft AOP and the Corps intends to work with the Tribes consistent with the programmatic agreement.

During the Q&A session, Garland Erbele and Todd Sando expressed concerns about high reservoir levels and potential flooding this next year. Bob Walters noted concerns due to sediment build up near the mouth of the Cheyenne River which backs water on to Tribal land. There were also questions regarding the relationship between the potential Fort Peck Reservoir spring rise and the intake project on the Yellowstone River. Ms. Farhat noted that there are good benefits from opening up the Yellowstone River for fish passage but since a considerable amount of the Corps recovery budget is

being used on a USBR project, the Corps needed some relief from the BiOP requirements on the Missouri River. As a result, the Corps will continue to evaluate the Fort Peck spring mini test, but will evaluate the results of the intake project before implementing the Fort Peck test.

MRERP Update: Randy Sellers, Project Manager Co-Lead from the Omaha District, USACE, for the Missouri River Ecosystem Restoration Program (MRERP) provided a PowerPoint presentation on the status of the planned development. He noted that a series of 24 meetings at 15 locations have been held in the public scoping process throughout the Missouri River Basin and that comments are being taken through December 1 on the draft Purpose and Needs Statement. So far, comments have been received only from MRRIC. He noted that they were also working on the social, cultural and economic values for the study and have scheduled a workshop with MRRIC at its meeting in Wyoming next week. He also noted they were trying to engage the Tribes and have twice offered consultation regarding the scoping process and the Purpose and Needs Statement. In 2010, they plan to finalize the Purpose and Needs Statement, work on base line natural resources conditions and values, and the no-action alternative after which they will move into the inventory and forecasting process. During the Q&A session, Bob Walters noted the importance of medicinal plants. Others commented about the importance of working with Tribal cultural resources staff and the importance of government to government consultation.

Revisions to Federal Principles and Guidelines: Terry Breyman, Associate Director for Natural Resources, Council on Environmental Quality (CEQ), made a presentation by telephone regarding the status of work on the principles and guidelines (P&G). He noted that the current P&G date back to the Carter and Reagan administrations. A provision in WRDA 2007 asked for the P&G to be reviewed and updated. However, since the P&G apply to multiple Federal agencies dealing with water resources projects, the new administration asked CEQ to take the lead in review and revision of the P&G. He said they are currently only working on the principles portion with their goal to produce a new draft before Thanksgiving. They anticipate publishing a notice in the Federal Register and provide a 60-day public review period. He noted that they anticipate applying these P&G to all agencies dealing with these kinds of projects, not just the current four agencies.

Mr. Breyman further summarized efforts related to the Executive Order dealing with floodplain management. He indicated that the original Executive Order was issued in 1977 and CEQ became involved because of the multi-agency implications in this matter. He said a recent draft circulated by Dr. Galloway was not the administration's draft. He noted that they have no intention of trying to control local land use planning as that is the responsibility of local, State and Tribal governments, but they do want to establish requirements if Federal facilities are going to be built in a floodplain. They expect to kick off the effort to revise the Executive Order later this year. Following his presentation, Mr. Breyman responded to several questions regarding the potential effect of the P&G on existing activities and studies.

MRRIC Update: Jodee Pring, Jim Riis, Paul Lepisto and David Johnson, all members of MRRIC, led a discussion regarding recent activities of the committee. Jodee led off the discussion indicating that the committee had met every couple of months this year and spent considerable time reviewing background information and developing relationships but had also discussed a number of substantive items. She indicated that the facilitators and Chairman of MRRIC will be retained for another year. It is expected that the committee will meet four times next year, twice in the lower basin and twice in the upper basin, plus they will try a video meeting as well. She indicated that much of the work takes place

in the MRRIC work groups. The November meeting will be held in Cheyenne, Wyoming, and interviews will take place at that time for the third party science review candidates. She also noted that there will be a series of workshops dealing with social, economic and cultural values. Jim Riis noted the value of hunting and fishing on the river and reservoirs. Paul Lepisto said a lot of time and effort had been spent working on the MRERP engagement process and he expected the committee to reach consensus on an engagement strategy. He noted that MRRIC had previously reached consensus recommendations on the MRERP Purpose and Needs Statement. He noted that MRRIC also wants to develop a liaison process to the MRERP technical teams. David Johnson noted that they are starting to see progress and growth in the committee's ability to deal with the issues. He said the Corps and Fish and Wildlife Service have provided significant information.

Kate Vandemoer, another member of the committee, agreed with these comments but also noted that there is a serious problem with the lack of involvement of the Tribes on MRRIC and noted that only four Tribes are usually present. The committee is aware of the problem and is starting to take action to encourage more participation. She noted that the combination of MRRIC and MoRAST provide a great opportunity for the Tribes to be involved in Missouri River issues. Paul Lepisto agreed and noted the effort underway to amend Section 5018 of WRDA 2007 to remove the prohibition on Federal travel reimbursement for MRRIC. Mr. Pope noted that MoRAST had also included support for resolving this issue in its Congressional Action Plan.

After a few other comments, the meeting was recessed for lunch. After lunch, Chairperson Sexton called the meeting back to order. Additional introductions were made for people that had joined the meeting including those participating by conference call.

Missouri River Forum: Chairperson Sexton provided some comments regarding the purpose of the forum as an opportunity to hear from representatives of the States, Tribes and Federal agencies regarding the future of the Missouri River and the new Missouri River Authorized Purposes Study (MRAPS.)

- **Review of the Pick-Sloan Program:** Mike Hayden, Vice Chairman of MoRAST, made a PowerPoint presentation regarding the Pick-Sloan Program and a new vision for the future. He noted that major changes have occurred since the Pick Sloan program was enacted through the 1944 Flood Control Act and that it is time for a comprehensive review of the current and future needs in the Missouri River Basin. He said that it is now time for leadership for a new vision and that MRAPS provides an opportunity to help determine the future needs in the basin. During Q&A following his presentation, Kate Vandemoer noted that recognition of treaties was never included in the Pick Sloan program as she believes it should be. She stated that if these treaties are not recognized, there will be unfulfilled objectives. (Mike Hayden's PowerPoint presentation can be viewed at: <http://www.mo-rast.org/Meetings/PastMeetings.htm>.)
- **USACE Presentation on status of MRAPS:** Colonel Robert Ruch, Commander of the Omaha District, introduced USACE staff and initiated the discussion of the MRAPS. He noted that he is new to this position and to the area but had previously experienced similar struggles related to water in another area. He noted that the Section 108 Study (MRAPS) is a good thing because the government should try to get the most out of these projects. He pointed out how important it is for everyone involved to provide input and

to speak with one voice to the extent that they can. He said the Corps is in the initial stages of the study but wanted to provide the group with the current status. He introduced Kayla Eckert Uptmor, Chief of Planning for the Omaha District, and David Combs, Chief of Planning for the Kansas City District, indicating the two districts are implementing the study jointly.

Ms. Eckert Uptmor and Mr. Combs made a PowerPoint presentation to provide background about the study and the opportunities it will provide. They indicated that the Corps wants to be an honest broker and carefully consider the data and science related to this project. They noted that it is expected that the result of the study will be a comprehensive report from the Chief of Engineers with an environmental impact statement. They expect the report to include findings and recommendations as appropriate. (The same or a similar USACE PowerPoint presentation can be viewed at <http://www.mo-rast.org/Meetings/PastMeetings.htm>.)

They noted that MRERP and MRAPS have very different objectives. MRERP and MRRIC were created in Section 5018 of WRDA 2007, while MRAPS has a separate authorization enacted in 2009. While the objectives are different, there will be some overlap in data and the Corps will share the information and use available science for both efforts. It was noted that there are several ongoing studies in the basin that may provide information including several sediment management studies and a bed degradation study in the lower part of the Missouri River. For the interim period, Lynn Heng is the project manager for the Omaha District; Lamar McKissack is the project manager for the Kansas City District. They noted that the Corps is also developing an internal management structure related to MRAPS that will include a planning advisory group, an executive committee and a regional review team that will consist of the Division Commander and the two District Commanders. They noted considerable interest in the study by the Mississippi River Valley Division regarding analysis of flows of the Missouri River as they impact the Mississippi River. They are developing a project management plan. They have engaged the U. S. Institute for Environmental Conflict Resolution to provide third party facilitation services. The Institute has in turn contracted with the Osprey Group to facilitate a series of upcoming focus group sessions during the period November 2009 through January 2010. The schedule for these events will be finalized soon. The Osprey Group will also conduct about 100 interviews during this period and develop a Situation Assessment for how to best communicate and involve the public in the study. They also noted that meetings will be scheduled with the Tribes and they will also be offered government to government consultation. They also noted that the kick off meetings held October 1 in Fort Pierre, South Dakota, and in Kansas City, Kansas, on October 8th, were well attended. A web site for the study has been established at www.mraps.org. It will be used to provide information about upcoming meetings and other information regarding the study.

During the Q&A session, it was noted that some people attended the kick off meetings with an expectation that they would be allowed to provide comments but that was not allowed. The Cheyenne River Sioux Tribe noted that the Pick-Sloan Program is not viewed favorably by the Tribe as it lost over 100,000 acres of land due to the reservoirs and was pushed off the river bottom lands onto the windy flats. Mr. Combs indicated

that the kickoff meetings were an open house format and that public comment would be allowed later in different forums, including the focus group sessions. He said there would also be formal scoping meetings later to receive comments. There was additional discussion regarding the upcoming focus group meetings. There were several questions regarding whether certain issues would be considered in the study. Representatives of the Rosebud Sioux Tribes noted the water availability concerns on their reservation and would like to see water quality looked at.

- **Perspective of other Federal agencies:** Mike Thabault, Assistant Regional Director for Ecological Services, provided comments on behalf of the USFWS. He noted that the service is prepared to work with the USACE on the study and noted its responsibility related to the Fish and Wildlife Coordination Act. He said they viewed the study as being incredibly important and also recognized the unique trust responsibility of the Federal government to address the very important Tribal issues. He noted that USFWS values its relationship with the States fish and wildlife agencies and that service is attempting to build better science capacity in the agency through the budget process. For example, he noted the challenge of dealing with climate change issues. He encouraged the Corps to reach out to other Federal agencies, States, Tribes and the public during this process.

Rick Nelson, Ecologist, at the Dakota's Area Office for USBR appeared on behalf of Regional Director Mike Ryan. He noted the major role of USBR in the Pick Sloan Program, including some irrigation projects, but also noted their municipal, rural and industrial projects in the basin. He noted that USBR fully intends to participate in the study as well as other ongoing activities such as MRRIC and MRERP but that their funding is limited for 2010 for these activities.

Nick Stas, Regional Environmental Manager for the Upper Great Plains Region, provided comments on behalf of WAPA. He noted that WAPA ended up with significant responsibilities to implement parts of the Pick-Sloan Program and also the Department of Energy Policy Act. He noted that WAPA was not originally allowed to allocate power to the Tribes but that they were able to withdraw 60 megawatts and made allocations to the Tribes beginning in the mid 1990's. He indicated that MRAPS may provide a good opportunity to review the program, but expressed concern about potential impacts to existing rate payers.

Dan Driscoll, South Dakota Water Science Center, USGS, provided brief comments about his agency's role related to MRAPS. He noted they were not involved related to authorized purposes, but can provide assistance in regard to scientific study. He noted the importance of considering changes in the timing and volume of stream flow as a result of climate change impacts. He also noted the importance of looking closely at sediment study results that might be related to MRAPS.

- **Tribal comments:** Several Tribal representatives provided their perspective on the Pick-Sloan Program and MRAPS. Kate Vandemoer indicated that the direct contradiction between treaties and the Pick-Sloan Program should be reviewed. She noted the irreparable damage to the Tribes that occurred as a result of the construction of the reservoir system. She also noted that there were issues for many of the upper basin

Tribes and that a threshold issue up and down the river system is the large amount of poverty on reservations because the Tribes were left out of the economic development that occurred through the Pick-Sloan Program. She indicated that we need to move forward, look at the objectives of the program and see what can be done for the long term to fulfill treaty rights.

Russell Eagle Bear and Sy Huq spoke on behalf of President Bordeaux of the Rosebud Sioux Tribe. Mr. Eagle Bear said he understood that we want the Tribes at the table and they want to be there, but we will need to study the issues. He said the Tribes have many issues with the Corps, including the Sec 106 process and protection of Cultural Resources. He noted that water quality is an issue and good drinking water should be a priority. He said we need solutions and should be talking about real issues. Sy Huq provided additional information about water needs on the Rosebud Sioux Reservation, including the need for more monitoring, and indicated they hoped to be involved in the scoping process during the study.

Elizabeth Wakeman, Flandreau Santee Sioux Tribe, said she may provide comments later.

Toni Fettig, Three Affiliated Tribes, noted that her Tribe had negative feelings about the Pick Sloan program. However, if approached positively, the study could be a good thing. She worries about the future of her people.

Bob Walters, Cheyenne River Sioux Tribe, deferred further comments to Chairman Brings Plenty who provided comments a little later in the meeting, as follows: Chairman Brings Plenty said his Tribe is a member of the Great Plains Tribal Chairman's Association (GPTCA), but he would not be speaking for GPTCA, who apparently was not contacted. He suggested future communications and meetings, but indicated that negotiations would need to be through government to government consultations. During the discussion, Mr. Pope indicated that attempts were made to contact the GPTCA and that he would welcome an opportunity to establish better communications with his Tribe and the GPTCA. He commented on the nature of the MoRAST coordination role related to MRAPS versus the role of the USACE, who will actually carry out the study.

Clair Green, Lower Brule Sioux Tribe, said she agreed with the eloquent comments from Kate Vandemoer. She noted the importance of recognizing the Tribal sovereignty and the opportunity to move forward with the Tribes at the table to look at future needs. She deferred further comments to Chairman Jandreau, who provided additional comments when he arrived later in the meeting, as follows: Chairman Jandreau said the effort related to the study was very good but his Tribe can't wait for a long study. They have real issues, like the loss of land to the river through severe erosion, and need practical solutions to problems due to reservoir impacts. He said while they sometimes fight with the Corps, they are also extremely grateful for the work they do.

- **Review of draft MoRAST questions and issues for MRAPS:** Mr. Pope reviewed the MoRAST draft document regarding potential questions and issues. He indicated an earlier draft had been reviewed at the June meeting and that the MoRAST Technical

Committee had provided additional ideas for inclusion that have now been incorporated into the current draft. He noted that the list was not in order of priority and was designed to provide the Corps with an inclusive list of issues and questions for it to consider as they develop plans for the study. He called special attention to Item P related to "Tribal water rights" and requested review and guidance on what should be included, if anything, in the document about this matter since there may be different views regarding what consideration should be given to this important, complex and sensitive issue during the study by the Corps.

- **Roundtable discussion:** After the earlier presentations, a brief roundtable discussion occurred regarding the vision, scope and goals of MRAPS on the future of the Missouri River.

The meeting was recessed for the day. Some attendees participated in an informal dinner at the View Restaurant.

RESUMED MoRAST BUSINESS MEETING: October 30, 2009

Chairperson Sexton called the meeting to order at approximately 8:20 a.m. Participants on the speaker telephone were identified.

An extensive discussion occurred regarding the draft MoRAST recommendations on potential questions and issues for MRAPS. Each item was reviewed and suggestions were made to refine or supplement most of the list of questions and issues. During the discussion, it was noted that while most of the items are in the form of questions, some are issues and we may want to be more affirmative in some cases. It was also noted that a future document could also include more definitive recommendations and/or study alternatives. It was decided to consider this document a work in progress and act on it at the March meeting, which will allow more time for input and review.

It was noted during the discussion that if it is important to evaluate the potential benefit and impacts of Missouri River flows and reservoir releases for Mississippi River navigation, then it is also important to evaluate not only the Missouri River Reservoirs as a source and the Kansas River tributary reservoirs that have been used in the past, but also other tributary projects in the State of Missouri that may be able to provide navigation support for the Mississippi River, especially since they are closer and the travel time is less. It was also suggested the study look at segments of the river and where navigation targets are located. It was suggested that the geographic issues stay in Item A and other questions related to navigation be moved to Item E. Other suggestions included modifying Item C to seek more detailed evaluation of flood prevention benefits, clarifying Item D related to how to determine and better meet the water quality and quantity needs on Indian Reservations, supplementing Item G to add a determination of the impact of reservoir operations on a range of hydropower customers, the impact of hydropower peaking at Fort Randle Reservoir, an evaluation of who gets the benefits from hydropower and the potential for hydropower development on the tributaries. In Item H, it was suggested that thermal requirements for power plants set by NPDES permits for flow through cooling should be evaluated, along with the feasibility of alternative cooling towers. In item I, it was suggested that the impact of channel lowering below Fort Peck Reservoir on irrigation pumping be evaluated. In Item J, a new question was suggested related to ways for

fish and wildlife to contribute more to the economic viability of the basin. In Item L, it was suggested that the language be expanded to better address the social, cultural and economic impacts as a result of projects not completed and future water needs on Indian Reservations.

The Honorable Mike Rounds, Governor of South Dakota, attended a portion of the meeting and provided comments to the group. He expressed appreciation for the work being done by MoRAST and said that things get done when people get together, listen and find areas where they can agree. He noted the passage of the 1944 Flood Control Act was a huge a defining event but that MRAPS can be another defining moment because it can help influence Congress on a potential re-write of the 1944 Flood Control Act. He said the study can help determine both the benefits and problems and should provide an opportunity to reach out to people to re-evaluate what should be planned in the future. He noted the significant changes that have occurred since 1944 and the potential value of bringing the Flood Control Act up to date to consider important priorities for now and in the future.

After a brief break the Board resumed its business meeting and consideration of the draft recommendations related to MRAPS. Several additional suggestions were made: In Item M, it was suggested that the need for coordination of MRAPS with MRERP be noted. In Item N, it was noted that the aggradation and degradation in the Bismarck/Mandan, North Dakota reach and degradation in the Sioux City, Iowa to Desoto Bend reach, should be evaluated for impacts and potential options. Under Item O, it was suggested that new questions be included related to the estimated current and future depletions both upstream and downstream, as well as water needs for energy development and the relationship of the study to State and National Energy Plans.

Regarding Item P, there was discussion about whether or not Federal Reserve Water Rights for the Tribes should be considered as a part of the study, and if so, how. It was noted that a potential question may be how to determine the future condition to be evaluated in the study. The Corps noted that it does not quantify water rights or regulate how much water is removed from the river system, but does need to understand the impact of alternatives on the operation of the Missouri River Reservoir System. From the earlier discussion, it was noted that there are questions about the relationship of treaties to the Pick-Sloan Program which should be evaluated in order to better understand unresolved issues, as well as unmet needs. It was recognized that more discussion may be needed, but Mr. Pope was asked to use these comments to refine the language for the next draft.

There was an additional discussion regarding potential future charges for the use of storage space in Corps reservoirs and the various circumstances related to project intakes, as well as the use of natural flow from the river versus stored water under different hydrological conditions. It was suggested that a question may need to be included regarding how the Corps plans to view this issue in the future in the Missouri River Basin.

- 2009-2010 draft AOP recommendations: The Board reviewed the draft letter related to AOP recommendations. It was noted that references to pallid sturgeon should instead be to terns and plovers. The first sentence on page 2 should be updated to reflect the discussion related to cultural resources. Motion was made by Mike Hayden and seconded by Jeff Vonk to approve the draft letter with changes as noted above. Motion was passed without objection.

- Plans for future MoRAST meetings: Mr. Pope noted that arrangements have been made for the March 16, 2010 meeting to be held in Nebraska City, Nebraska, just prior to the Missouri River Conference and BiOP Forum, sponsored by MRNRC. Discussion ensued about how many meetings MoRAST should have each year and whether we could better use technology to provide visual materials for those people who participate by conference call. Given limited travel funds and time, it was concluded we should schedule only two regular meetings in 2010 with the second meeting to be held in September or early October, to avoid bad weather if possible. A motion was made by Mike Hayden and seconded by Garland Erbele to schedule two meetings per year in the future, generally during the April and September time frame. The motion passed without objection. It was also suggested that we utilize audio and visual technology to enhance participation by members that cannot attend in person.
- National Collaborative Water Resources Conference: Mr. Pope reported that he attended a National Conference sponsored by the USACE in Washington, D.C. last August. The primary purpose of the conference was to help facilitate better communications and collaborative efforts to assist States with their water planning and management. This conference was a follow-up to a series of regional conferences held throughout the country. During these events, a suggestion was made from some that there is a need for a national water vision in the country. However, a number of participants expressed significant reservation about whether a single national water vision could be developed due to the variability in the country and different views about how water is managed. Mr. Pope indicated he would forward additional information to the Board on this matter from time to time.

State, Tribal and Federal Reports: Brief State, Tribal and Federal agency reports were given by those present.

Rosebud Sioux Tribe: Russell Eagle Bear noted that the discussions at the meeting were interesting and he will take these comments back to his Tribe for consideration.

Lower Brule Sioux Tribe: Chairman Jandreau reported that his Tribe is currently installing rip rap on the shore to protect against continued erosion with the assistance of USBR and the Corps. They are also working to protect some sacred sites. He noted that they were just about completed with a rural water system for the reservation. He said they expanded irrigation on the reservation the last year or so by about another 1,500 acres. They are extremely concerned about water quality and have not identified all of the sources, but more needs to be done in this regard. He said they tried to acknowledge and deal with all appropriate entities regarding issues on the reservation.

WAPA: Nick Stas reported that WAPA had just held scoping meetings related to wind farms in North Dakota and South Dakota. WAPA is a cooperating agency with the Department of State on the Keystone XL Pipeline project. He noted they plan to publish an EIS early next year on the wind program.

South Dakota: Garland Erbele reported that they continue to work on drinking water projects. He noted that a number of individuals who had temporarily abandoned irrigation projects were now able to use them again since the lakes are higher. Jeff Vonk said, as noted by the Governor, waters of the Missouri River are very important to South Dakota. Fishing and recreational use are already up with Oahe Reservoir full. He noted that the use of the reservoirs in South Dakota provides an income stream

that supports the economy. In the past, they have spent around \$1 million per year installing and extending boat ramps.

Montana: Joe Maurier, the new Director of Montana Fish, Wildlife and Parks, said he appreciated being here and supports MoRAST. He indicated the reorganization in his department has pretty well been completed. He said Fort Peck Reservoir is still a major concern and looks forward to an increased reservoir level next year. Mary Sexton provided an update on the St. Mary's project that provides water for irrigation, municipal and Tribal uses and has an international component. She noted that the Blackfeet Compact has been finalized at the State and Tribal levels and is ready to go to Congress. She reported that the *Montana v. Wyoming* case continues.

Nebraska: Steve Gaul indicated he was attending the meeting on behalf of Director Brian Dunnigan who stayed home to deal with an upcoming special session of unicameral to deal with budget shortfalls. He noted there would likely be a number of budget restrictions. However, he noted that unicameral had considered legislation last session to deal with water planning and Natural Resources Districts. He also noted that DNR had held a stakeholder meeting related to the Missouri River. Gene Zuerlein indicated the Nebraska Game and Parks Commission is working on an in-stream flow water right for the Niobrara River. He noted there were concerns about establishing such a right under State law, but if that does not happen there is a possibility that the National Park Service may seek a Federal Reserve Water Right since some of the area has been designated as a Wild and Scenic River.

Kansas: Mike Hayden noted that the wet, cooler weather has resulted in all of the reservoirs in Kansas filling except for one. This provides a huge impact to their parks and recreation indexes are up. He noted there had been four general fund budget cuts which adversely affected several agencies including the Division of Water Resources, who currently has a 29% vacancy rate due to budget cuts. He said the Department of Wildlife and Parks has not been impacted as much because of strong fee revenues. He reported briefly on the Republican River Compact dispute with Nebraska and Colorado.

North Dakota: Todd Sando reported that this had been a year of surplus for both water and the budget which had been good for wildlife and crops. North Dakota experienced incredible flooding last spring, especially in the Morehead-Fargo area. Alternative solutions are expensive and controversial. He reported that Devil's Lake had increased another three feet, flooded 27,000 acres and is nearing overflow conditions. They will be working all winter to raise the levees. He said the recreation use of Lake Sakakawea has picked up dramatically and that the upper end of Lake Oahe is now back into North Dakota again. He also noted they are continuing to build portions of the Northwest Area Water Supply Project within the limits of an injunction filed by Manitoba and the State of Missouri. The issue is still in court. He closed by noting that 2009 had been a flood of record and they were still very busy dealing with impacts and future plans.

Other action and Future MoRAST meetings:

The meeting was adjourned at approximately at 11:45 a.m. on October 30, 2009.

Respectfully submitted,

/s

Tracy Streeter,
Secretary