

DRAFT NOTES  
MEETING TO PROVIDE INPUT TO NEBRASKA REPRESENTATION  
ON THE MISSOURI RIVER ASSOCIATION OF STATES AND TRIBES  
MONDAY, NOVEMBER 15, 2010  
BOARD ROOM, PAPIO-MISSOURI RIVER NRD OFFICES  
OMAHA, NE

Attendance

John Shadle, Nebraska Public Power District  
Rocky Plettner, Nebraska Public Power District  
Russ Baker, Omaha Public Power District  
Mark Hansen, Omaha Public Power District  
Tom Wilmoth, Blankenau Wilmoth LLP  
Larry Cieslek, HDR Engineering  
Jim Shields, Metropolitan Utilities District  
Gordon Andersen, City of Omaha  
Terry Julesgard, Lower Niobrara Natural Resources District  
Tom Moser, Lewis & Clark Natural Resources District  
Marlin Petermann, Papio-Missouri River Natural Resources District  
Brian Henkel, Papio-Missouri River Natural Resources District  
Wayne Nelson-Stastny, U.S. Fish & Wildlife Service  
Jennifer Switzer, U.S. Army Corps of Engineers  
Gwyn Jarrett, U.S. Army Corps of Engineers  
Joel Knofczynski, U.S. Army Corps of Engineers  
Elizabeth Esseks, Nebraska Department of Health & Human Services  
John Bender, Nebraska Department of Environmental Quality  
Mark Matulka, Nebraska Policy Research Office  
Kirk Nelson, Nebraska Game & Parks Commission  
Gene Zuerlein, Nebraska Game & Parks Commission  
Brandi Flyr, Nebraska Department of Natural Resources  
Susan France, Nebraska Department of Natural Resources  
Steve Gaul, Nebraska Department of Natural Resources  
Brian Dunnigan, Nebraska Department of Natural Resources

Call to Order/Introductions

Brian Dunnigan and Marlin Petermann welcomed the group. Dunnigan noted that the purpose of these meetings was to provide input to Nebraska representatives on the Missouri River Association of States and Tribes (MORAST) as well as update water users and stakeholders on Missouri River activities.

## Missouri River Ecosystem Restoration Plan Update and Discussion

Wayne Nelson-Stastny, USFWS, explained that the Corps and USFWS were working with all the cooperating agencies throughout the basin and conducting walk around sessions with the state and federal agencies. He said that he was happy to see a group like this that covered the various water users in the basin. Nelson-Stastny's slide presentation on the Missouri River Ecosystem Restoration Plan (MRERP) is appended to these notes and will be available on the Nebraska Department of Natural Resources (NDNR) website for Missouri River activities.

Following the presentation, Gene Zuerlein, Nebraska Game & Parks Commission, indicated he was a MRERP point of contact for the State of Nebraska but that he was working with Dunnigan, NDNR staff and others. He said that one person could not know everything and that this effort was unprecedented in involving this number of states in a large basin. Nelson Stastny agreed that involving a variety of sources of expertise was important.

In response to a question on whether the process included economists and address which alternatives provide the most environmental benefits for the dollar. Nelson-Stastny said there were economists and that the initial piece would examine what people value, not just the environmental piece but drinking water, flood control, & groundwater.

He said there will also be cost benefit analysis of the alternatives to see where they can get the most bang for the buck. Another participant said that he heard that MRERP is more the study side and MRRIC is more the cultural/public input side. Nelson-Stastny said the Recovery Program is the current actions and ongoing efforts of the restoration plan, MRERP, is a parallel track for a long term sustainability plan, and MRRIC is 70 members representing a variety of interests informing both. Nelson-Stastny said that work on MRERP has been keeping up with schedule. He also reported that someone had once asked him what they would do when MRERP was done and he had replied that that is when they would get started. He said MRERP is about mitigation, recovery and restoration but that it is also about finding a sustainable solution.

One participant asked whether the Missouri River Authorized Purposes Study was going down a different path and Nelson-Stastny replied MRAPS was looking at what is important in the Basin and the authorized purposes whereas MRERP was examining at how to get ecosystem restoration done. He said they would look for where there may be synergies between the two processes.

## Missouri River Authorized Purposes Study Update

Gwyn Jarrett, U.S. Army Corps of Engineers, updated the group on the Missouri River Authorized Purposes Study (MRAPS). A copy of the slides to her presentation are appended to these notes and are available on the Missouri River Activities portion of the NDNR website. Following her presentation, Jarrett asked if there were any questions.

One participant said that he periodically heard rumblings that MRAPS was having difficulties obtaining funding at the Congressional level and asked about the funding status and whether it was a fully funded study. Jarrett replied that the study was not fully funded at this time and that the Corps was proceeding with the study with carryover from last year. She said that the way it is currently scheduled they expect that to carry them through the continuing resolution. They are looking closely at managing the project so that study efforts can continue.

Zuerlein asked whether Jarrett had any recent information on the status of the Council of Environmental Quality revision of principles and standards. Jarrett said that she was uncertain and would need to get back to Zuerlein on that question. However, she noted that she had been in discussions about what they would do if the principles and standards changed part way through the MRAPS process. Zuerlein indicated that the change would place value on additional factors, including the environment, in comparison to the 1983 principles standards. Another participant indicated that as of August the principles and standards had not changed but that the changes being considered would be much “greener” than current principles and standards. In response to another question Jarrett indicated that with completion of scoping, they were administratively forming “pods” for each project purpose. Each pod would have an economist and people who specialize in that area.

Another participant said his understanding was that there was to be a goals and objectives report and asked whether it would be available for public review and comment before work began on alternatives. Jarrett replied that transparency was to occur throughout the process and that at each stage as the goals and objectives were developed there would be that opportunity.

Another participant asked Jarrett to elaborate on the scope of the study as it relates to Bureau of Reclamation projects on the tributaries. Jarrett said a recommendation was currently being sent up the chain of command and that Reclamation was very integrated into the team. She said that how the tributaries will be treated should be clarified in the draft scoping statement.

#### Missouri River Recovery Implementation Committee Update

Susan France reported that the Missouri River Recovery Implementation Committee had been in existence for about two years and that there had now been about ten or eleven meetings. She indicated that the group seems to be gaining momentum. She also reported the group appears to work better when it goes into its subcommittees. She stated that there is a communication subcommittee, an integrated science program, a MRERP work group, a nominating work group, ~~a Recovery Program workshop~~, a subcommittee on tribal participation, and an adaptive management subgroup. There has also been formation of an ad hoc committee to work on monitoring what is happening in all of the other various efforts on the Missouri and see how they fit with MRRIC.

France noted that MRRIC membership is changing including a new vice chair and a new Corps contact. She encouraged interested parties to visit the MRRIC website. She also distributed a Missouri River Recovery Program Chart that provides the various authorities in the program.

That chart is appended to these notes. France also noted that recent release of a sediment study and an emergent sandbar management study should help with Missouri River Recovery efforts.

One participant said he had attended a meeting in South Sioux City the group was even having difficulty agreeing on meeting dates. France replied that the decision had ultimately been delegated and that although they may not move fast they are moving. She said that say that it just takes one person to stop everything and that if they put their thumb down the group needs to start over on that motion or topic. She said the chair and facilitators had done an excellent job of working things out in those situations.

One participant asked for more information on the sediment study. France indicated it was about what needs to be done regarding sediment in the Missouri Basin and how it affects the gulf. She said her reading is that the study indicates that sediment related to planned environmental restoration isn't going to change conditions in the Gulf all that much. She indicated that study and other studies were all information that the MRRIC could use to help provide input to MRERP and the Corps on how alternatives will affect cultural, economic or social values. She also reported there is still a big discussion about the area of the MRERP study, both temporal and geographic. This includes areas that may not be in the study area but are affected by it and the main stem versus the tributaries.

A participant asked about the top recommendations of the group to date. France replied that the group had submitted comments on the principles and standards. The group had also indicated that if the Corps receives all its funding, the terns and plovers should be a top priority. They had also encouraged government to government consultation with the tribes.

Dunnigan indicated that the annual report of MRRIC summarizes all the actions of the group and that one report is available and another should be available shortly. France noted that the report is online.

#### Corps Update on Missouri River Operations

Joel Knofczynski, U.S. Army Corps of Engineers updated the group on the Missouri River Mainstem System 2010-2011 Draft Annual Operating Plan as well as on system conditions in the past year. A copy of the slides for that presentation is appended to this report and is available on the Missouri River Activities portion of the NDNR website.

One participant asked whether the Corps knew exactly when in December releases from Gavins Point would be reduced. Knofczynski replied that typically starting at the 1<sup>st</sup> or 2<sup>nd</sup> of the month they would begin to ramp it down from 43,000 to 20,000 cfs. Generally speaking it would be reduced about 3,000 cfs per day but if conditions allow they may try to push that out a little further. One participant noted that due to high flows there had been no release for pulse flows and asked how often that was likely to occur. Discussion indicated that original expectations had been for curtailing the pulse releases about once every three years, but that low flows were expected to more often be the cause than high flows. It was indicated that the Integrated Science Advisory Panel and Advisory Group were examining spring pulse needs.

One participant asked if the Corps was considering the effects of climate change. Knofczynski noted that one Corps colleague was on a committee to examine that and that it has been discussed but that they almost need firm numbers to use it. He said that the upper and lower deciles in their plans may help account for that.

One participant mentioned the low runoff years on the graph slide showing basin runoff amounts through time and asked whether knowing that dry years usually run together made a difference in how the Corps operates. Knofczynski said that once you enter a drought, conservation is very important. He noted that drought maps are used. Another participant reported that the original crafters of the master manual wanted to wait longer to see if the basin was in an extended drought period. However, subsequently they discovered that waiting caused reservoir levels to drop. Therefore, one of the results of the Master Manual Review was to call for quicker action, resulting in a quicker initiation of water saving activities during a drought.

#### Report on Missouri River Natural Resources District Cooperative Activity

Marlin Petermann, Papio-Missouri River Natural Resources District, reported that five of the twenty three Nebraska Natural Resources Districts have Missouri River frontage. He distributed a comment letter on the MRAPS process. A copy of the letter is attached and is also available on the Missouri River Activities portion of the NDNR website. Peterman said the NRDs felt it was important that they provide some comment to the Corps on the process and that the letter was prepared and signed by the Papio-Missouri River NRD for and on behalf of those five NRDs, including the Lewis & Clark NRD, Lower Niobrara NRD, Lower Platte South NRD and Nemaha NRD, as well as the Papio-Missouri River NRD.

Petermann reported the letter covered most of the purposes or issues including flood risk reduction, water supply, navigation, water quality, hydropower and ecosystem restorations and Sedimentation and Bank Stabilization. He said they question the MRAPS study in that another costly time consuming study of the Missouri River system, when we had just gone through 15 years and a great deal of money, seemed a little much. He indicated it's another effort that takes not only the NRDs time and money, but everyone else's. He said that this is especially the case in light of what is already happening on the river.

Petermann also noted that although Congress said to study this, they didn't say to change it. He reported they said "let's look at change" and the presumption shouldn't be that Congress is saying it should be changed. He noted that the Papio-Missouri River NRD has a staff member on MRRIC and has also consultants helping to examine the issue.

#### Report on September 22-23 Meeting of Missouri River Association of States and Tribes

Gene Zuerlein, Nebraska Game and Parks Commission, reported on the September 22-23 meeting of the Missouri River Association of States and Tribes (MORAST). He reported that the group was formed a few years ago when the Missouri River Basin Association was at the tail

end of its life. He indicated that previous organization only dealt with the Directors of state water agencies in the basin and that he believed that a conversation was not really being held with the fish and wildlife agencies and the tribes. He felt that MORAST is an effort to bring everyone together to talk about the issues and concerns.

Zuerlein said the September 22 or 23 meeting in Rapid City was primarily about the MRAPS study. He said the Association assembled a white paper that is a consolidated collaborative effort of the water agencies, fish and game agencies and tribes to submit to the Corps. The paper assembles a series of questions on each of the eight authorized purposes as well as provides some introductory material.

Zuerlein reported that MORAST also has a technical committee that helps develop MORAST comments for the Annual Operating Plan and that the organization was currently completing preparation of those comments. He also suggested that those attending may wish to visit the MORAST website to see a series of serial photographs taken in the high water conditions of this last year. Zuerlein said he thought the tribes were coming along in the organization and that they really had a story to be listened to. One participant asked whether Nebraska tribes had water rights. Discussion indicated that water rights were not quantified. There was a discussion of Tribal water rights and a discussion of why irrigation development anticipated under the original Pick Sloan program was not developed. There was also discussion of water supply contracts and potential oil shale related uses for water in the Upper Basin.

#### Participant Input on Issues of Concern

Gaul stated the meeting was not just about educational items for Missouri River stakeholders, but also about gathering input. He indicated that there were a variety of interests at the meeting. He said that if anyone had information to provide to Kirk Nelson or Brian Dunnigan to help them better represent Nebraska in MORAST, this was a time to provide that input.

One participant asked if there was infrastructure for this group to provide feedback to Nebraska representation when MORAST information was being developed. Gaul indicated that did not really occur in most instances, but that there was a portion of the NDNR website that did contain information from these meetings. He also reported that an earlier draft of the MORAST questions and issues related to MRAPS had been provided to the group. He said there is also a MORAST website. However, draft information is generally not being distributed. It was suggested that the representatives might make draft MORAST material available for review earlier in the process in the future.

There was a question about whether all states are represented on MORAST. It was noted that Missouri is not a member, although there is a standing invitation for them to join, and that not all states have two representatives, with Wyoming and Iowa being represented by one vote each.

John Bender, Nebraska Department of Environmental Quality, reported that the U.S. Environmental Protection Agency is becoming more firm in their demand for nutrient criteria for all water. He noted that demand may be in direct opposition to the needs for ecological

restoration. He reported that he sat on a committee which established benchmark criteria. He said the criteria will be hard to achieve and that if the criteria were in place his agency might have to stop the Corps from using dredged material because they would be in violation of the new criteria. There was discussion of how river velocity and other factors affect sediment in the river.

Marlin Petermann indicated that continuing to operate the system to minimize flooding should be a priority. He said his NRD was looking to rehabilitate levees and rectify levees along the river due to the remapping process. He said that the reexamination of levees was being used to examine alternatives to perhaps restore an oxbow or move back a levee. There was a question about how private levees held up in the recent flood. Petermann indicated there had not been failures in their district or to the north but that he didn't know about the Nemaha Basin. Zuerlein indicated that there had been some private levee failures further south in the Nemaha Basin.

The meeting adjourned at 11:20 a.m.