

## “MRRIC” – A lesson on how not to restore a river

By Brad Walker, Rivers Director

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### Introduction

The Missouri River is home to two federally listed endangered species and many more threatened and unlisted plants and animals that make up a rich and incredibly important ecosystem, which provide large, complex, *but calculable* services and benefits to humans. **The restoration of the damage done to the Missouri River by decades-old Corps projects is being manipulated by a committee largely hostile to this Congressionally-required goal.**

Congress designed the Missouri River Recovery Implementation Committee (MRRIC) (affectionately pronounced as “Mr. Rick”) so that the majority of Committee members (from Congress’ list of possible stakeholders) represent special interests invested in working against the Committee’s own goal of replacing habitat lost from Corps projects.

I had high hopes for MRRIC at my first meeting in October 2012. Unfortunately, those hopes have been all but dashed. This article explains why.

Next, those special interest stakeholders co-opted the Charter creation, adding process requirements so as to render its own Committee impotent. These include the impossible requirement of 100% stakeholder consensus as shown by two votes separated by three months, as well as the bloating of Committee size to a paralyzing 29 stakeholders representing 16 mostly anti-environmental interests.

Finally, the Committee has dithered away most of the last two years listing every possible negative impact on humans that this already-authorized and legally required restoration project might have. Not only should this project be *exempt* from this extensive analysis, this assessment has in effect already been done and the Corps is now supposed to be mitigating the damage to the river. **Instead, river restoration is condemned to paralysis-by-analysis and death-by-committee.**



Figure 1: Wing Dikes constructed along the Missouri River during the BSNP

**MRRIC cannot be fixed.** From its conception, it was destined to work against its stated goals. It has evolved over the years towards inaction, unending analysis, and opposition to its own purpose for being. That’s why we support disbanding MRRIC as it currently exists.

I was appointed to the

[“MRRIC”](#) in September 2012. MRRIC is a federally mandated committee established by Congress in 2007 to “provide guidance” to the Assistant Secretary of the Army and others including federal agencies, state agencies, or Native American tribes regarding the Missouri River Recovery Program ([MRRP](#)), mitigation plan and study. The MRRP is the environmental restoration program to repair the immense damage caused by the [Missouri River Bank Stabilization and Navigation project](#) built between the 1950’s and 1980’s.

I actively pursued this appointment in part because of my work on the Upper Mississippi River (UMR). While working exclusively on UMR issues in 2008 I was assisting the Nicollet Island Coalition in trying to get appointed to a similar group – the Upper Mississippi River Advisory Panel – that had also been established in 2007 by Congress within the Navigation and Ecosystem Sustainability Program ([NESP](#)). The Advisory Panel was to “provide independent guidance” to the Assistant Secretary of the Army regarding ecosystem restoration projects on the UMR. To date the Advisory Panel has not been formed because no construction funding has been authorized for NESP. In 2008 we believed that the Advisory Panel would provide a unique opportunity to provide direct input into the long-term restoration of the UMR. However, during that period, the U.S. Army Corps of Engineers (Corps) was trying to reformulate the Advisory Panel from a local-level stakeholder group to a much higher executive-level group, which we strongly opposed.

I had high hopes for MRRIC at my first meeting in Omaha, NE, in October 2012. Unfortunately, those hopes have been all but dashed to the point that I decided to not reapply after my 3-year term ended in August 2015. In fact, if the Corps ever receives funding for the Upper Mississippi River Advisory Panel, I would favor the executive-level group they were trying to establish over local-level stakeholder group. This article will explain my complete change in perspective, as well as offer what I believe is a much better alternative panel or committee for restoring our highly degraded rivers.

## **Background**

When I began my tenure on this committee, I believed that stakeholder participation in restoring our rivers was essential. The issues are complex, contentious and costly to resolve. Input from all perspectives is essential. The Missouri and Upper Mississippi Rivers groups described above anticipated participation from most potentially affected stakeholders. In fact, MRRIC has continued to expand participation beyond Congress’s authorization to the point that there are currently [29 voting stakeholder positions](#) from 16 categories. All of the stakeholders are earnest and dedicated to the group they represent. Unfortunately, from my perspective, less than a dozen stakeholders actually care about fixing the river and consistently fight for it at every meeting.

Before my first MRRIC meeting, I naively imagined all of these people in the same room collaborating away for the betterment of the river – but I soon realized that reality is quite different. With about half of the stakeholder group's interests directly conflicting with the restoration of the river and the recovery of the two named endangered species, it was very unlikely that they would support any significant improvement of the river environment that might negatively impact their [special interests](#). It's no surprise that little if anything that would truly improve the river is formally recommended. A major contributing factor for this meager result is the MRRIC Charter.

A small portion of stakeholders created the MRRIC Charter before MRRIC convened as a group to perform its congressionally appointed task. The 13-page document is concisely drafted but has some process requirements that are extremely onerous.

Per the MRRIC Charter a 100% consensus is required for all substantive issues and before a recommendation is finalized two consensus votes during consecutive meetings must be obtained. While I was a stakeholder I advised MRRIC that the 100% consensus system is flawed for multiple reasons:

- The process should never over-shadow or undermine the goals of MRRIC – it appears to be doing this.
- All stakeholders are not equal in their desires for river recovery.
- In order for a 100% consensus process to work all stakeholders must have some equivalent risk – some stakeholders believe they have nothing to lose if MRRIC/MRRP fails.
- With a 100% consensus requirement, few if any difficult issues can be properly addressed.
- The current process essentially equates to the tyranny of the one or veto power.
- It does not appear to comply with SEC. 5018, b, 4, which allows for dissenting opinions.

I searched for consensus requirements for similar/equivalent groups and found none that were held to a 100% consensus. In what venue is it reasonable to expect a group of 29 stakeholders with diametrically opposed goals to totally agree on a highly contentious issue? The result is that no truly substantive issues are voted on. During my three years I cannot name one consensus vote that resulted in a significant recommendation that truly moved the MRRP forward.

### **MRRIC Process**

MRRIC deals with highly contentious issues relating to the past, current and future management of the Missouri River and the complexity of the process is far above what is required. As mentioned above, 100% consensus over two consecutive meetings is required for all substantive decisions – typically in the form of a recommendation. There are also several specific topic work groups and two independent advisory panels (one for science issues and the other for economic and social issues). Each quarterly plenary meeting lasts 2-1/2 days with an extra day ahead of the plenary meeting for the science work group–related meeting. The documents (over 600 received during my three years) and emails (over 1,000 received during my three years) generated are overwhelming since the vast majority of the stakeholders have other responsibilities beyond MRRIC. To adequately provide feedback would require nearly a full-time commitment to MRRIC.

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Beginning in January 2013, MRRIC has been devoting extensive time to discussing and evaluating the possible impacts of potential MRRP actions. These actions could include changes to the current management of the river hydrology or other projects, including land acquisition that could restore the river habitats and species. An Ad Hoc Human Considerations Work Group has been amassing a huge volume of information relating to every possible (and imagined) impact of future proposed actions the MRRP might have upon each specific stakeholder's interests. The time spent on this endeavor has been crushing. There have been work group calls, numerous webinars, and hundreds of emails, most of which have document attachments for review. Increasingly, this work group's activities have occupied the majority of

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the plenary meeting's time. Although this process has resulted in large amounts of information that has been utilized in models developed for MRRP, I believe the work group has largely been a waste of time and resources. What has been developed could have been completed through other means and

venues and very likely at a much reduced cost.

A process as complex as MRRIC requires a lot of people, and there is no shortage of them attending the quarterly meetings. To give you an idea of the extent of MRRIC, during the May 2015 MRRIC meeting in Sioux Falls, SD, 117 people physically attended all or portions of the meeting. Attendees included:

1. Independent Chairperson
2. Stakeholders and Alternates (28 attendees)
3. Tribal Members ( 7 attendees)
4. USACE (Corps) (25 attendees)
5. US Fish and Wildlife Service (USFWS) (3 attendees)
6. Other federal agencies (US Geological Survey/Natural Resources Conservation Service/National Park Service/Bureau of Reclamation/Western Area Power Administration/US Forest Service (6 attendees)
7. State agencies from 8 states (12 attendees)
8. Facilitation Support (7 attendees)
9. Science/Technical Support (17 attendees)
10. Others (11)



Figure 2: MRRIC 2015 Annual Meeting Photo Source: USACE

## What's wrong with MRRIC

### Congress's Errors

Unfortunately, in my opinion, there are many things wrong with MRRIC, which I will itemize here. I believe it begins with the original legislation that authorized MRRIC. Although MRRIC was established to “promote the goals of the [Missouri River recovery and mitigation plan](#)” it is not set up to perform that function very well.

The authorization includes the following list of stakeholders that may be included in the Committee in Section. 5018:

nongovernmental stakeholders, which may include—

- (I) navigation interests;
- (II) irrigation interests;
- (III) flood control interests;
- (IV) fish, wildlife, and conservation organizations;
- (V) recreation interests; and
- (VI) power supply interests.

Although this looks like a reasonable list of stakeholders, it depends entirely upon one's vested interests and their alignment with the goal of the Committee. As discussed earlier in this article, the goal of the Committee is to provide guidance regarding the MRRP and promote its [goals](#):

(T)o replace lost habitat and avoid a finding of jeopardy to threatened and endangered species (pallid sturgeon, least tern and piping plover) resulting from U.S. Army Corps of Engineers (Corps) projects on the Missouri River

With the majority of the stakeholders listed representing special interests (and not the public interest) that would be better served if the river and reservoirs remain as they are, it should have been obvious that the Committee's guidance was not going to emphasize actually restoring the river. There is a comparative example of a congressionally authorized and funded group that could be used as a model, with a small modification. It is the [Inland Waterways Users Board \(IWUB\)](#). Per the Corps:

The (IWUB) is an advisory board established to monitor the Inland Waterways Trust Fund (Fund) and to make recommendations to the Army and to Congress on investment priorities using resources from the Fund.

The IWUB is focused upon the [Inland Waterway System](#) and is made up entirely of navigation interests; there are no environmentalists, conservationists or any other interests represented – not even in an advisory role to the IWUB. This apparently functions pretty well for the navigation interests. It's pretty easy to see the double-standard when it comes to setting up a group that is supposed to restore/recover the environment. The irony is that the restoration/recovery efforts are almost exclusively the result of promoting poor economic policies to benefit special interests like navigation.

### MRRIC Stakeholder's Complicity

Next, the Charter creation was co-opted by stakeholders that represent special interests who had a vested interest in the “Missouri Barge Canal” and the reservoir operations remaining as they are. Several key Charter requirements, mentioned in the MRRIC Process section above, have severely impacted the Committee's ability to provide useful guidance to the agencies in an efficient manner.

Requiring 100% consensus has rendered the Committee impotent.

Requiring that all substantive decisions must have 100% stakeholder consensus is the first error and it was likely done purposely to render the Committee impotent. Adding the requirement for the full consensus twice only served to add insult to injury with an unnecessary 3 month delay for finalizing these decisions.

As if the congressional suggestion of as few as six total stakeholders from six categories (See the listing above) wasn't onerous enough, the Committee has increased it to 29 stakeholders from 16 categories. Ironically, the only stakeholder group not directly represented is from the taxpayer interests who have foot the bill for the destructive Bank Stabilization and Navigation Project and now must pay for the MRRP intended to fix a portion of that destruction. The environmental interests are unsurprisingly underrepresented but with the full consensus requirement that really matters little since any member can veto a recommendation. Those stakeholders who benefit from a status quo river management condition are overrepresented. Even worse, at least a couple stakeholders are represented by attorneys, which is convenient if those attorneys also represent parties to the 2013 [lawsuit filed by floodplain farmers](#) alleging that they have been harmed by the Corps operation of the reservoirs because of changes initiated by the MRRP.

The one recommendation letter that a committee such as MRRIC should have easily been able to draft and process is one asking Congress to maintain adequate funding for MRRP – remember it's the reason the committee exists. Yet in this Committee that would be impossible because it would only take one member to stop it, and there are members who have apparently successfully lobbied their congressional representatives to dramatically cut funding for MRRP, funding that was primarily for the acquiring of land from willing sellers for restoration efforts in floodplain areas.

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On occasion during the last few meetings I attended, I got the distinct impression that some Committee members acted as if the Corps and USFWS were participating to serve the committee, not the other way around. Granted, MRRIC was to be a two-way communication process, but the demands and at times the lack of respect for some agencies' personnel was disgusting and counter-productive. However, this could have also been simply another way to disrupt the meetings, which succeeded quite well several times.

### **The “Human Considerations” Distraction**

In late 2012 the Corps decided it needed to draft an Environmental Impact Statement (EIS) that “will develop a range of alternatives for the purposes of Missouri River recovery and mitigation.” (Remember the term “mitigation” included here.) The Corps notified the public in January 2013 and supplemented this notice in August 2013. This effort may be more about trying to minimize possible additional litigation from special interest stakeholders if changes to the Missouri River “[Master Manual](#)” are required. The Master Manual is the document that the Corps uses to “manage” the Missouri River.

The EIS is specifically intended to:

(A)ssess the cumulative effects and alternatives to accomplish the purposes of the ESA, the 1958 Fish and Wildlife Coordination Act (Pub. L. 85–624), section

601(a) of the Water Resources Development Act (WRDA) of 1986, and section 334(a) and (b) of the WRDA of 1999, and Section 3176 of the WRDA 2007.

There were no environmental laws requiring an EIS before the Missouri River BSNP was started in the 1950's and the Corps ignored the environmental protection requirements in the 1958 Fish and Wildlife Coordination Act regarding mitigating the negative impacts of the BSNP as it was being constructed. The 1958 Fish and Wildlife Coordination Act (FWCA) included this ground-breaking language in its opening paragraph:

For the purpose of recognizing the vital contribution of our wildlife resources to the Nation, the increasing public interest and significance thereof due to expansion of our national economy and other factors, and to provide that wildlife conservation shall receive equal consideration and be coordinated with other features of water-resource development programs through the effectual and harmonious planning, development, maintenance, and coordination of wildlife conservation and rehabilitation for the purposes of this Act in the United States, its Territories and possessions, the Secretary of the Interior is authorized (1) to provide assistance to, and cooperate with, Federal, State, and public or private agencies and organizations in the development, protection, rearing, and stocking of all species of wildlife, resources thereof, and their habitat, in controlling losses of the same from disease or other causes ... (Emphasis added)

The FWCA required the Corps to conserve and rehabilitate wildlife, which included protecting habitat, while planning and constructing their water resources projects. Regrettably, there was no consideration by the Corps for mitigating the extensive habitat damage caused by the BSNP during its construction. Fortunately, the BSNP did fall into a category of after-the-fact projects for which mitigation could be authorized, and the 1986 and 1999 WRDAs, listed in the quote above, provide that [mitigation authorization of nearly 167,000 acres of river and floodplain habitat](#) – though this is only a third of the area of habitat destroyed.



Figure 3: Sand and gravel dredging operation in the Missouri River

At the January 2013 MRRIC meeting the Human Considerations Ad Hoc Group was formed and eventually included pretty much every member of MRRIC to varying degrees of involvement. The purpose of the group was to provide “meaningful input regarding the

impact possible management actions may have on human uses of the river.” What resulted over the next couple of years or so was a free-for-all of listing every possible impact that people and corporations might imagine occurring if the Corps makes any changes to the operation of the Missouri River. The Corps is obligated to consider these types of impacts and have been doing it for years in other projects.

The disturbing thing about establishing a special effort through MRRIC to compile and analyze these impacts for the MRRP is that MRRP is a restoration/recovery project that already has an authorization to do the things that are listed in the January 2013 Notice. These types of projects have always been exempt from detailed economic analysis regarding national and regional economic development because they are almost always the result of a previous Corps-designed and constructed economic development project. The restoration projects mentioned in the January 2013 Notice are the “mitigation” requirement for the extensive damages caused to the public environment by altering the Missouri River for the benefit of a small number of economic winners, who also happen to represent the majority of the “human uses” that MRRIC has been obsessing over.

By establishing the complex Human Considerations Ad Hoc Group and the process it followed, a precedent may have been created to allow those stakeholders who represent the special interests that were instrumental in pressuring the Corps and Congress to build the BSNP in the first place an opportunity to circumvent or undermine the restoration/recovery process.

Concurrently during this process the voices of those representing the public were diminished and in part even ignored. The benefits that the restoration/recovery efforts would provide, calculated by restoring the ecosystem

Are we establishing a dangerous precedent?

services lost when the healthy river and its floodplain were so heavily altered, are not being considered in any significant way. To put it plainly, the possible negative impacts to those benefiting from the current unsustainable river are being overemphasized while the benefits to the public from fixing the river and its floodplain are essentially being ignored.

This attitude of focusing solely upon the potential threat to any economic beneficiary of the BSNP seems to have been carried through into the expert advisory panel set up to review the Corps Human Considerations work products. At least one of the experts seemed enthralled with the minutia of the modeling (which granted, is impressive in its complexity), while the entire panel is totally ignoring that the taxpayers are drowning in the costs of the market failures, inefficiencies and externalities of the system (Missouri Reservoirs/Barge Canal and disconnected floodplains) being modeled.

At times I felt the Human Considerations process was something devised to provide the Corps cover for selecting inadequate actions, while concurrently shifting responsibility to MRRIC for the elimination of viable actions. It is too early to determine this and I hope that viable alternatives/actions are not eliminated.

Some other specific concerns I have with the Human Considerations process include:

1. There is obviously some useful information that was gathered during the process, though there is a significant amount of exaggerated or erroneous information/assertions that were provided by some stakeholders.
2. There was no opportunity to challenge stakeholder interest's assertions of possible impacts. Some of the assertions could have been easily challenged.
3. Positive effects of actions within the developed proxies/models are severely limited, if not all together ignored, in our opinion. One area of impact that was ignored was our assertion that every acre of disconnected and conventionally farmed floodplain land that is returned to a natural connected floodplain condition would provide significant value to the public in ecosystem services (likely much greater than the value the public currently receives from that land).

**Can MRRIC be fixed or should MRRIC be disbanded?**



At this point in time I do not believe that the existing incarnation of MRRIC can be fixed. In my opinion, the following very controversial changes would need to be made:

1. Re-write the Charter to remove 100% consensus and substitute a majority (or super-majority) vote level requirement.
2. Remove the two meeting consensus requirement.
3. Voting Members should be selected primarily from the environmental/conservation and tribal interests because MRRP is an environmental restoration/species recovery project.
4. Other interests (those special interests that have benefited from the destructive alteration of the Missouri River) should be relegated to an advisory role, which is a reasonable concession. As mentioned above, there is precedence for this in the Inland Waterways Users Board that advises the USACE on barge navigation projects and has only barge interests. No environmental/conservation interests are on the Board or are even allowed to provide input.

Disbanding MRRIC is the most efficient way forward, which could be accomplished through a deauthorization by Congress or possibly by the Corps through a process alteration. The morphing of MRRIC into an Adaptive Management guidance group (which seems to be the direction the Corps is moving) might also result in a quasi-disbanding of MRRIC.

### Closing Comments

More than a year ago I was told that some in the Corps referred to MRRIC as the MR Recovery “Impediment” Committee. After three years of participation in MRRIC I have to agree.

I understand the stated reasons that the Corps is developing the EIS; but extensively studying the impacts of management alternatives upon the beneficiaries of a wholly artificial environment that only exists because of the BSNP (and extensive taxpayer subsidies) seems both contrived, counter-productive and even bizarre to me.

We are spending millions of taxpayers’ dollars each year in this highly questionable process while tying up and diverting the attention of Corps and USFWS staff. This represents money and resources that could be better utilized in actually restoring/recovering the river habitats and the species that depend upon those habitats – including us.

To add insult to injury, due to influence by Missouri River special interest groups, which have stakeholder seats on MRRIC, the mitigation funding for MRRP used to acquire floodplain land for restoration has recently been cut completely.

Major actions, ones that will undoubtedly impact some stakeholders, are needed to restore the health of the Missouri River and restore endangered and threatened species.

How reckless and apathetic we were in destroying our rivers, but how utterly timid we are now in our efforts to fix them!

Recommendations and guidance (defined as providing advice or counseling) for the best and broadest range of possible actions will only come from those who are truly interested in significantly improving the health of the river and are not constrained by special interest influences. Recommendations are not decisions. The Corps is the entity who will make the final decision

regarding the MRRP while having to follow the prescribed laws. MRRIC as it currently exists will never provide meaningful recommendations for the level of change required.

Finally, I find it amazing how reckless and apathetic we were in destroying our rivers, but how utterly timid we are now in our efforts to fix them!

<http://moenvironment.org/blog/347-mrric-a-lesson-on-how-not-to-restore-a-river>