MANAGING THE MIGHTY MO: ADMINISTRATIVE HISTORY OF THE MISSOURI NATIONAL RECREATIONAL RIVER NEBRASKA AND SOUTH DAKOTA



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MISSOURI NATIONAL RECREATIONAL RIVER
Administrative History

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List of Abbreviations

AD	anno Domini
AK	Alaska
AOP	Annual Operating Plan
ATF	after-the-fact
BIA	Bureau of Indian Affairs
BLM	Bureau of Land Management
BOR	Bureau of Outdoor Recreation
BPF	Better Ponca Foundation
c.	circa
CA	California
CBO	Congressional Budget Office
CEIS	Cumulative Environmental Impact Statement
CEQ	Council of Environmental Quality
cfs	cubic feet per second
CO	Colorado
COE	Corps of Engineers (now USACE)
Cong.	Congress
D	Democrat
D.C.	District of Columbia
DOI	Department of the Interior
DSC	Denver Service Center
EA	Environmental Assessment
Ed(s).	Editor(s)
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
ESA	Endangered Species Act
ESH	Emergent Sandbar Habitat
ESRI	Environmental Systems Research Institute, Inc.
FERC	Federal Energy Regulatory Commission
FHWA	Federal Highway Administration
FLPMA	Federal Land Policy and Management Act
FMP	Fire Management Plan
FONSI	Finding of No Significant Impact
FRC	Federal Records Center
FWS	Fish and Wildlife Service
FY	Fiscal Year
GA	Georgia
GAO	General Accounting Office
GDM	General Design Memorandum
GIS	Geographic Information System
GMP	General Management Plan
GPS	Geographic Positioning System
GSA	General Services Administration
HCRS	Heritage Conservation and Recreation Service

HEPA	Habitat Erosion Protection Analysis
HFC	Harpers Ferry Center
HQ	Headquarters
H.R.	House of Representatives
ID	Idaho
Inc.	Incorporated
ISTEA	Intermodal Surface Transportation Enhancement Act
KS	Kansas
LLC	Limited Liability Company
LRIP	Long Range Interpretive Plan
LWCF	Land and Water Conservation Fund
MA	Master of Arts, Massachusetts
MBIAC	Missouri Basin Inter-Agency Committee
MI	Michigan
MN	Minnesota
MOA	Memorandum of Agreement
MRF	Missouri River Futures
MRI	Missouri River Institute
MRBIR	Missouri River Basin Interagency Roundtable
MRBSA	Missouri River Bank Stabilization Association
MRERP	Missouri River Ecosystem Recovery Plan
MRRIC	Missouri River Recovery Implementation Committee
MS	manuscript
MWAC	Midwest Archeological Center
MWRO	Midwest Regional Office
NBC	National Broadcasting Company
NC	North Carolina
n.d.	no date
NDOR	Nebraska Department of Roads
NE	Nebraska
NEPA	National Environmental Policy Act
NGPC	Nebraska Game and Parks Commission
NHL	National Historic Landmark
NIMI	Niobrara-Missouri National Scenic Riverways
No.	Number
NPS	National Park Service
NRC	Natural Resources Commission
NRCS	Natural Resources Conservation Service
NRD(s)	Natural Resources District(s)
NRHP	National Register of Historic Places
NRR	National Recreational River
NSR	National Scenic River
NWSR	National Wild and Scenic River
NY	New York
O&M	Operation and Maintenance
OCE	Office of the Chief of Engineers

OFS	Operations Formulation System
OHW	Ordinary High Water
OMB	Office of Management and Budget
ONPS	Operation of the National Park Service
OPM	Office of Personnel Management
ORV	Outstandingly Remarkable Values
p.	page
PA	Pennsylvania
PEIS	Programmatic Environmental Impact Statement
P.L.	Public Law
R	Republican
REC	Resource Education Center
REDM	Real Estate Design Memorandum
Rep.	Representative
RM	river mile
ROD	Record of Decision
S.	Senate
SC	South Carolina
SD	South Dakota
SDDOT	South Dakota Department of Transportation
SDGFP	South Dakota Game, Fish, and Parks
SDPWF	South Dakota Parks and Wildlife Foundation
Sen.	Senator
sess.	session
SHPO(s)	State Historic Preservation Officer(s)
STNA	Save the Niobrara Association
Temp.	Temporary
THPO(s)	Tribal Historic Preservation Office(s)
TVA	Tennessee Valley Authority
U.S.	United States
USACE	United States Army Corps of Engineers
USFS	United States Forest Service
USGS	United States Geological Survey
v.	versus
VERA/VSIP	Voluntary Early Retirement Authority / Voluntary Separation Incentive Payment
Vol.	Volume
W&SRS	Wild and Scenic Rivers System
WA	Washington
WASO	Washington D.C. Office
WRC	Water Resources Council
WRDA	Water Resources Development Act
WSR	Wild and Scenic Rivers
WSRA	Wild and Scenic Rivers Act

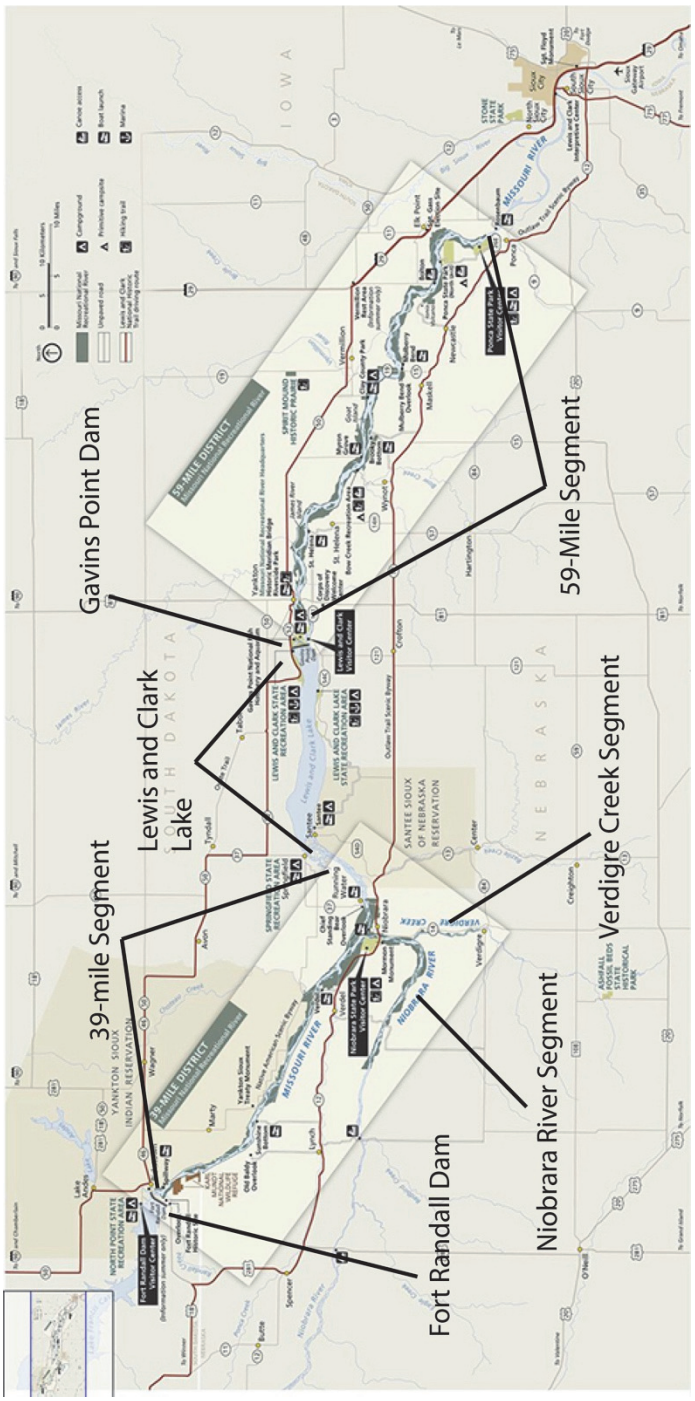


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1

Introduction

The topic of this Administrative History is the Missouri National Recreational River, a set of four distinct river segments in Nebraska and South Dakota that are managed as a single unit by the National Park Service (NPS). These segments are a 59-mile stretch of the Missouri River that extends from below Gavins Point Dam to Ponca State Park; a 39-mile stretch of the Missouri River that extends from below Fort Randall Dam to the headwaters of Lewis and Clark Lake (the impoundment formed by Gavins Point Dam), the portion of the Niobrara River that extends twenty miles upstream from its confluence with the Missouri River, and eight miles of Verdigre Creek extending upriver from its confluence with the Niobrara River. These four discrete sections of free-flowing rivers/streams were designated as parts of the National Wild and Scenic Rivers (NWSR) system in two different acts of Congress, in 1978 and 1991.

The principal issue that led to initial designation of the Missouri NRR was the desire to protect the banks of the river from a process of erosion that was intensified by Gavins Point Dam near the South Dakota Running Water boat access, which the U.S. Army Corps of Engineers (USACE) constructed between 1952 and 1957. Those who advocated for measures to protect the adjoining farm lands from this erosion had several options for pursuing this goal, which were reflected in the legislative process through the 1970s. The 59-mile segment of the Missouri River downstream of Gavins Point Dam was designated a National Recreational River, a component of the National Wild and Scenic River (NWSR) System, by the National Parks and Recreation Act of 1978 (Public Law [P.L.] 95-625), signed on November 10 by President Jimmy Carter. The other three components of the Missouri NRR—the 39 mile stretch between Fort Randall Dam and the headwaters of Lewis and Clark Lake and the lower portions of the Niobrara River and Verdigre Creek—were designated as components of the NWSR System in the Niobrara Scenic River Designation Act of 1991 (P.L. 102-50).

The specific history of these two pieces of legislation originates in the mid-1970s and is discussed in Chapters 2 and 3. However, legislation that impacted the Missouri River generally, and this portion of the Missouri River in particular, has its own historical backdrop. Broader national movements, local concerns, and studies by federal agencies all influenced the decisions to pursue particular options that resulted in adopting the National Wild and Scenic Rivers Act. That, in turn, drew upon river improvement activities conducted by the United States Army Corps of Engineers in the nineteenth century. Subsequently, the broader impulse that gave rise to the Wild and Scenic Rivers Act of 1968, under which the Missouri NRR was designated, influenced decisions that led to its designation. A discussion of this background, which predated the actual legislative process, will help to explain the choices that were made and the resulting legislative solution.

The history of the Missouri River, including various plans to improve it for navigation and flood control that culminated in the massive Pick-Sloan Plan of 1944, is outlined in Chapter 1. Two initial points are important in this introduction, however.

First, it had become an accepted fact throughout the early twentieth century that issues or problems with the Missouri, as with other major rivers, were handled by the federal government, either USACE or the Bureau of Reclamation. Second, enormous changes to the Missouri River, including many large, multi-purpose dams, took place before the era of the environmental movement. The Wild and Scenic Rivers (WSR) Act of 1968 was one component of a growing environmental movement that emerged from the 1950s.

During much of the early twentieth century, when both private interests and federal agencies erected scores of dams throughout the nation, there were few, if any, environmental regulations. Beginning in the late 1950s and accelerating throughout the 1960s, however, environmental concerns came to play an increasing role in public perception of federal projects. While the earlier conservation movement at the turn of the twentieth century frequently found common ground with development of both forestry and hydroelectric power, opposition to such public projects grew on environmental grounds in the post-war years. In the boom years after World War II, Americans increasingly had the time and resources for outdoor recreation, with public parks and wilderness areas made more available by means of better roads and new interstate highways. With recreation as the initial salvo in the environmental movement, Congress created the Outdoor Recreation Resources Review Commission in 1958, which became the Bureau of Outdoor Recreation (BOR) in 1962, a bureau of the Department of the Interior (DOI). In 1977, it was absorbed into the Heritage Conservation and Recreation Service (HCRS), and then, in 1981, HCRS itself was abolished and its programs merged into the National Park Service.

The environmental movement soon moved beyond recreation and the interest in wilderness areas to an overriding concern with pollution. The focus on pollution brought environmental concerns to a broad segment of the public who might never go to a unit of the National Park System but who could see the evidence of environmental degradation in their own neighborhoods. Concern for the environment gained a great deal of political traction in the 1960s from politicians and their advisors, who began to emphasize qualitative issues of development as much as quantitative, and from mass involvement and concern of citizens. Congress and the presidential administrations of the late 1960s and the 1970s clearly took the lead and placed an increasing number of restrictions on federal development. Such restrictions included the National Historic Preservation Act of 1966, the National Environmental Policy Act of 1970, the Clean Air Act of 1970, and the Clean Water Act of 1972.[1]

Two related results from the growth of this environmental movement are pertinent to the development of the Missouri NRR. First, restrictions placed on federal agencies and departments such as USACE and the Bureau of Reclamation increased from the late 1960s and into the 1970s, leading them to pay greater attention to the environment and to the needs of those who were impacted by the agencies' actions. Second, new environmental laws, combined with the political clout that environmental issues and

[1] Adam Rome, "'Give Earth a Chance': The Environmental Movement and the Sixties," *Journal of American History* 90 (September 2003), 525-554; Samuel P Hays, "The Environmental Movement," *Journal of Forest History* 25 (October 1981), 219-221.

organizations enjoyed, gave citizens a new range of tools with which to influence federal policy.

The Wild and Scenic Rivers Act

At the heart of the environmental movement's concern for the wilderness was a quest for authenticity. As Americans traveled more widely in the years after World War II, what many sought was a connection to unadulterated nature. By the late 1960s and early 1970s, this quest was carried even further to the "back-to-nature movement," a counter-cultural critique of, and protest against, the perceived artificiality of modern, capitalist society. Earlier in the 1960s, however, environmental reformers took a more institutionalized approach, hoping to use the power of legislation to ensure that all Americans had access to wilderness in its most natural state. In 1964, Congress passed the Wilderness Act (P.L. 88–577). This act, written primarily by the executive director of The Wilderness Society, defined wilderness, in part, as "an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain. . . an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions." The Wilderness Act also established the National Wilderness Preservation System and set aside over nine million acres of federal land throughout the United States as wilderness that would be managed by NPS, the U.S. Forest Service, the U.S. Fish and Wildlife Service (FWS), and the Bureau of Land Management (BLM). By 2015, the National Wilderness Preservation System encompassed more than 100 million acres. In 1968, meanwhile, Congress passed the National Trails System Act (P. L. 90-543) which authorized three types of national trails and created two initial trails: the Appalachian and the Pacific Crest National Scenic Trails. The purpose of both of these Acts in the mid-1960s was to encourage Americans to experience the nation's untouched, natural areas.

A third important, wilderness-related legislation also passed in 1968: the Wild and Scenic Rivers Act (P.L. 90-542). As the environmental movement emerged late in the 1950s and the notion of preserving wilderness came to the fore, forests were the initial target. These became the focus of the Wilderness Act of 1964. Following the heyday of dam-building under the New Deal, opposition to proposed dams, primarily in the West, had been growing gradually during the 1950s. The Secretary of the Interior under President John F. Kennedy, Stewart Udall, noted in his book *The Quiet Crisis* (1963) that "the wilderness bill was the landmark legislation. As it came closer to law, my thinking began to turn more toward rivers legislation that would complement and be another kind of wilderness bill, and we started studies at Interior."[2] Udall worked with the Outdoor Recreation Resources Review Commission and coordinated with Secretary of Agriculture Orville Freeman and representatives from several states to establish a wild and scenic rivers study team in 1963. This study group prepared an initial list of some 650 rivers that possibly could be included in a national system of untouched rivers, and identified

[2] Udall, quoted in Tim Palmer, *Wild and Scenic Rivers of America* (Island Press, 1993), 19.

seventeen of those rivers for possible protection. At the same time, proponents of particular rivers were generating support, using the momentum created by wilderness advocates, to create protection for some of the wild waterways, including the St. Croix River in Wisconsin and the Jacks Fork and Current Rivers in the Ozark Mountains of Missouri. In 1964, shortly before the Wilderness Act was passed, Congress designated the Ozark National Scenic Riverways as the first unit of the National Park System to feature river protection as a key component of its enabling legislation.[3]

Pressure from President Lyndon B. Johnson and from environmental and wilderness adherents created additional momentum for protection of wild and scenic rivers. A 1964 Wild Rivers Scenic Rivers bill faded quickly, but President Johnson included a plug for a rivers bill in his State of the Union address in 1965. Sixteen wild and scenic rivers bills were introduced in Congress over the next several years. As these were being considered at the federal level, states were taking their own actions: the Maine State Legislature designated the Allagash River as a wilderness waterway, Wisconsin began acquiring land along the Wolf River, and New York and Connecticut called for studies of the Hudson and Connecticut Rivers, respectively.[4]

Among several bills that Congress considered in the mid-1960s was one introduced by Sen. Frank Church (D-ID). Church's 1965 bill, which ultimately became the Wild and Scenic Rivers Act, broke from earlier reliance on a few true wilderness rivers, largely in the West, and included recognition of various types of designations, including wild, scenic, environmental, pastoral, and historic/cultural.[5] As Church's bill was refined through 1966 and 1967, the range of designations in conference committees was reduced to three: wild, scenic, and recreational. Hearings on the bill were widely attended by environmentalists who saw the nation's rivers as the next frontier for environmental protection. According to Stanford Young, from the Interior Department, "Mostly the motivation was against dams. The problems of riparian development were not yet perceived because they weren't dramatic."[6] Written only two years after its passage, a legislative history of the National Wild and Scenic Rivers Act observed that, while outdoor recreation opportunities were the initial goal for the legislation, ecological considerations arising from large dams on otherwise pristine rivers were the principal impetus. Church's bill, the authors noted, "was primarily a no-dams concept, and conservation organizations quietly criticized it for giving little or no attention to intrusions other than dams that could disturb a natural river environment."[7]

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[3] Palmer, *Wild and Scenic Rivers*, 20-21; Scott Goodell, "Waterway Preservation: The Wild and Scenic Rivers Act of 1968," *Boston College Environmental Affairs Law Review*, Vol. 7, no. 1, September 1, 1978 (online version: lawdigitalcommons.bc.edu/ealr/vol7/iss1/4), 45.
[4] Ibid., 23.
[5] Daniel D. Spegel, *Missouri National Recreational River: A New Approach to Federal River Management* (MA Thesis, University of Nebraska at Omaha, 2008), 38-39.
[6] Young, quoted in Palmer, *Wild and Scenic Rivers*, 23.
[7]Turlock and Roger Tippy, "Wild and Scenic Rivers Act of 1968," 55 Cornell Law Review 707 (1970), available on line at http://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=3816&context=clr, 708, 710.

While the threat to proposed dams from the rivers bill drew adherents, it also created very strong opposition from the Tennessee Valley Authority (TVA), USACE, and private and municipal utilities with dam projects in the works. Not only were there concerns that protecting rivers would stifle economic development by hindering hydroelectric project development, but many were also concerned that land along these rivers might be condemned and seized by the federal government as a result.

Congressional leaders, including Sen. Church and Rep. Wayne Aspinall (D-CO), maintained the bill's momentum while Secretary of the Interior Udall negotiated with supporters of dams who opposed the bill. As Udall said later, "We had the momentum, and the dam people who didn't like it just weren't in a frame of mind to fight it. I had been pretty good to them, giving them some of the things they wanted, including dams. So I looked them in the eye and said, 'We're going to balance things off.'"[8] In the weeks leading up to the 1968 elections, Rep. Aspinall agreed to a vote in the House, which passed the bill 265-7. The Senate followed suit, and President Johnson signed the Wild and Scenic Rivers Act into law on October 2, 1968.

Echoing Secretary Udall, Eric Hiser noted that, in passing the Wild and Scenic Rivers (WSR) Act, Congress sought to redress the balance between development and the preservation of the nation's free-flowing rivers. This balance had tilted strongly toward development for several decades. With the Wild and Scenic Rivers Act, Congress apportioned a greater degree of management authority over rivers to the Departments of Interior and Agriculture, both traditionally oriented more toward preservation than the long-standing guardians of the nation's rivers: USACE, the Bureau of Reclamation, and the Federal Power Commission (replaced by the Federal Energy Regulatory Commission [FERC] in 1977).[9] The principal means by which Congress achieved this rebalancing was Section 7 of the Wild and Scenic Rivers Act.

Under Section 7 of the Wild and Scenic River Act, the Federal Power Commission (now FERC) is prohibited from licensing construction of dams or other water development projects "on or directly affecting any river" which is identified in the Act as a component of the National Wild and Scenic Rivers system. This proscription extends also to all other departments and agencies who are charged with development of water resources "that would have a direct and adverse effect on the values for which such river was established." Developments such as dams and water projects are allowed on other sections of the river. As Goodell notes "water projects are capable of coexisting with the goals of the Act as long as they do not adversely affect protected rivers or river segments."[10] The WSR Act charged the secretary of the department which administers the particular section of the river designated under the Act, either Interior or Agriculture, with making the determination whether the proposed project could cause any adverse effects. Additionally, according to Section 10 of the WSR, the components of the National Wild and Scenic Rivers System that the Secretary of the Interior administers

[8] Udall, quoted in ibid., 25.
[9] Eric L. Hiser, "Piloting the Preservation/Development Balance on the Wild and Scenic River," *Duke Law Journal, vol. 1988, No. 5 (November 1988),* 1049-1050; Goodell, "Waterway Preservation," 45.
[10] Goodell, "Waterway Preservation," 52.

through NPS are parts of the National Park System, while those components that are administered through the National Wildlife Service are parts of the National Wildlife Refuge System. This Section (10(c)) also gives the Secretary of the Interior discretion in using "general statutory authorities relating to areas of the national park system and such general statutory authorities otherwise available to him for recreation and preservation purposes and for the conservation and management of natural resources as he deems appropriate to carry out the purposes" of the WSR Act.

The classification of any particular river segment as wild, scenic, or recreational determines the degree of protections that are available for its management, the intensity of shoreline development and water uses that are allowed, and the types of recreational activities that are permitted. Clearly, sections of rivers designated as Wild Rivers are subject to the most rigorous restrictions, while Recreational Rivers enjoy greater leeway for recreational activities and shoreline development. The effectiveness of protection that is afforded to any river segment designated under the Wild and Scenic Rivers Act is limited, however, by restrictions placed on the government's ability to acquire an interest in land that borders the rivers. The limitations on land acquisition that were built into the WSR Act include fee title (whether voluntary or by eminent domain) and less-than-fee acquisitions such as access, scenic, or conservation easements. The Act places a limit on overall fee acquisition at an average of 100 acres per mile, on both sides of the river. In practical terms, this results in a corridor of approximately one-quarter mile on each side of the river. However, scenic easements may be acquired for additional acreage within the designated boundary of the river segment.[11] The extent of the boundary and amount of federally-controlled land within it is determined for each river segment through development of a management plan as well as what is specifically stipulated within enabling legislation.

The WSR Act created a National Wild and Scenic Rivers (NWSR) System that initially consisted of only eight river segments, five of which were in the West and three in the Midwest. However, the Act also allowed for expansion of the NWSR System. The Act identified twenty-seven river segments that warranted further study regarding their eligibility for designation and extended protections defined in Section 7 of the Act for five years. Beyond these initial twenty-seven study rivers, the Act allows for new river segments to be added to the NWSR System through specific means including Acts of Congress arising from three different processes, and decisions by the Secretary of the Interior based on requests from the governor of a state.[12]

The National Parks and Recreation Act of 1978 (P.L.95-625), which added the Missouri National Recreational River (NRR) to the NWSR System, was an omnibus bill that included a wide range of NPS measures such as boundary increases, budgetary changes, and the designation of many new areas to the National Trails System and the NWSR System. The inclusion of the Missouri NRR in this omnibus bill was contentious, not least because the designated section, a 59-mile stretch that is bordered by South Dakota and Nebraska, lies immediately downstream of Gavins Point Dam, which is

[11] Ibid, 50; Turlock and Tippy,, "Wild and Scenic Rivers Act," 717-719.
[12] Turlock and Tippy, "Wild and Scenic Rivers Act," 712-716.

operated by USACE. With flows in the river controlled by USACE, many opponents to the designation claimed that this stretch of the Missouri River did not meet the criteria of the WSR Act as a free-flowing river. Proponents of the designation, however, included a wide range of unlikely allies. Among them were recreation advocates who saw this 59-mile stretch as one of the few sections of the Missouri River that still retained much of its original appearance and adjoining landowners whose banks were being eroded by the relatively sediment-free waters that emerged from Gavins Point Dam. The landowners, organized as the Missouri River Bank Stabilization Association (MRBSA), were a politically influential group who worked with USACE to secure designation as a way to channel funds to the river for bank stabilization efforts. Together, these and other supporters of the designation as a NRR overcame the concerns raised by, among other organizations, the National Park Service.

The 1978 legislation called for the new Missouri NRR to be managed jointly by USACE and the Department of the Interior, first by the Heritage Conservation and Recreation Service and, shortly thereafter, by NPS, in accordance with a Cooperative Agreement which the two departments would sign. NPS initially managed the Missouri NRR from its Midwest Regional Office (MWRO), rather than creating a separate park office with dedicated Missouri NRR staff. This arrangement continued throughout the 1980s, with issues centering largely on coordination with USACE over bank stabilization permits and the development of a General Management Plan and general guidelines.

The Niobrara River, which runs through northern Nebraska before joining the Missouri River near the town of Niobrara, had been identified as a potential candidate for the NWSR System as early as the 1970s. By the 1980s, a number of local individuals and organizations began calling for its formal designation as a wild or scenic river. Senator James Exon (D-NE) sponsored the legislation in Congress beginning in 1985. While nearly all agreed on the pristine nature of at least the upper portion of the Niobrara, legislation to designate it faced fierce opposition from many of those who lived along it. The opposition was based on a deeply-held local belief that federal control was unnecessary, unwanted, and potentially unproductive as a way to protect the river, and that local control was fairer and more effective. Hearings and debates carried on throughout the late 1980s. In 1989, Representative Douglas Bereuter (R-NE) proposed a bill that included not just the upper portion of the Niobrara River as a Scenic River, but the lower portion of the Niobrara River, the lower portion of Verdigre Creek, and a 39-mile stretch of the Missouri River between Fort Randall Dam and the headwaters of the impoundment behind Gavins Point Dam as Recreational Rivers. This larger bill, the Niobrara Scenic River Designation Act (P.L. 102-50) passed Congress and was signed into law in 1991.

This significantly enlarged set of designated stretches of river was initially managed as a single unit (identified by NPS with the acronym, NIMI, created by using the first two letters of the names of the two major rivers, Niobrara and Missouri). In order to provide adequate management and to take on the extraordinary level of planning that was required to establish them as units of the National Park System, MWRO established a headquarters with a dedicated staff in O'Neill, Nebraska, in 1991. The development of

General Management Plans for the Niobrara National Scenic River (Niobrara NSR), and the two sections of the Missouri NRR (with the lower portions of the Niobrara River and Verdigre Creek), occupied most of the management efforts through the 1990s. In 1999, however, in recognition of the distinct set of operational needs and the geographic distance between them, the Niobrara NSR and the Missouri NRR (which only then formally included all four river segments) were divided for budgetary purposes. However, the two units remained under the administration of a single Park Superintendent, even in 2008, when the first Superintendent for the Niobrara NSR was appointed. In recognition of their origins, and their similar purpose, though, the two units, the Niobrara NSR and the Missouri NRR, remained linked administratively, including the Niobrara NSR Superintendent reporting directly to the Missouri NRR Superintendent.

These convoluted legislative origins of the Missouri NRR, particularly the original 59-mile stretch that was designated in 1978, are key to understanding the management challenges that still persist several decades later. The initial impetus for the 59-mile segment's designation under the WSR Act was based not in preservation goals for its scenic values but in a desire by local landowners to protect the banks of the river from the destructive erosion that, it was believed, had been exacerbated by construction of Gavins Point Dam in the late 1950s. USACE, through the 1960s and 1970s, carried out a limited program of bank stabilization but did not have the funds to provide the protection that MRBSA felt was necessary. MRBSA led efforts to secure designation under the WSR Act, which normally forestalls such river improvements, as a way to secure funding needed to stabilize the river's eroding banks. The legislation that designated the original 59-mile segment of the Missouri River under the WSR Act called for the Department of the Interior, eventually through NPS, to coordinate with USACE on management of the river. Compromise with USACE on management of the designated stretch of river and, therefore, with a range of actions that normally would not be allowed within a river under the NWSR System, was built into the enabling legislation and administrative structure of the Missouri NRR.

In addition to these two agencies, the management of the Missouri NRR has been subject to pressures from other outside entities including FWS, MRBSA, and various other federal, state, and local agencies and private individuals. As a result, the different segments of the Missouri NRR are subject to a range of local political issues which have complicated their management. All of these other agencies, organizations, and individuals, however, are forced to work within the dynamic between USACE and NPS that was established by the original 1978 legislation. Both of these federal agencies have their own distinct mandates regarding the treatment of rivers, a conflict of policy that is more fundamentally based on a difference of institutional culture. As we will see through the course of this Administrative History, these differences, built into the initial legislation as a result of its particular origins, created conflicts over policy and practice that have continued in several forms from the early 1980s to the present. These profound conflicts make for a complicated but interesting story.

Chapter 1: Missouri River, Natural and Cultural Overview

Introduction

Those who have written about the Missouri River, from the earliest European explorers in the seventeenth and eighteenth centuries to journalists, scientists, and historians of the present, tend naturally to rely on superlatives. Like other vast, incomprehensible parts of nature, the Missouri River inspired awe among early settlers, and more recent writers, likewise, attempt to make sense of the river in ways that suggest the "sublime" as described by eighteenth- and nineteenth-century philosophers and authors.[13] The Missouri River is vast on a number of scales, and some of the superlative descriptions are more easily verifiable than others. Its length, for example: at 2,341 miles from its headwaters to its mouth at the Mississippi River near St. Louis, it is the longest river in the United States. When combined with the lower portion of the Mississippi River, which some claim should be considered the full extent of the Missouri, it would be the fourth longest river in the world at 6,275 miles, behind only the Nile, the Amazon, and the Yangtze.

Other descriptions that attempt to convey the scale of the Missouri River are less empirical, but are, nonetheless, important in understanding its role in American history. The Missouri, one reads in various venues, is the wildest river, the least predictable river, the most destructive river. A recent study described it as an "unpredictable river in an unpredictable landscape."[14] In 1868, the *Sioux City Register* suggested that the river is as "uncertain as the actions of a jury or the state of a woman's mind."[15] The river valley in some places spans as much as ten miles from bluff to bluff, and the river historically meandered across that entire width. Its floods have been legendary, with many extraordinarily destructive high flows recorded over the past several centuries, the most recent in 2011. These massive flows have regularly reshaped the landscape along its length, shifting its channel by several miles over the course of less than a generation. Among its many nicknames, the Missouri River has rightly been called "Old Misery." A range of artists over the centuries have sought to convey the grandeur, mystery, and beauty of the river and its valley. Much like the artists of the Hudson River School of American painters in the early nineteenth century, paintings by George Catlin, a Pennsylvania-born artist, through the early and mid-nineteenth century helped Americans to understand the scale of the river and the promise that it offered.

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[13] Edmund Burke was the first to explore the sublime in a systematic way in relation to beauty. In discussing the conditions that produced the effect of the sublime, he noted of the concept of infinity that it "has the tendency to fill the mind with that sort of delightful horror, which is the most genuine effect and truest test of the sublime. There are scarce any things which can become the objects of our senses, that are really and in their own nature infinite. But the eye not being able to perceive the bounds of many things, they seem to be infinite, and they produce the same effects as if they were really so." Burke, "A Philosophical Inquiry into the Origins of Our Ideas of the Sublime and the Beautiful," Harvard Classics Edition, NY: P.F. Collier & Son, 1909, 64.

[14] D.L. Galat, C.R. Berry Jr., E.J. Peters, R.G. White, "Missouri River," in A.C. Benke and C.E. Cushing, eds., *Rivers of North America* (NY: Oxford University Press, 2005), 431.

[15] Quoted in ibid., 438.



Figure 2: George Catlin, *River Bluffs, 1320 Miles Above St. Louis*, 1832. Smithsonian American Art Museum, Gift of Mrs. Joseph Harrison, Jr.

Others have written in awe of the contents of the river, its nearly majestic ability to carry silt and debris, giving rise to another nickname: "Big Muddy." As the old line goes, the water of the Missouri River is "too thick to drink and too thin to plow."[16] Many of the rivers that empty into the upper Missouri pass through sediment-rich and highly-erodible alluvial soils, which dramatically increase the sediment load of the main stem of the Missouri. Historically, this heavy sediment then was transported downstream, leaving sedimentary deposits in some areas while picking up more sediment along the way, continuing this exchange all the way to its mouth at the Mississippi River. In 1911, Phil E. Chappell, writing a history of European explorations along the Missouri River, described the reaction of the earliest French explorers, Marquette and Joliet, when they first came to the mouth of the Missouri River in July, 1673: "they were astonished to see, flowing in from the west, a torrent of yellow, muddy water which rushed furiously athwart the clear blue current of the Mississippi, boiling and sweeping in its course logs, branches, and uprooted trees."[17] Fifty years later, Father Pierre Charlevoix marveled at the mouth of the Missouri where it meets the Mississippi, suggesting that "this is the finest confluence in the world. The two rivers are much the same breadth, each about a half a league. The Missouri is by far the most rapid and seems to enter the Mississippi

[16] See Robert Kelley Schneiders, *Unruly River: Two Centuries of Change Along the Missouri* (Lawrence: University Press of Kansas, 1999), 23.
[17] Phil E. Chappell, *A History of the Missouri River* (Kansas City? c. 1911), 2.

like a conqueror, through which it carries its dark waters to the opposite shore without mixing them."[18]

Nearly two centuries later, a USACE engineer, Hiram Chittenden, wrote a history of steamboats on the Missouri River. Chittenden calculated the approximate amount of sand and sediment that the Missouri carried every year, nearly double the quantity of freight that railroads in the United States carried in 1901. "That such an exercise of power," he went on to observe, "should leave its impress deep upon the country through which the river flows is not to be wondered at. Every year thousands of acres of rich bottom lands are destroyed. Forests, meadows, cultivated fields, farmhouses, and villages fall before its tremendous onslaught, and the changes that have been wrought in the topography of the valley in the last hundred years almost defy belief."[19]

In addition to being a source of mystery, grandeur, and destruction, the Missouri River also has served as a conduit, providing access to the Great Plains of the upper Midwest for those seeking opportunities from the earliest human residents some 14,000 years ago as the last Ice Age was coming to an end, to newer arrivals including Caddoan and Siouan American Indians who migrated from the south and east more than 1,000 years ago, Europeans who began exploring the region from the south and north some 500 years ago, and eager settlers of the young United States of America in the nineteenth century. By the late fifteenth and early sixteenth centuries, as Spanish and French explorers made initial forays into the region, they discovered for themselves this river valley that already supported many substantial American Indian villages and was at the center of extensive trade networks among wide-ranging tribes and nomadic groups The first dream of these European, and later the first Euro-American explorers, was to find a water route across North America. The purpose of this water route was first to get access to the wealth of Asia and, later to provide easy shipment for the wealth of the American West.[20]

At the same time, British, French, and Spanish visitors to the region in the seventeenth and eighteenth centuries sought to take advantage of American Indian trade networks that had brought goods from the Atlantic and the Pacific to the Missouri River valley for centuries before Europeans arrived. The potential for economic bounty on a vast scale that lay within the Missouri River valley, a potential that rested on well-developed trade networks and on the chance for water passage on the Missouri River to St. Louis and thus to the Atlantic Ocean, brought Europeans and Euro-Americans into conflict with each other and with American Indians into the early nineteenth century.

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[18] Quoted in ibid., 32.

[19] Hiram Martin Chittenden, *History of Early Steamboat Navigation on the Missouri River: Life and Adventures of Joseph Le Barge* (NY Francis P. Harper, 1903), 79.

[20] In his introduction to the journals of Lewis and Clark, Bernard DeVoto suggests that the 1804-1806 expedition finally put an end to speculation about a water passage across North America. All other possible routes in the United States and Canada had been ruled out, and the Missouri was the only remaining possibility. DeVoto, ed., *The Journals of Lewis and Clark* (Boston, MA: Houghton Mifflin Company, 1953), xxxix-xl.

By the twentieth century, as new Euro-American communities expanded along the banks of the Missouri, replacing the American Indian villages that had existed for nearly 1,000 years, the power and might of the river continued to be both a lure and a threat. Alternating periods of drought and flood threatened the stability of houses, businesses, and communities that flourished in the valley, while the volume of water offered the promise of both irrigation for farms and fuel for hydroelectric turbines. Both sets of fears and desires required the power of the "Mighty Mo" to be harnessed and controlled, a notion that was antithetical to those American Indians who lived in the reservations and traditional tribal lands along the river's banks. To meet the needs of the latest inhabitants of the Missouri River Valley, however, the twentieth century became a period of concentrated federal intervention in the life of the river, as USACE and the Bureau of Reclamation joined forces to enact a vast, ungainly plan to impound nearly all the water of the upper Missouri and channelize the lower Missouri: the Pick-Sloan Plan.

Brief History of the Missouri River: Prehistory and Early European Exploration

Before embarking on a description of twentieth-century efforts to control the Missouri River, it is important to review the history of American Indian settlement and early European exploration along its banks. The prehistory and history of the Missouri River have been studied extensively over the past century and more, with shelves of books and articles addressing all aspects of the river's history. The following summary of human interactions with the Missouri River is synthetic, drawn from a range of sources both recent and historic themselves. Its limited aim is to lay the groundwork for understanding the depth of federal involvement with the river in the mid and late twentieth century. Such an understanding of how the United States government came to be so involved in the reshaping, damming, and preservation of the Missouri River is crucial to a subsequent understanding of the constraints which NPS has faced since taking on responsibility for the Missouri NRR following the 1978 legislation.

The river gained its name, Missouri, from the Missouri tribe, an American Indian group of Siouan descent. The name of the tribe in its current form came in turn from the French explorer and priest, Father Jacques Marquette. In Marquette's journeys through the Mississippi River valley in the 1670s, he encountered the Illinois tribe, who referred to the Siouan-speaking people along the river as weemihsoorita or weemeehsoorita, which he transliterated as Vemessvrit. This Illinois term referred to those who used wooden boats, the dugout canoes that plied the river's waters.[21]

American Indians first entered the Missouri River valley in the wake of the last glacial period, approximately 11,000 years ago. Most archeological evidence for these Paleo-Indian peoples has been found in the plains laying to the west of the Missouri River, with examples of stone tools pointing to reliance on mammoth, now-extinct forms of bison, and other large animals for sustenance. The archeological evidence suggests that

[21] Michael McCafferty, "Correction: Etymology of Missouri," *American Speech* Vol. 79, No. 1 (Spring 2004), 32. Online version at Project Muse: http://muse.jhu.edu/article/54836.

these Paleo-Indian peoples were organized socially as small, mobile groups that came together occasionally for larger hunting expeditions and ranged widely across vast areas of the Great Plains. As the climate changed in the millennia following the last glacial era, becoming warmer and drier during what is known as the Holocene Altithermal, megafauna became extinct and led to a broadening pattern of subsistence, including hunting and gathering a variety of mammals, fish, and shellfish, together with wild plants. This era, frequently referred to as the Archaic Period extending from approximately 9,000 years ago to some 1,500 years ago, was a period of wide swings in climate that affected the economy, agriculture, and social organization of those living in the Missouri River valley and the surrounding plains. Throughout this era, bison were the key for food, social organization, and technology, the tools necessary to hunt and process the animals. Beginning approximately 5,000 years ago, temperatures began to moderate after the warm and dry conditions of the Holocene Altithermal, bringing increased rainfall and the extension of bison herds further into the Great Plains. Even for those groups that settled on the rich soils along the Missouri River in Nebraska, South Dakota, and North Dakota during this time, large, seasonal, communal migrations to the Plains for bison hunts were an essential part of life. Many archeological sites from this period have been found along the rivers that drain into the Missouri River, though none has been identified within the Missouri NRR.[22]

As traditionally defined by archeologists, the Late Archaic Period extended from approximately 2,500 years to approximately 1,500 years before the present. David Mark Spence, in his extensive summary of American Indians in the Great Plains and the Black Hills, described the Late Archaic most elegantly and effectively "as an endpoint for the vast and undifferentiated expanse of time that Native peoples often refer to in a phrase like 'since time out of memory' or 'time immemorial.'"[23] Beginning nearly 2,000 years ago, what has been identified by archeologists as the Woodland Period, is, Spence notes, within the time of stories and traditions that have been passed down for generations and continue to inform American Indian culture today. This era is characterized by increasingly complex cultural and technological systems. A key technological innovation that helped to shape the era was development of the bow and arrow, which was in use by approximately 250 AD. This technology seems to have arrived with the Avonlea groups, who migrated from the Northern Rockies toward the Great Plains at that time, and spread among the many diverse groups and cultures already living in the region. The impact on the productivity of traditional communal bison hunts was profound.[24]

Populations were increasing significantly in the Missouri River valley and Great Plains, both from natural increase and from migrants from the south, what is now Texas and New Mexico, and from the Mississippi and Ohio River valleys in the east. As Spence

[22] For an excellent overview of the native peoples in the Great Plains and Black Hills over the past 10,000 years, see Mark David Spence, *Passages Through Many Worlds: Historic Resource Study of Wind Cave National Park* (Prepared under contract to Midwest Regional Office, National Park Service, Omaha, Nebraska, 2011), 26-60. See also John Ludwickson, Donald Blakeslee, and John O'Shea, *Missouri National Recreational River: Native American Cultural Resources* (US Army Corps of Engineers, Omaha District, Paper 86, 1981), 107-112.
[23] Spence, 38.
[24] Ibid., see also Ludwickson et al.

notes, more moderate temperatures and increased rainfall in the centuries immediately before and after 1000 AD allowed for increased agriculture as "Horticultural groups with ancient connections to the Lower Missouri, Middle Mississippi and Lower Ohio moved up the Middle Missouri and its main western tributaries—including the Platte, Niobrara, White, and Cheyenne Rivers."[25] Caddoan-speaking groups that originated in the southwest, including the Pawnees and Arikara, together with Siouan groups that arrived from the east began to develop villages along the Middle Missouri, including the Mandan and the Hidatsa. These new villages, settled from approximately 850 to 1200 AD, were based in agriculture but relied on seasonal nomadic forays to the Plains as hunters and gatherers. An additional important component of the migration to the Middle Missouri included former residents of the Cahokia urban complex which flourished along the Mississippi River prior to approximately 1300 AD.[26]

By approximately 1400 AD, there were many communities along the Middle Missouri, including the stretches that are now part of the Missouri NRR. These were small, clustered village sites, particularly around and after 1000 AD, many of them fortified with palisades and ditches.[27] Relations among the several tribes and cultures who lived in villages along and near the river were complicated and ever-changing, as agricultural, hunting, and trading conditions changed. As Fenn has noted, "fortified villages became common in the era after 1300, their construction correlating with episodes of drought. . .by the time of European contact some centuries later, the Mandan and Arikara—respective descendants of the Siouan and Caddoan-speaking groups—had long had troubled relations."[28]

The rate of cultural exchange among several ethnic groups throughout the Missouri River valley increased in the four centuries prior to arrival of the early European explorers. The arrival of different groups led to "the rapid diffusion of a wide range of cultural characteristics between formerly discrete cultural traditions." In other words, extensive trade networks began to develop among various ethnic groups throughout the Plains: "The individual links in this trade network regularly involved quite long distances, and a very wide range of goods were exchanged."[29] By approximately 1400 AD, these vast trade networks revolved around the Missouri River valley in South Dakota and North Dakota. The residents of the several agricultural villages in this portion of the Missouri River valley, using their agricultural produce, especially corn, as a vital trade commodity, served as brokers for an array of goods that were traded among many different peoples from near the Pacific Ocean, across the Rocky Mountains, to the Mississippi River and its tributaries. As Fenn has described, the Mandan, who had moved from South Dakota to their principal residences in North Dakota during the 1300s AD, became a key component in this far-flung trade network. While the Mandan were principally a sedentary and agricultural people in several related villages along the

[25] Spence, 45.
[26] Ibid., 49; see also Elizabeth A. Fenn, *Encounters at the Heart of the World: A History of the Mandan People* (NY: Hill and Wang, 2014), 8-11; Ludwickson et al., 114-146.
[27] . Ludwickson et al., 114-146.
[28] Fenn, 13.
[29] Both quotes from Ludwickson et al., 162.

Missouri, they traded and interacted with many nomadic peoples, several of them now unknown but also including the Shoshone from the west, and the Lakota (Yankton) and Nakota (Yanktonai) Sioux from the east.[30]

These Sioux tribes were among the several peoples who occupied land along portions of the Missouri and Niobrara Rivers that now are within the Missouri NRR. Siouan speaking peoples migrated from the Ohio River valley and continued west toward the Missouri River valley in the few centuries prior to the arrival of Europeans. Often identified culturally as Dhegihan, these Siouan speaking groups included the Kansas, Quapaw, and the Osages, along with the Omaha and Ponca, two related tribes with similar languages. Originally a part of the Omaha Tribe, the Ponca gradually formed a separate tribe approximately 500 years ago and established a homeland along the Niobrara and Missouri Rivers.[31]

The arrival of European explorers in the sixteenth and seventeenth centuries was, thus, the continuation of a centuries-long pattern of cultural interaction for the tribes who lived along the Missouri River and its tributaries. By the middle of the sixteenth century Spanish explorers had begun to make their way into the southwest from Mexico, but rarely ventured into the Missouri River valley. Their goods, however, entered into the existing trade network that coursed through the valley.

Two other European arrivals in the sixteenth and seventeenth had profound impacts on American Indians living in the Great Plains and the Missouri River valley: horses, and diseases. The Spanish brought horses with them through Mexico and into what is now the American southwest in the early 16th century. While a limited number of Indians in the southwest were using horses by the middle of the seventeenth century, Pueblo Indians in New Mexico led a revolt against the Spanish in 1680. One result of this revolt was widespread release of horses from control of the Spanish, which then came to be used by the American Indians.[32] The use of horses spread quickly among the peoples of the Great Plains. As Spence as noted, horses made "seasonal and year-round nomadism more productive, both in terms of the number of places and resources that could be utilized by a highly mobile group as well as in the amount of trade products that could be carried to and from the Middle Missouri villages."[33] Only some of the groups living along the Missouri River adopted the widespread use of horses, including the Lakota Sioux who took to horses in the late 1740s and were, therefore, able to become more aggressive in seeking new territories.

While horses clearly increased the possibility for conflict between groups, and the new European guns made those conflicts more deadly, new European diseases were far more devastating to the region's American Indians. With no natural resistance to these

[30] Fenn, 34.
[31] Eric Buffalohead, "Dhegihan History: A Personal Journey," *Plains Anthropologist*, Vol. 49, no. 192, Memoir 36: Dhegihan and Chiwere Sioux in the Plains: Historical and Archaeological Perspectives (November 2004), 331-333.
[32] Fenn, 132-134
[33] Spence 57.

diseases, and given the constant movement and interaction of people and goods throughout the Great Plains and Missouri River valley, the risk of infection was great. Frequent epidemics during the eighteenth century destroyed villages throughout the regions, often changing the balance of power among the different groups; a 1781 smallpox epidemic in particular was devastating across the upper Plains, forcing the Mandan to retreat to smaller villages in North Dakota.[34]

French explorers were the first Europeans to set eyes upon the Missouri River. The French had established a colonial foothold in Canada by the middle of the seventeenth century, while the English controlled the eastern seaboard, and the Spanish guarded their possessions in Florida and in the Southwest. The prize for each of these European colonial powers was the great interior of the continent: the wealth of natural resources, but also the elusive water passage to the Pacific and the Orient. While the British were largely tied to the eastern coast with no readily accessible passage across the Appalachian chain, the French were able to bypass those mountains, exploring west and south from their colonies in Canada by way of the St. Lawrence River and the Great Lakes.

By the mid-seventeenth century, the French in Canada had continued to push westward through the Great Lakes, reaching the western end of Lake Superior by 1670.[35] In the early 1670s, Louis Joliet, a fur trader, and Father Jacques Marquette, a Jesuit missionary, traversed the Great Lakes and found the headwaters of the Mississippi River in July 1673. The two then traveled down the Mississippi and were amazed by the breathtaking volume of yellow, muddy water flowing in from the Missouri. Marquette and Joliet did not venture up the Missouri, though, nor did subsequent French expeditions down the Mississippi. All of these French explorers in the seventeenth century wrote of the Missouri, though, which they occasionally referred to as the river of the Osages, the closest American Indian group on the river. Their reports and letters nearly always mentioned the muddy nature of water from the Missouri flowing into the relatively clear waters of the Mississippi. None, however, ventured up the Big Muddy.[36]

Rather than ascending the Missouri from its mouth at the Mississippi, however, the French first encountered the Missouri River and the peoples that lived along it from the north. From the French trading fort at the western edge of Lake Superior in Canada, an initial expedition led by Baron Louis Lahontan may have encountered several groups, perhaps including the Mandan, in the late 1680s. While European conflicts slowed the growth of trade with American Indians of the Missouri River and the Great Plains around the turn of the eighteenth century, trade picked up in the 1740s and 1750s as more French traders ventured to the area and as more American Indians began to travel north to French trading posts.[37]

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[34] Fenn, 156-171.
[35] Fenn, 40-41.
[36] Chappell provides a good summary of these early French expeditions of the seventeenth century, pp. 2-13.
[37] Fenn 85-99.

By the middle of the eighteenth century also, the Missouri River itself was coming to be explored as an avenue to the vast trade networks of the American Indians. By this time, the French had explored the entire length of the Mississippi, claiming the river, the country through which it flowed, and the City of New Orleans for France. The first recorded European to navigate up the Missouri was Claude Charles du Tisne who, in the spring of 1679, canoed near to the mouth of the Grand River, near what is now Brunswick, Missouri. His progress was stopped, however, when he faced opposition from the Pawnee, and he returned to New Orleans.

Spain, which controlled Louisiana following the French loss to Spain in the Seven Years' War in 1763, constructed a series of forts along the Missouri River. These forts allowed capitalists from St. Louis to found a company to engage in trade with the Arikaras in South Dakota. By the early 1770s, British traders also were active along the Missouri, well into what is now Nebraska.[38] French traders, likewise, gradually extended their trade network with the American Indian tribes along the lower and central portions of the Missouri River through the eighteenth century, likely as far as the Platte River south of Omaha, Nebraska. Additionally, individual French trappers gradually moved into the area, supplementing the French and American Indian trade with their own furs.[39]

The Missouri River fur trade declined during the late eighteenth century as the American Revolution, followed shortly by the French Revolution, caused turmoil on the geopolitical scene. Given the level of involvement that France, England, and Spain had developed among the American Indians within the Missouri River Valley, the changing nature of relationships among them in Europe had an impact on their respective relations with American Indians. France ceded Louisiana back to Spain in the 1760s, putting the traffic of the Mississippi River at New Orleans again in Spanish hands. Following the French Revolution, however, Napoleon forced Spain to return the region and the city as part of his hope to extend his French Empire to North America and thwart British global mercantile interests. President Thomas Jefferson, at the beginning of the nineteenth century, recognized the need for the United States to have control of the Mississippi River, and particularly the port of New Orleans, and had his diplomats in France try to make such a deal. When Napoleon's planned military invasion through New Orleans, designed to seize control of the interior trade with American Indians in North America, collapsed in the Caribbean, he turned his attention to attacking Britain directly instead of through its former colonies. In 1803 he agreed to sell, not just New Orleans, but the entire Louisiana Territory, to the United States in order to keep it out of British hands.[40]

With the Louisiana Territory belonging to the United States, Jefferson put into action a plan that he had already developed. As early as 1801, Jefferson appointed Captain Meriwether Lewis, an Army officer with knowledge of the frontier West, to serve as his private secretary. A year later, he asked Lewis to command an expedition to

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[38] Rachel Franklin, Michael Grant, and Martha Hunt, *Historical Overview and Inventory of the Niobrara/Missouri National Scenic Riverways, Nebraska/ South Dakota* (National Park Service, Midwest Regional Office, 1994), 17-19.
[39] Chappell, 49-50.
[40] DeVoto, xx-xxiii.

explore the Missouri. Together, they agreed that Lewis's former Army colleague, William Clark, who also had extensive experience in the West, to serve as his second-in-command. In commissioning the expedition, Jefferson's interest was partly scientific inquiry into the geography and natural resources of the American West. The more important part, though, was to consolidate that portion of the North American continent within the United States by extending U.S. commerce into it. This meant forging commercial relations with the many American Indian tribes in the Missouri River Valley, drawing as much of the American Indian trade network toward the new United States of America, and away from the European traders, particularly British and Spanish, who had already developed strong relationships in the region. Jefferson's charge, therefore, was to impress upon the Sioux, Arikaras, Mandans, and other tribes that they should start dealing with the United States exclusively for their trade. The leaders of the expedition, Lewis and Clark, were to engage the different groups they met along the river, enter into trade, and convince them of the desirability of engaging with the new United States.[41] The Missouri River was key to expansion of the commerce that would bind the two sections of the new nation, East and West, together. At the same time, Jefferson's hope was to find, by way of the Missouri River, the famed "Northwest Passage." Jefferson's charge to Lewis made that goal clear: "The object of your mission is to explore the Missouri river, & such principal stream of it, as, by its course & communication with the waters of the Pacific Ocean, may offer the most direct and practicable water communication across this continent, for the purposes of commerce."[42]

The two Army officers, Lewis and Clark, led the Corps of Discovery Expedition, now known simply as the Lewis and Clark Expedition, from 1804 through 1806. The expedition used the Missouri River to gain access to the West in the hope that it would lead ultimately to the Pacific Ocean and to greater trade for the new nation and finally demonstrated that there was no direct water passage to the Pacific Ocean. The Expedition proved successful nonetheless for the United States. Lewis and Clark, with their team of soldiers and explorers, were the first European or American explorers to travel the entire length of the river, from its mouth at the Mississippi River near St. Louis, Missouri, to its headwaters in three rivers which they named Jefferson, Madison, and Gallatin after three of the most important American political leaders of the day. The expedition, with the reports that they sent back after their return, also pointed to the amazing richness of the American West in beaver and other furs, quickly reigniting the American fur trade. In addition, in geopolitical terms, the Lewis and Clark Expedition identified a land connection between the headwaters of the Missouri River and the Columbia River which then led to the Pacific Ocean. This gave the United States a final, definitive claim to the Oregon country and, therefore, from the Atlantic to the Pacific.[43]

At the same time, the Lewis and Clark Expedition represented the first sustained contact between the government of the United States and the American Indian tribes in

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[41] Gary E. Moulton, ed., "Introduction: The Journals of the Lewis and Clark Expedition, History of the Expedition," *The Journals of the Lewis and Clark Expedition*, online edition, http://lewisandclarkjournals.unl.edu/index.html.
[42] Quoted DeVoto, xxxvii.
[43] Ibid., xl-xlix, 1.

the Missouri River valley and Great Plains. With few exceptions, these contacts were peaceful. While the Osages Omaha, Sioux, Arikara, Hidatsa, Mandan, and others were new to Lewis and Clark, all of these groups had gained experience in welcoming and trading with Europeans over the past century and more. During the expedition, Lewis and Clark held formal meetings with the Oto, Missouri, Yankton Sioux, Arikara, Mandan, and Hidatsa, giving gifts (e.g. peace medals) to the chiefs, calling for turning trade toward the United States, and encouraging continual peace among the tribes that were occasionally engaged in conflict with one another.[44] Lewis and Clark and their men then spent the winter of 1804-1805 encamped along the Missouri River near the Mandan villages in North Dakota, and passed by the same villages on their return trip in August 1806. They encouraged the Mandan chiefs to return with them to visit the United States, and to meet President Jefferson in Washington, DC. Nearly all of the chiefs refused, citing the dangers posed to them by the Sioux, through whose lands they would pass. One of the chiefs, however, Sheheke, finally agreed to join Lewis and Clark, and traveled with his wife, son, and a French translator. The meeting with Jefferson took place in December 1806, during which the President repeated the importance of trade between the American Indians and the United States, and emphasized peace among the nations.[45]

Immediately following the return of the Lewis and Clark Expedition in 1806, Euro-American trappers, traders, and settlers began moving up the Missouri River in search of opportunities, following in the footsteps of the earlier French, Spanish, and British traders and trappers. The first trading post in the Upper Missouri watershed built under U.S. auspices was Fort Raymond at the junction of the Yellowstone and Bighorn Rivers in what is now Montana. The company that established Fort Raymond then returned to St. Louis in 1808 with a load of furs that inspired investors including William Clark, to establish the St. Louis Missouri Fur Company; it was their boats that finally brought the Mandan Chief Sheheke and his family back to the Mandan villages, as the U.S. Army was unable to provide safe passage.[46]

Lewis and Clark's expedition, followed quickly by the establishment of private trading posts, opened the door for Euro-American settlers to make initial forays to establish farms, ranches, and settlements onto American Indian lands. Conflicts between the new U.S. traders and American Indian tribes, especially the Arikara, Mandan, and Hidatsa, soon emerged, leading to an official U.S. military foray into the region in 1825. The U.S. Army accompanied a commercial expedition with soldiers and weapons, intended to compel the different groups to work out treaties that would result in peace The U.S. officials who took part in the expedition claimed sovereignty over the area, and imposed U.S. federal law to resolve all disputes. This 1825 expedition resulted in treaties with nations all along the Missouri, including the Ponca, Arikara, Hidatsa, Mandan, Crow, Oto, Missouri, Pawnee, Omaha, Lakota, and Dakota. By the end of the 1820s, commerce with the United States was well established and enforced, particularly with

[44] See John C. Ewers, "Plains Indian Reactions to the Lewis and Clark Expedition," *Montana, The Magazine of Western History*, Vol. 16, No. 1 (Winter, 1966), 5.
[45] Fenn, 249-255.
[46] Ibid., 258.

construction of Fort Union in 1828 at the junction of the Yellowstone and Missouri Rivers, now the Fort Union Trading Post National Historic Site.[47]

The fates of the many American Indian tribes and groups along the Middle Missouri in the nineteenth century varied in the face of expansion by U.S. traders, settlers, farmers, and military. The Sioux, for example, includes several bands and sub-bands among the three general dialects, Dakota, Nakota, and Lakota. Several bands of the Sioux, particularly among the Lakota, proved formidable obstacles to U.S. expansion and forced the U.S. government to negotiate, resulting in the establishment of the Great Sioux Reservation in 1868, encompassing much of western South Dakota. Congress broke up the Great Sioux Reservation in 1889 and created multiple smaller reservations instead. These, in turn, were further divided in the 1890s as U.S. agents allotted lands to nuclear families and required the Sioux to adopt educational, land-owning, and agricultural methods resembling those of the U.S.[48]

Within the Missouri NRR, the Yankton Sioux, a Nakota-speaking group, negotiated a separate treaty with the U.S. government and were allotted a reservation in what is now Charles Mix County, on the north bank of the Missouri River in South Dakota. The Ponca, meanwhile, continued to farm their traditional land near the Niobrara and Missouri Rivers, and had been guaranteed a reservation in 1865 in what was then the southeast corner of the Dakota Territory. In 1868, a federal official mistakenly included the Ponca reservation within the Great Sioux Reservation. When "the Sioux attacked the Ponca repeatedly, government officials decided, for their own safety, to remove them to the Indian Territory" in what is now Oklahoma.[49] This took another nine years, but, in 1877, the Department of the Interior, under direction of Secretary Carl Schurz, forced the removal of the Ponca from their homeland along the Niobrara and Missouri Rivers over the objections of many Ponca, including the Principal Chief (White Eagle) and the Second Chief (Standing Bear). Many of the Ponca died on the forced march to Indian Territory, and others, including Standing Bear's son, died after arriving in the new reservation. Fortunately for the Ponca, though, the commander of Army forces at Fort Omaha sided with the Ponca and helped to coordinate support for the tribe, first from the *Omaha Daily Herald* and, later, from literary and political leaders on the east coast. In 1881, a Congressional committee appointed by President Rutherford Hayes recommended that the Ponca be allowed to return to their original home land, be given land inalienably, and be provided compensation. The Ponca Restoration Act passed in March 1881, and, in August 1881, the Sioux formally ceded a portion of their reservation to the Ponca.[50]

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[47] Ibid., 284-286.
[48] Guy Gibbon, "Sioux," in David J. Wishart, ed., *Encyclopedia of the Great Plains* (University of Nebraska-Lincoln, 2011, online resource: http://plainshumanities.unl.edu/encyclopedia/doc/egp.na.107).
[49] Valerie Sherer Mathes, "Boston, the Boston Indian Citizenship Committee, and the Poncas," *Massachusetts Historical Review* Vol. 14 (2012), 122.
[50] Ibid., 122-135.



Figure 3: Chief Standing Bear in his formal attire. National Anthropological Archives, Smithsonian Institution

At the same time that the American Indians sought to adapt to the new cultural environment, countless Euro-Americans found that the Missouri River valley represented infinite promise for adventure, land, and profits beginning the early nineteenth century. Obstacles to using the Missouri River for access to the West, though, were legion, including a scarcity of settlements where one could find supplies and support, a river current that was either too rapid or too shallow to allow passage, and barely-submerged, felled trees and sandbars that could easily snag a boat. While traditional canoes provided access to the early explorers, keelboats quickly became the favored method for transporting people and goods up and down the Missouri in the early nineteenth century. Approximately fifty to seventy-five feet long and fifteen to twenty feet wide, these boats had a capacity of nearly twenty tons but had only a thirty-inch draft, allowing them to glide over the many submerged obstacles. While keelboats generally were provided with sails, the most common method of propulsion was human: boats were fitted with innovative means of attaching ropes which allowed them to be pulled upstream by men walking along the shore. With poles to push off the shallow bars and oars to maneuver past crossings with other rivers and streams, keelboats could move upstream a maximum

of fifteen miles per day.[51] Though slow, these were the boats that initially gave access to the riches of the Missouri valley.

In his 1901 history of the Missouri River, Phil E. Chappell noted that "it is a remarkable coincidence that the same year—1807—in which the first Anglo-American settlement was made on the Missouri witnessed the successful application of steam, as a motive power, on the Hudson."[52] He was referring to the successful experiments of Robert Fulton, who developed a working steam-powered boat that could move upstream on a big river. This new technology revolutionized river transportation in the first half of the nineteenth century throughout the nation, including the Missouri River.

The new steam-powered boats were active on the lower Missouri River by the 1820s and had made it to the upper parts of the river by the 1830s as the technology improved and as new communities were established.[53] An initial attempt by the Army to send a group of four steamboats up the river as a show of military might in 1819 proved unsuccessful, however, as only one, the *Western Engineer*, made it as far as Council Bluffs, Iowa, by winter. It returned to St. Louis in the spring of 1820, and the failure dissuaded the Army from extending the nation's military reach by water. As Chappell observed, "It having become apparent that the marine part of the expedition was an unqualified failure, the river was abandoned, and Major Long, with his troops, went overland to the Platte [River]."[54]

Private individuals and companies continued to explore the river with steamboats, however. Steamboats were becoming more active in the lower portions of the river, extending through Missouri to Council Bluffs, Iowa, in the 1820s. The first successful attempt of a commercial steamboat to travel the upper river took place in 1831, when the *Yellowstone*, financed by the American Fur Company, ventured past Sioux City, Iowa, to the mouth of the Bad River in South Dakota. This began a regular process of sending steamboats to the upper portions of the Missouri River, moving goods and people to and from trading posts in Nebraska, South Dakota, and North Dakota.[55]

By the 1840s and early 1850s, steamboat companies were regularly transporting passengers all along the Missouri, including the upper Missouri. It was the golden age for these boats, "the floating palace of the palmy days of steamboating." By the late 1850s, there were sixty regular steamboats on the main stem, plus more than thirty boats coming to the Missouri from other tributary streams or rivers. These boats carried mail and freight in addition to having room for up to 400 people.[56] With the aid of steamboats, Americans extended their settlements further and further into the Missouri River valley,

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[51] Chappell provides an excellent description of the keel boats and their method of operation, 59-60.
[52] Chappell, 65.
[53] Robert Kelley Schneiders, *Unruly River: Two Centuries of Change Along the Missouri* (Lawrence: University Press of Kansas, 1999) 47.
[54] Chappell, 70-72; quote on 72.
[55] Franklin et al., 40, Chappell 74-75. Chappell mistakenly identifies the Bad River, which joins the Missouri River at Fort Pierre, South Dakota as the Milk River, which joins the Missouri River in Montana.
[56] Chappell provides an excellent description of the boats and the heyday of steamboats on the Missouri River, 81-94; quote on p. 81.

from barely over 200 miles from the mouth of the river in 1811 to more than 1,000 miles, into the Dakotas, by the 1860s. As Schneiders noted, "By spring and summer 1859, over 1,000 people waited in the Sioux City area for federal authorization to colonize the former Indian lands of southeast Dakota Territory."[57] This was taking place as many American Indian tribes were negotiating treaties with the U.S. government as described earlier in this chapter. As Elizabeth Fenn observed in regard to the series of treaties in 1825 between the Mandans and other tribes of the Middle and Upper Missouri and the United States, "the Mandans were to learn the consequences. They also were to learn that federal enforcement of the treaty's terms was selective and U.S. diplomacy every bit as changeable as that of Native Americans."[58].



Figure 4: Karl Bodmer, *The Steamer Yellow-Stone on the 19th April 1833*, aquatint from *Maximilian: Prince of Wied Travel's in the Interior of North America, during the years 1832-1834*.

Steamboats, however, were limited in their ability to carry people and goods upriver by the nature of the river itself. Snags, trees, and other debris that washed from the banks and lodged in the river bottom were a constant threat. The bottom of the Missouri River continues to be littered with the wrecks of steamboats even today. In addition, the flows of the river were uncertain; when the water was low, the many sandbars blocked boats from moving forward. The most favorable time for steamboats

[57] Schneiders, 39.
[58] Fenn, 285.

was late spring and early summer, when two different snow-driven run-offs provided enough water for boats to move with relative ease up and down the river. Even when conditions were good, though, the season for steamboat travel extended only from March to November.[59]

Missouri River Improvements: USACE

Operation of steamboats was a profitable business that moved people and produce up and down the river, populating, provisioning, and providing access to markets for the growing communities along it. The risks posed by the river, therefore, threatened not just profits, but confidence in the continued growth of American settlements in the burgeoning West. Clearly, something needed to be done to improve the river and allow boats to move with greater safety.

In the case of *Gibbons v. Ogden* in 1824, the Supreme Court upheld the power of Congress to regulate the navigable waterways of the United States, a power we take for granted today but which was questioned in the late nineteenth and early twentieth centuries by private water development interests including power producers and lumber mill operators. In the mid-nineteenth century, however, the ruling was understood largely in terms of Congress' role in improving the nation's waterways, which was seen by many as vital to progress. Improvements to navigable rivers and harbors required a great deal of engineering expertise with the funds to carry it out. USACE, which had been established in 1802 on the basis of military engineering experience going back to the Revolutionary War, quickly become the principal entity that took on river and harbor improvements.[60] In the late 1830s, as steamboats became more numerous on the Missouri River, corporate interests, primarily in St. Louis, successfully requested the aid of Congress to improve the river. This program of improvement, carried out from the late 1830s into the 1870s, primarily took the form of removing snags and dislodged trees that were so dangerous to steamboats. The focus of USACE's improvement efforts was the lower river from its mouth upstream to Kansas City because of the heavier steamboat traffic in that section. USACE did, however, carry out a more limited program of snag removal and tree clearance in the upper river as well, removing severe threats to steamboats as far upstream as Vermillion, South Dakota and the mouth of the Niobrara River.[61]

USACE was, therefore, actively involved in maintenance of the Missouri River for the benefit of river traffic through the middle and late nineteenth century. The steamboat era was fading by the 1860s, however, as railroads arrived. Railroads soon proved more efficient at transporting goods and people, and made steady advances up the Missouri River valley. St. Joseph, Missouri, had a railroad connection as early as 1859, and the railroad reached Sioux City, Iowa, by 1868, Yankton, South Dakota, by 1873,

[59] Chappell, 94.
[60] Thorson, 56.
[61] Schneiders 52-55.

and Chamberlain, South Dakota, by 1881.[62] With rapid improvements in technology, railroads quickly outstripped steamboats in the amount of passengers and freight that they could carry and in their relative reliability. As Chappell observed with some wistfulness,

> Like the cowboy and the prairie schooner, the steamboat is a thing of the past. The whistle of the first locomotive, as it reverberated through the Blacksnake Hills, on the completion of the Hannibal and St. Joseph railroad to the Missouri river at St. Joseph, in 1859, sounded the death-knell of steamboating on that stream. It was the beginning of the end. . . .As the different railroads penetrated the interior, touching the different points on the great watercourse, its commerce began to wither and die, and it became evident, to those who watched the trend of events, that river transportation could not compete successfully with the cheaper and more rapid method."[63]

River-based interests in some Missouri River cities, however, were not inclined to give up without a fight. As the railroads extended their hold on the commerce of the Missouri River valley through the 1880s and 1890s, many began to fear the dominance of railroad companies and their monopolistic tendencies. In response, many commercial leaders in cities along the Missouri, including St. Louis, Kansas City, and others, began to urge development of barge traffic on the lower Missouri. In order to allow barges to compete successfully against railroads, however, barges would have to be much larger with deeper draughts than the old steamboats, and they would have to operate more consistently through the year, with fewer risks for capsizing. In order for such barges to ply the river successfully, therefore, the river would have to be further improved. The simple removal of snags and trees would not suffice; instead, the river would have to be channelized.[64] This would be a vastly expensive task that included extensive dredging of the river channel followed by installation of river bank structures that forced the flow of river into a narrow, faster-moving column of water that would continue the process of scouring the river bottom. Such an undertaking would require the full support of the federal government. Beginning in 1880, the Kansas City Commercial Club began lobbying Congress for the funding to improve the river for barge traffic, drawing upon the experience of USACE's work with improving river channels for navigation over the past several decades.[65]

Congress initially was reluctant to commit federal money to the river's improvement for barge navigation. A destructive flood in 1881 prompted Congress to act, however, by heightening the sense that the river needed to be controlled to protect the communities that lay along it. Channelization, it was thought, along with bank-protection works, might help to protect cities and residents. In response, Congress included the Missouri River improvements in the Rivers and Harbors Act of 1882 and created the Missouri River Commission in 1884 to oversee the work that USACE would implement. Internal divisions between advocates of bank protection and channelization, however,

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[62] Ibid., 57-59.
[63] Chappell, 96.
[64] Schneiders 1996, 338-339.
[65] Schneiders, 60.

combined with lack of pressing interests in the years after the 1881 flood and the Missouri River's notorious difficulties, led to diminishing Congressional support. As a result, funding waned through the 1880s and little was accomplished. With the uncertain flows of the Missouri River, the scale of a channelization project expanded greatly, and the political ability to sustain such costs faltered.[66]

Several developments helped to turn the tide toward greater federal intervention in the Missouri River in the early twentieth century. Most immediately, floods in 1903, 1904, and 1905 reignited debate regarding the need to control the Missouri River and protect the cities and farms along its path. The Kansas City Commercial Club and affiliated businesses established the Missouri Valley River Improvement Association in 1906, which recommenced lobbying Congress for the funds to improve the Missouri River for flood control, land reclamation, and navigation improvement. In 1907, the USACE created a Kansas City District Office to oversee work on the Missouri River, giving the USACE a permanent institutional tie to such work.[67]

Federal Water Resource Planning

At the same time, the federal government was taking a more active role in management of water resources throughout the nation. Water resource planning on a large scale emerged in the late nineteenth and early twentieth centuries. This was the Progressive Era, when university-trained experts in a variety of fields came to have immense hold on public policy. These experts, moreover, placed a high premium on the kinds of centralized planning that were available only through the federal government. Indeed, under the leadership of President Theodore Roosevelt, those in the Progressive movement with an interest in the environment pushed for establishment of federal protection for significant historical and natural resources with the creation of the National Park Service in 1916.

These planners urged systematic and efficient development of the nation's natural resources through "government financing and construction of large-scale water developments." The combination of government planning and financing of these water developments led to "the theory of multiple-purpose resource development—comprehensive river basin development achieved by impounding large amounts of water for flood control, irrigation, and water supply—which was the cornerstone of public natural resources policy" until the 1950s and 1960s.[68] This multiple-purpose approach to water planning first became a national policy under President Theodore Roosevelt, but it was not fully established until after World War I.[69]

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[66] Ibid., 69-83.
[67] Ibid., 87-98.
[68] Both quotes in A.D. Turlock and Roger Tippy, "Wild and Scenic Rivers Act of 1968," 55 Cornell Law Review 707 (1970), available on line at http://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=3816&context=clr, 708.
[69] Thorson, 59-60.

Under the guidance of this "Progressive Conservation Movement" approach, the federal government's principal water-control agencies— USACE and the Bureau of Reclamation — along with a host of private energy companies, enjoyed an era of nearly uncontested dam construction from the 1890s through the 1940s.[70] The first step in the federal government's program of managing the nation's water resources came in 1902 with the Newlands Reclamation Act, which provided funds for irrigation in thirteen western states, eventually extended to twenty states. This act, which was limited in scope, soon was supplemented by the Federal Power Act of 1920, which called for comprehensive development of the nation's rivers with a focus on power generation.[71] The Federal Power Act, in turn, created the Federal Power Commission. This Commission, run by the Secretaries of the Departments of War, Agriculture, and the Interior, encouraged construction of non-federal dams for hydroelectric projects; its principal concern was to adjudicate between any competing claims of power production and navigation on the nation's rivers. Environmental concerns, particularly regarding fish, came only with later amendments. Instead, decisions regarding dam construction were made through a cost-benefit process. This process was defined in the Flood Control Act of 1936 (33 U.S.C. §§ 701a-f, h), which noted that federal funds "'will be contributed to a project. . . only where the benefit from flood protection will justify the expense of such flood protection.'"[72] Such calculations, however, were clearly skewed toward those who wished to construct dams. Moreover, this method of analysis allowed only economic factors to be considered, thus precluding an analysis based on environmental values.[73]

As a result of successful lobbying by commercial interests in Kansas City and other cities along its path, combined with the legacy of USACE improvements, the Missouri River was high on the list of federal river projects throughout the early twentieth century. The lobbying proved successful in 1927, when Congress authorized the Missouri River Navigation and Channelization Project. This project included a six-foot-deep channel from Kansas City, Missouri, to Sioux City, Iowa, to be constructed by USACE. Funding for the work, however, was not available until the early 1930s under the administration of President Franklin Roosevelt.[74] Work began at Kansas City and extended the channel upstream, reaching Omaha, Nebraska, by the late 1930s. Work continued nearly to Sioux City, Iowa, by 1941, when it slowed significantly as the nation prepared for World War II.

At the same time that the channelization project was taking place, the idea of basin-wide planning for the Missouri began to develop. When the Tennessee Valley Authority was created in 1933, it was the first attempt at basin-wide planning that incorporated the policy of multiple-use development of the river basin and its resources. Various national and regional entities made several attempts to create a similar basin-wide planning and development program for the Missouri River valley through the 1930s and early 1940s. President Franklin Roosevelt's administration first proposed a Missouri

[70] The name of this movement is from Thorson, 59.
[71] A useful overview of the early legislation related to water resources is found in Hiser, 1046-1048.
[72] Quoted in Turlock and Tippy, 1970, 708.
[73] Ibid., 708-709.
[74] Schneiders 1996, 340.

Valley Authority in 1936, but the bill to authorize it did not pass Congress. In 1940, the Omaha District Office of USACE supported creation of a Missouri Valley Planning Commission that would have one representative from each state in the Missouri River basin except Colorado and Wyoming and from the Departments of War, Agriculture, and the Interior. Interest in the Commission faltered quickly as USACE and the nation geared up for World War II.

Particularly during the early years of World War II, in the early 1940s, little progress was made toward developing a basin-wide planning program for the Missouri River that included multiple-use developments. In 1943, a new incentive to control the Missouri River arrived with a devastating flood. While USACE's channelization project had successfully opened the central Missouri River to barges that could then pass all the way to St. Louis and New Orleans, it had a near-fatal flaw: during times of flood, the channelization structures did not allow the water to spread horizontally, but, instead, pushed the water ever higher, resulting in more destructive floods. Without a way to control the flow of water in upper portions of the river basin, floods would continue to threaten communities that lay along channelized portions of the river.[75]

Pick-Sloan Plan

Recognition of this problem in the immediate aftermath of the 1943 flood opened the gates to basin-wide planning on a massive scale, leading to what became known as the Pick-Sloan Plan. Under direction from the House Flood Control Committee, Colonel Lewis Pick, the Missouri River division engineer for USACE at Omaha, prepared a plan of action and sent it to the chief of engineers in the summer of 1943. Pick's vision was vast in scale and drew heavily upon the escalation of authority that USACE had exerted over the waters of the United States for the past several decades. Pick's plan initially included eighteen dams on tributaries of the Missouri, five dams on the main stem of the Missouri River, and 1500 miles of protective levees from Sioux City, Iowa, to the Mississippi River.[76] The fundamental concept was to hold back the waters of the upper Missouri River, both in the main stem and in the tributaries, to protect the channelization structures downstream.[77] Beyond this, however, Pick's plan drew upon the multiple-purpose approach for dams and basin planning that had developed in the early twentieth century, though it did so on a scale that had never been anticipated.[78]

Residents and politicians in the upper basin states objected to Pick's sweeping USACE plan, fearing that it jeopardized irrigation and hydropower interests while favoring navigation in the lower river. Members of Congress in the upper basin then requested the Bureau of Reclamation, which had long worked on water control projects in the Plains and Upper Midwest states in support of irrigation, to prepare an alternative

[75] Schneiders 1996, 344; see also Lawson, 6.
[76] Michael L. Lawson, *Dammed Indians Revisited: The Continuing History of the Pick-Sloan Plan and the Missouri River Sioux* (Pierre: South Dakota State Historical Society, 2009), 11.
[77] Schneiders 1996, 344.
[78] Lawson 11.

plan. Although the Bureau of Reclamation had already begun its comprehensive plan when Pick started his work, they were not as fast as Pick in releasing theirs. William Glenn Sloan, assistant director of the Bureau of Reclamation's office in Billings, Montana, took over the work of completing the Bureau of Reclamation's plan, which included coordination with the Department of the Interior. As expected, Sloan's plan, when submitted to Congress in May, 1944, prioritized irrigation and hydropower in the upper basin, providing a larger number of smaller dams on the tributaries and only two main stem dams.[79]

Proponents of the two plans battled vigorously in Congress and the press through 1944. In the face of a third proposal to form a Missouri Valley Authority that would create its own plan, USACE and the Bureau of Reclamation joined forces and, in a two-day conference in October, 1944, created a compromise plan that included nearly everything in both plans.[80] Congress then passed the Flood Control Act of 1944 (P.L. 78-534) in late 1944, which incorporated the Pick-Sloan Plan. President Roosevelt signed the act into law on December 22, 1944. While the Pick-Sloan Plan was sprawling in the scope of the items that it included, the keys were the five massive dams on the main stem of the Missouri River: (from upstream to downstream) Garrison, Oahe, Big Bend, Fort Randall, and Gavins Point. In addition to construction projects on an empyrean scale that took place over the next twenty-one years, the project required confiscation of hundreds of thousands of acres along the river, much of it from American Indians, with little or no consultation and no recognition of the value of the land beyond monetary.[81]

Of particular importance to the Missouri NRR, the Pick-Sloan Plan gave authority over the channelization of the lower Missouri River to USACE. Flows of nearly the entire Missouri River, therefore, were to be managed by USACE, largely in reference to navigational needs of the river downstream. The procedures under which USACE manages flows of the Missouri River are defined in the *Missouri River Mainstem Reservoir System Master Water Control Manual*, normally shortened to the *Master Manual*. Authorized by Congress, the *Master Manual* is updated periodically.[82]

Criticisms of the Pick-Sloan Plan began nearly immediately after its passage and focused primarily on its lack of comprehensive planning. Although vast in geographic and technological scope, the Pick-Sloan Plan, according to its many critics, failed to take into account a wide range of other factors, both environmental and cultural. The devastation the massive construction project visited on the region's American Indians, for example, has been ably documented in numerous books and articles, most notably those by Michael Lawson, and additional information on this vital topic can be found there.

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[79] Lawson, 13-15; Schneiders 1996, 344-345.

[80] David C. Campbell, "The Pick-Sloan Program: A Case of Bureaucratic Economic Power," *Journal of Economic Issues*, 18 (June 1984), 450.

[81] Lawson, *Dammed Indians Revisited*," a revision of an earlier book, provides the most searing indictment of the federal government's heavy-handed and dictatorial approach to American Indian tribes and groups and their traditional understanding of their relationship to the land and the river.

[82] Committee on Missouri River Ecosystem Science, National Research Council, *Missouri River Ecosystem: Exploring the Prospects for Recovery*, 2002, contains a very useful discussion of the *Master Manual*, and the way that USACE uses it to guide Missouri River flows, 40-51.

By the 1950s, a number of federal and state agencies and private organizations were placing a greater emphasis on basin-wide planning for the Missouri. This awareness of the need for comprehensive basin planning, however, was coming after USACE had already won Congressional approval and funding for its massive reshaping of the river through the Pick-Sloan Plan and had begun work on several main stem dams. The horse, as it were, was already out of the barn, and the other agencies labored mightily to chase after it and rein it in.

Despite these constraints, the development of comprehensive Missouri River basin planning during the Pick-Sloan Plan Era, from the late 1940s into the 1960s, is a topic that is as large and complicated as the Big Muddy itself. A 2002 study of the Missouri River ecosystem provides a valuable overview of efforts to provide frameworks for basin-wide collaboration on planning and development.[83] The Missouri Basin Inter-Agency Committee was formed in 1945, and consisted of forty-three federal agencies and the governors of five states. It was "hampered by a lack of clear legal mandate and it was terminated in the early 1970s." It was replaced in 1972 by the Missouri River Basin Commission, which was created pursuant to the Water Resources Planning Act of 1965. The Missouri River Basin Commission consisted of federal and state representatives and had a professional staff which carried out a range of studies, but it was seen as ineffective by the participating states and federal agencies and "did not lead to a basin-wide management regime." It was terminated in 1981, when the Missouri Basin States Association was formed. This was dissolved in 1988 when it proved unable to resolve disputes among the states, but reconstituted in 1990 to include American Indian tribes and renamed the Missouri River Basin Association. Other similar organizations have attempted to provide basin-wide planning. As the 2002 study observed, "The net result of the inability of the states and federal government to develop an effective basin-wide governance structure is that the Missouri River is currently managed almost exclusively by the Corps of Engineers according to the Flood Control Act of 1944 (which includes the Pick-Sloan Plan)."[84] In 2008, a new effort, the Missouri River Recovery Implementation committee began its work of providing the much-needed basin-wide planning for the Missouri River basin.

National Park Service and Recreational Planning

This effort to establish a framework for comprehensive basin-wide planning, as well as construction of five main stem dams under the Pick-Sloan Plan, took place during a period of increasing awareness of environmental values and the threats to them that large public construction projects posed.[85] This awareness of the environmental impacts

[83] Ibid, 32-25.
[84] Ibid., quotes on 32, 33, 35.
[85] See the Introduction for a brief background of emerging environmental movement in the 1950s and 1960s, particularly in relation to the awareness of free-flowing rivers. In addition, see Chapters 9 (Resource Management) and 11 (Current Management and Operations) of this Administrative History for information about the Missouri NRR's role in more recent basin-wide planning programs.

of large, main stem dams was in its infancy, however, and, while the Department of the Interior generally had environmental sensibilities, the concern of NPS, particularly with regard to dams, was primarily on recreation and archeological salvage. Dams are usually inconsequential to NPS and generally not within its purview with the exception of areas that are included as NPS units and actively managed primarily for recreational purposes such as Lake Mead National Recreation Area, Nevada. Correspondence among NPS, USACE, and other federal agencies through the 1950s and early 1960s regarding river planning and construction of dams focused exclusively on reservoirs, and the opportunities for recreation and threats to archeology that they posed, with impacts on aesthetic values added only in the late 1960s and early 1970s.

A full review of the different planning-related efforts that took place within this era falls well outside the scope of this administrative history. Correspondence just among NPS and USACE within files at the Federal Records Center at Lenexa, Kansas, for example, is voluminous. A brief review of these documents in connection with selected secondary works, however, leads to two general observations. First, it is clear that that the segments of the river that became parts of the Missouri NRR, the lower 59-mile segment and the upper 39-mile segment, though central to this story, are only minor components of a river that extends for more than 2,341 miles, representing less than one-half of one percent of the total river. Second, it is equally clear that NPS was deeply involved in planning for developments on the river throughout the 1950s and 1960s, both within and without the two segments that it eventually came to manage as the Missouri NRR. Although communications between USACE and NPS were infrequent, even within the parameters of recreation planning and archeological salvage, both agencies were intimately involved with existing and proposed developments on the river and the impacts resulting from them.

During this period, the principal goal of NPS with regard to federal river basin planning and water resource development projects was to ensure a place for recreational facilities, seeing the creation of reservoirs as an opportunity to provide spaces for recreational activities including facilities for boating, fishing, camping, picnics, and hiking. NPS laid the groundwork for development of recreational opportunities with a series of studies. As early as 1953, NPS had produced "dozens of other reports on history, archeology, and recreation in connection with Missouri River Basin projects," reports that were designed for internal NPS "use and guidance."[86]

Recreation was already an important factor in basin planning, with NPS taking the lead on basin-wide recreation planning studies. NPS carried out its work within the framework of a state and local cost-sharing program which, by the mid-1950s, included ten parks that had already been established, with twelve more in negotiation.[87] The program was revised in 1955 to include an agreement with the Bureau of Reclamation that made NPS the recreation and planning agency for reservoir developments. No such

[86] Memorandum from Acting Regional Director, Region Two to NPS Director, 12/3/1953, Lenexa, KS, FRC Accession No. 079-88-0002, Box 8, File Folder No. L7423.
[87] "Missouri River Basin Development: Accomplishments of the Department of the Interior 1953 to Date," Lenexa, KS, FRC Accession No. 079-88-0002, Box 8, File Folder L7423.

agreement existed with USACE, however, which continued to handle development of recreational facilities primarily on its own.[88] By 1957, coordination with USACE remained rare. In a 1957 memorandum, NPS Regional Chief of Recreation Planning in Omaha noted that USACE and NPS had official arrangements regarding coordination on studies and reports, but "In practice, such requests from the Corps have been infrequent in connection with these reservoirs, particularly during the last several years."[89]

Such coordination between USACE and NPS remained elusive well into the 1960s. In 1962, Congress called for the Departments of Interior and the Army to create joint policies to plan for recreation on water resource developments. In a request to the regional chiefs, NPS Region Two Director Howard W. Baker in Omaha solicited input toward the development of these policies which, he noted, "reflect a distinct forward trend in coordination of the complete use of the reservoirs—an objective we have been pressing for over a good many years."[90] During this time, USACE enacted a policy change in 1961 which gave USACE authority to develop basic recreational facilities at their reservoirs, along with the ability to acquire additional land. In practice, this led USACE to reclaim land at Fort Randall and Lewis and Clark Lakes that had been leased to the State of South Dakota for parks.[91] NPS was concerned by this trend, and initiated discussions about this change with USACE and with Congressional representatives that continued into 1964. These discussion led to passage of the Federal Water Project Recreation Act of 1965 (P.L. 89-72). In this act, Congress called for recreation and fish and wildlife enhancement to be "given full consideration as purposes of Federal water development projects." This federal support was conditioned, however, on sharing of costs and administrative responsibilities by non-federal bodies such as municipalities, counties, and states.

Through the 1950s and 1960s, NPS remained focused on reservoirs that had been created by the Pick-Sloan Plan, since they held the principal recreational opportunities. The status of free-flowing rivers that might be impacted during this time was largely the province of the U.S. Fish and Wildlife Service (FWS), not NPS. Indeed, with only one major exception, unimpeded river segments of the Missouri rarely, if ever, became issues of discussion among the agencies. A 1966 memorandum from the Chairman of the Bureau of Outdoor Recreation's Recreation Task Force to members of the Task Force, including NPS, described the problems, needs, and opportunities pertaining to recreation on the Missouri. John E. Raybourn pointed particularly to

[88] Memorandum from Acting Regional Director, NPS Region 2 to Superintendents, 12/3/1959, Lenexa, KS, FRC Accession No. 079-88-0002, Fox 8, File Folder L7423.
[89] Memorandum from Regional Chief of Recreation Resource Planning, Region 2, to The Director, March 13, 1957, Lenexa, KS, FRC Accession No.079-88-0002, Box 6, File Folder L7423.
[90] Memorandum from Regional Director, Region 2, to Regional Chief, 3/8/1962, Lenexa, KS, FRC Accession No. 079-88-0002, Box 8, File Folder L7423.
[91] See Memorandum from NPS Associate Director to Regional Directors, 8/30/1961; letter to Mr. Baker from South Dakota Department of Game Fish and Parks, 10/4/193; Memorandum from NPS Director to Regional Director, Midwest Region, 11/7/1963; Memorandum from NPS Director to Acting Assistant Regional Director, Midwest Region, 3/20/1964; Lenexa, KS, FRC Accession No. 079-88-002, Box 5, File Folder L7423.

> the Missouri River main stem, especially between Yankton, South Dakota, and Fort Benton, Montana. This 1,200-mile reach of the Missouri includes the following reservoirs: Gavins Point, Fort Randall, Big Bend, Oahe, Garrison, and Fort Peck. It also includes the historic Lewis and Clark Trail. These facilities, while they presently attract many recreationists, have a great, untapped potential. Substantial numbers of outside-the Basin visitors will undoubtedly be attracted into the Basin in the future if these resources are developed to their ultimate potential. Of equal importance, this reach of the Missouri can help satisfy the recreation needs of the Missouri Basin residents."[92]

In the understanding of the time, reservoirs provided the principal recreational opportunities, not the open sections of river.

The one major exception to the lack of discussion of free-flowing rivers was the stretch downstream of Gavins Point Dam, what is now the 59-mile segment of the Missouri NRR. Under the provisions of the Flood Control Act of 1927, USACE completed channelization of the Missouri River as far upriver as Sioux City, Iowa, by 1969. In the late 1950s and early 1960s, however, USACE also was planning for channelization of the section of river from Sioux City upriver to Yankton, South Dakota, including what is now the 59-mile reach of the Missouri NRR. In a letter to NPS in 1960, USACE identified two possibilities for carrying out this project. One was to create a channel by means of bank stabilization structures in a way similar to work in the lower river. The second was to construct two multi-purpose dams, one at Kensler's Bend approximately six miles upstream of Sioux City, and another at Mulberry Bend near Vermillion, South Dakota. Both dams would have navigation locks, spillways, and a powerhouse on the Nebraska side of the river. USACE requested input from NPS regarding possibilities for recreational developments at these reservoirs.[93] USACE opted against the two-dam scenario and went ahead with planning for development of a nine-foot channel that included bank stabilization. In 1965, FWS issued a review of USACE's plans, noting that they had the potential to cause a great deal of disruption in habitats for both fish and wildlife. The FWS report also provided an extensive plan for development of fish and wildlife resources, including a great deal of land acquisition, which would protect a range of habitats and species. Compliance with the FWS plan, according to the report, could present "an excellent opportunity to realize the benefits of multi-purpose planning."[94]

By the late 1960s and early 1970s, however, the emerging environmental movement was taking hold.[95] This made the political climate for large-scale river

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[92] Memorandum, John E. Raybourn to Members, Recreation Task Force, 1/4/1966. Lenexa, KS, FRC Accession No. 079-88-0002, Box 6, File Folder L7423.
[93] Edmund R. Preston, Jr., USACE to H.W. Baker, NPS, 6/24/1960, Lenexa, KS, FRC Accession No. 079-88-0002, Box 6, File Folder L7423.
[94] R.W. Burwell, FWS Regional Director, to Harold J. St. Clair, USACE District Engineer, 3/24/1965, Lenexa, KS, FRC Accession No. 079-88-0002, Box 5, File Folder L7423.
[95] In contrast to the earlier optimistic assessments by FWS regarding channelization, see Earl R. Kendle, "The Effects of Channelization in the Missouri River on Fish and Fish-Food Organisms," *Nebraska Game*

engineering projects far less certain that it had been in previous decades. While barge navigation traffic continued to increase through the 1960s and mid-1970s, it never reached the level that USACE had predicted in the years following the Flood Control Act of 1944. In the face of opposition on environmental grounds and with a less secure economic basis to commit the funds necessary to carry out the work, Congress declined to authorize it.

The decision not to create a navigation channel between Yankton, South Dakota, and Sioux City, Iowa, allowed this section of the Missouri River to remain in a free-flowing state, one of the few such segments in the lower and middle portions of the river. This did not mean, however, that this open section of the Missouri River remained in a natural state. Its position downstream of Gavins Point Dam, the first dam on the Missouri River when traveling upstream from Sioux City, means that flows are tightly controlled by USACE. The flow regime through this stretch of river is managed in accordance with USACE's *Master Manual* and determined by a variety of needs including downstream navigation, habitat for threatened and endangered species, and irrigation water required from the reservoir above.

More than just the quantity of water at different times of the year has changed, however. The water in the Missouri River downstream of Gavins Point Dam is qualitatively different now, as well. The famous silt and debris that gave the river the nickname "Big Muddy" largely settles out in the impoundments of the five dams on the main stem of the river. While the river in this section still has the opportunity to meander and spread across the floodplain as it did in earlier days, it is doing so now without depositing any sediment, only eroding it away. Though, in appearance, it remains the Mighty Mo in an untrammeled state, the Missouri River is a managed river. Who would manage this river became the burning question of the 1970s.

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and Parks Commission—White Papers, Conference Presentations, & Manuscripts, paper 23, located at http://digitalcommons.unl.edu/nebgamewhitepap/23.

Chapter 2: Legislative History, 1978 Designation

Creation of the Missouri National Recreational River (NRR) in 1978 was a result of the confluence of two powerful streams: growing environmental awareness that emerged in the 1950s and grew rapidly through the 1960s and 1970s, and efforts by the U.S. Government and other entities over the previous four or five decades to control and harness the mighty Missouri River. Like the braided channels of the Missouri itself, however, these streams joined together in complicated and unexpected ways, and not in any anticipated, linear fashion. Indeed, development of support for designation of the 59-mile segment of the Missouri River from just below Gavins Point Dam near Yankton, South Dakota, downstream to Ponca State Park as a component of the NWSR System yields many apparent contradictions. Conservationists and farm owners whose land fronted on the Missouri River joined forces around a series of studies carried out by USACE in order to confront a problem created by USACE's construction of a massive dam immediately upstream. This alliance arose well after the dam was constructed, however, and not in protest of its planned construction. These unlikely allies, moreover, used a legislative program under the auspices of the Wild and Scenic Rivers (WSR) Act designed to recognize and protect stretches of rivers that had not been impacted by dams or other improvements to protect this stretch of river immediately downstream of a dam.

The successful passage in 1978 of legislation that designated the 59-mile stretch of the river a recreational river under the WSR Act ultimately brought into this mix additional unlikely collaborators in its management: USACE, which was already managing flows of the newly-designated stretch of river by means of Gavins Point Dam, and NPS, which initially had argued against designation of the 59-mile stretch of river and its inclusion as a unit of the National Park System. These contradictions, emerging from a legislative process in which agencies and individuals with divergent purposes and agendas made use of one federal program with its own rationale, are now built into the Missouri NRR and have continued to create challenges for its management for more than three decades since the original designation.

This chapter presents the legislative background of the original, 59-mile segment of the Missouri NRR that extends downstream from Gavins Point Dam to Ponca State Park. A second segment of the Missouri NRR, consisting of a 39-mile segment of the Missouri River between the base of Fort Randall Dam and the upper limit of Lewis and Clark Lake (which is formed by Gavins Point Dam) in proximity to Running Water, South Dakota, along with the 20-mile lower portion of the Niobrara River to its confluence with the Missouri River and a section of Verdigre Creek, was designated in 1991. That portion of the Missouri NRR has its own distinct legislative history that will be addressed in the next chapter.

The Missouri River: Studies and Threats

The WSR Act included designation for eight rivers, with several tributaries and recommended an additional twenty-seven rivers or segments of rivers for immediate study. No segment of the Missouri River was among the eight rivers that were designated by the Act, while only a portion of the Missouri that lay within Montana was included in the list of rivers to be studied. It is likely that this omission was due to the presence of the five Pick-Sloan dams along the main stem of the Missouri River, one of which—Big Bend Dam near Thompson, South Dakota—was still being completed when discussion of the Wild and Scenic Rivers Act was beginning.

At 2,341 miles long from its origin to its confluence with the Mississippi River, the Missouri is the longest river in North America, and was already the subject of intense federal activity and regulation. In this era of watershed-based multi-use planning, studies regarding development of the Missouri basin began even before passage of the WSR Act. In the years immediately before and after passage of the Act, several state and federal studies paid increasing attention to the Missouri River, particularly in the few substantial reaches where development remained difficult to see. Given the interests of the emerging environmental movement, recreation was a key focus of these investigations.

The Missouri Basin Inter-Agency Committee (MBIAC), which had been formed in 1945 to coordinate actions of federal agencies in the ten states of the Missouri River basin, authorized a framework study in 1964. This comprehensive study of the river and its potential uses and protection was divided among several task forces, one of which focused on recreation needs. MBIAC's Recreation Task Force issued its report in 1967. Among its recommendations was that the 59-mile segment of the river downstream of Gavins Point Dam had a great deal of potential for recreation, and that it should be included in a state or national recreational river system. As Spegel noted, this was "the first such recommendation for the reach and a full year before the [WSR Act] came into existence."[96]

The full report of MBIAC's framework study was not released until 1971. At the same time, the Nebraska Soil and Water Conservation Commission carried out its own framework study as part of a State Water Plan. The plan was released in 1971 and recommended protection of the segment of the Missouri from Yankton to Sioux City, which remained in a free flowing state; the plan also included the recommendation that it be studied for possible inclusion in the National Wild and Scenic Rivers program.

Finally, and most significantly, the Bureau of Outdoor Recreation (BOR) released its study of the 59-mile reach downstream of Gavins Point Dam in 1971. The BOR report firmly recommended designation of the reach, specifically under Section 5(d) of the WSR Act, which would afford it a degree of protection from proposed federal works. BOR's recommendation pointed to the historical associations, fishery and wildlife

[96] Spegel, *Missouri National Recreational River,* 42

resources, recreational opportunities, and natural appearance of the 59-mile reach as justification for recommendations.[97]

In 1970, however, at the same time that these several studies spoke so glowingly of the recreation potential of the Missouri River downstream of Gavins Point Dam, USACE proposed a far different approach to this reach. In the Omnibus Rivers and Harbors Bill of 1970, USACE proposed to extend the navigation channel upstream from Sioux City to Yankton. As with the lower sections, this would involve a complete channelization and bank stabilization of this section of river. The reaction was swift and forceful, coming from state agencies and environmentalist groups including the Dakota Environmental Council, the Nebraska Game and Parks Commission, the Nebraska Soil & Water Conservation Commission, and others. All agreed that the kind of bank stabilization program envisioned by USACE would have negative impacts on the natural appearance of this stretch of the Missouri. In the face of concerted opposition, USACE retracted its plan.

Seeking Balance: Bank Stabilization and the Natural River

This portion of the Missouri River, however, ceased being a "natural" reach of the river in the 1950s when Gavins Point Dam was completed. While water continued to flow through the river below the dam as it had before, the dynamics of this flow were changed. Before the dam was erected, erosion caused by high flows was generally balanced by deposition of silt from further upstream. Once the dam was constructed, however, silt from upstream was largely trapped by the dam while erosion below the dam continued apace. Since the 59-mile stretch of the Missouri below Gavins Point Dam passed through primarily agricultural land, riparian landowners whose land bordered the river experienced most of the impacts of the river's improvements.

The problem of bank erosion downstream of Gavins Point Dam was noticed almost immediately. As early as 1949, at the same time that the channelization project from Omaha to Sioux City was gaining momentum, USACE was authorized to carry out a bank stabilization study below Gavins Point. Implementation of the study was delayed, however, in part to allow USACE to observe the impacts of the dam. These delays continued into the 1960s; the inaction created increasing frustration among riparian landowners whose land bordered the river.

The early 1970s clearly were the pivotal point for the 59-mile stretch of the Missouri River, when so many issues associated with the river came to a head and began to intersect. Several recreation studies, emerging from the new environmental movement, all pointed to this section of the river as possessing great value as one of the few remnant portions that remained natural in appearance, and while disturbed, relatively free flowing in character. USACE, having just completed a decades-long effort to channelize the river for navigation as far upriver as Sioux City, proposed to continue its work through this

[97] Ibid., 41-43.

section to Yankton. Finally, the adjacent landowners on both the Nebraska and South Dakota sides of the river began to reach a critical mass of influence with local lawmakers.

In the late 1960s and early 1970s, farmers along the 59-mile stretch became more active in contacting USACE, the Governor of Nebraska, and their representatives in Congress regarding their concerns about development plans for the river. On September 2, 1971, landowners organized a boat trip downstream from Yankton to Sioux City. They invited as many lawmakers and public officials as possible in the hopes of demonstrating to the largest possible audience the degree of damage that erosion was causing. The trip was a success; many elected officials and members of state and federal agencies attended. At a picnic afterward on one of the farms near Newcastle, Nebraska, the farmers told those who attended of the scale of their land and crop losses. An engineer from USACE pointed out to the group that his agency could do nothing until Congress authorized a study and appropriated funds to carry it out.[98]

From this initial public event in September 1971, the pace of federal action began to accelerate. Much of this was due to formation of a new organization at the picnic in Newcastle: the Missouri River Bank Stabilization Association (MRBSA). MRBSA immediately took an active and vocal role in promoting bank stabilization and quickly gained influence among the region's legislators and public officials. It is impossible to overstate the importance of MRBSA and the issue of bank stabilization in the 59-mile reach to the designation of the Missouri NRR. Other options clearly were available in the late 1960s and 1970s, including federal purchase of eroded sections of river bank, complete channelization of the river to Yankton, and even doing nothing so as to allow the river to follow its course. However, the political acumen and consistent legislative pressure of MRBSA, and their flexibility with regard to strategies for achieving their goal of bank stabilization, proved pivotal.

Throughout the early and mid-1970s, MRBSA pursued many legislative and judicial avenues on behalf of bank stabilization. The common theme throughout these efforts was funding. USACE had spent hundreds of millions of dollars through the 1950s and 1960s completing channelization of the Missouri below Sioux City in support of improving navigation and allowing larger barges to ply the waters. As the 1970s wore on, with recessions, the oil crises, and political turmoil in Washington, such funds were more difficult to obtain, particularly for projects that could demonstrate relatively few direct, large-scale economic gains. While federal actions had created, or at least exacerbated, the problems of riverbank erosion below Gavins Point Dam, federal remedies, especially those that cost a lot of money, were hard to come by.

The timing of MRBSA's arrival on the scene was fortuitous, given the simultaneous recent recreational recommendations and the threat of USACE's channelization project for the Missouri. Following the proposed 1970 Omnibus Rivers and Harbors Bill, for example, a Missouri River Task Force was assembled with representatives from private, local, state, and federal agencies. The goal of the Task Force was to address the problem of erosion that had resulted from construction of Gavins Point

[98] Spegel, *Missouri National Recreational River*, 45.

Dam. The Task Force issued its report in 1972, and urged formation of "a new plan for bank stabilization in the 59-mile reach that would be operated in conjunction with a program for managing and preserving existing environmental values along the river."[99]

The Task Force's recommendation was incorporated into a new Omnibus Rivers and Harbors Bill in 1972. In part as a result of lobbying from MRBSA, support for the bill, with its bank stabilization provisions, came quickly from the Congressional delegations of South Dakota and Nebraska. The bill passed the House and the Senate, but President Richard Nixon vetoed it on budgetary grounds. The following summer, Rep. Charles Thone (R-NE) invited MRBSA to testify before the House Sub-Committee on Energy and Water Development. The members of MRBSA who traveled to Washington brought with them photographs and other evidence of the erosion that they faced and requested that USACE's proposed bank stabilization program that had been in the 1972 bill be included in the 1973 bill. In their testimony, they pointed out that the 59-mile section of the Missouri was being impacted by the Pick-Sloan dams but was not included in the river improvements component of the Pick-Sloan Plan; that the water being released from Gavins Point Dam to support the navigation channel that was downstream of the 59-mile section was causing erosion; that the erosion threatened roads, farms, wildlife habitats, and even the Sacred Heart Hospital in Yankton; and that the erosion caused a loss of income to local, state, and federal governments in addition to private citizens. The members of the committee expressed their sympathy and support but pointed out the budgetary constraints. As before, the cost of the program led to it not being included in the 1973 Omnibus Rivers and Harbors Act.

Support for USACEs plan for extensive bank stabilization absorbed much of MRBSA's attention in its early years. After defeat of the 1973 bill, MRBSA continued its concerted lobbying of South Dakota and Nebraska Congressional delegations as they pursued several options through the mid-1970s. Among the most promising was the Streambank Erosion Control Evaluation and Demonstration Act of 1974 (PL 93-251). Section 32 of this act created a comprehensive research study of several different bank stabilization and erosion control methods. Recognizing the high costs associated with erosion control and remediation, sponsors of the bill hoped to identify cost-effective solutions by creating demonstration projects that employed a variety of structures in different locations and studying their relative effectiveness. The legislation provided for demonstration projects on the Ohio, Elle, Yellowstone, Yazoo, and Missouri Rivers. These projects included structures at Cedar County Park, Brooky Bottom Road, Mulberry Bend, Ryan Bend, and Ionia Bend in the 59-mile section below Gavins Point Dam, and at Sunshine Bottom in the section below Fort Randall Dam.[100]

MRBSA fully supported the Section 32 studies, and urged their Congressional representatives to call for its extension. In 1976, with support from Rep. Larry Pressler (R-SD), Congress doubled funding for the Section 32 program in the Water Resources Development Act of 1976 (P.L. 94-587). With funding increased to $50 million, the

[99] Ibid., 49.
[100] *Final Report to Congress: The Streambank Erosion Control Evaluation and Demonstration Act of 1974, Section 32, Public Law 93-251* (U.S. Army Corps of Engineers, 1981), X-2.

program was extended from 1976 to 1981. This program "delivered the first substantial federal support for bank stabilization in the 59-mile reach."[101] Results of the program, however, were ambivalent. While the results showed that erosion control and bank stabilization structures could be effective, they could also be very expensive: "Effective erosion control on the main streams and tributaries will require careful planning, design, construction, and maintenance of the facilities provided. This will be expensive. However, results so far indicated that in some cases lesser amounts of erosion-resistant materials may provide reasonably effective streambank control." [102]

While the Section 32 studies were being implemented and assessed, MRBSA explored other options for protecting the river banks. In 1975, for example, MRBSA supported a request that 100 miles of the Missouri River from Fort Randall Dam to Ponca State Park be declared eligible for emergency funds due to damages that resulted from high snowfall melt further upstream during the previous spring. Support for this action faded when the emergency relief was identified as low-interest loans rather than a permanent solution to bank stabilization. In 1975, Senator James Abourzek (D-SD) introduced a bill (S. 2758) that authorized bank stabilization on the Missouri River from Fort Randall to Sioux City. The bill failed, even though Senator Roman Hruska (R-NE) argued that the temporary Section 32 demonstration projects were not sufficient to deal with the larger problem of erosion. Finally, MRBSA even looked into a class-action lawsuit against USACE in hopes of forcing USACE to reduce discharge from Gavins Point Dam to 48,000 cubic feet per second (cfs) from 60,000 cfs to lessen the impact of discharge on the stream banks. The key argument for the suit was that USACE should have conducted environmental studies that would have identified the potential damage resulting from erosion. The lawsuit was not successful.

Precursor to Legislation: Umbrella Study

The idea of designating the 59-mile stretch of the Missouri downstream from Gavins Point Dam had enjoyed a flurry of attention in the late 1960s and early 1970s, as a number of studies pointed to its suitability for the NWSR System. As the 1970s wore on, however, that possibility faded from public view as MRBSA directed all of its attention on erosion control and bank stabilization. By 1976, the original Section 32 erosion control demonstration projects in the 59-mile reach had gained new life and new funding. Although originally intended to be temporary and limited in scope, these programs were considered, at the time, as the best hope by MRBSA for protecting the banks of the river. Designation under the WSR Act seemed to have no pertinence to this cause.

In 1976 and 1977, however, the two issues of bank stabilization and Wild and Scenic River designation were joined together by an unlikely force: USACE. In the early 1970s, USACE, prompted by the need to address more comprehensively diverse interests, began planning a massive study of the Missouri River, covering all areas impacted by the

[101] Spegel, *Missouri National Recreational River*, 55.
[102] Final Report to Congress of Section 32 studies, 1-2.

Pick-Sloan Plan. The proposed study would incorporate previous studies and new ones. Formally identified as the Missouri River Review Report for Water Resources Development, the result came to be known as the Umbrella Study, and its aim was to create a system-wide plan that would meet multiple goals including additional hydroelectric production, bank protection, and enhancement of recreation, fish, and wildlife. A fundamental point of the Umbrella Study was to recognize that completion of the Pick-Sloan Plan and the ensuing construction of six dams had a number of impacts, many of them unforeseen, on the Missouri River system, both main stem and basin wide. The problem of erosion and bank degradation downstream of the massive dams was chief among these impacts under consideration within the Umbrella Study that was completed in 1977.

By far, the most significant stream bank erosion that the study identified was in the 59-mile reach downstream of Gavins Point Dam; of the proposed $23 million identified for needed river bank protection, nearly $12 million was targeted to this reach.[103] As a result, the Umbrella Study paid particular attention to this reach and its needs for bank stabilization and identified two plans that would put the issue of bank stabilization in a larger context and provide the means to address it. One of the plans called for development of increased river access for recreational purposes under the Federal Water Project Recreation Act of 1965 (P.L. 89-72). The other plan, which USACE found preferable, was to seek designation of the 59-mile reach as a Recreational River component under the WSR Act.

USACE adopted this approach on the basis of the earlier study by BOR which made a similar recommendation (though without the additional component of bank stabilization). As part of the Umbrella Study, therefore, USACE invited BOR in March 1976, to carry out a new study in collaboration with other DOI agencies and state officials in Nebraska and South Dakota that would be integrated with the Umbrella Study. In a memo to the Director of BOR, the Regional Director of BOR's Mid-Continent Region Office in Denver requested funding to carry out the study in conjunction with USACE, noting that it offered "an excellent opportunity to implement a new approach to the Bureau's Wild and Scenic Rivers Program and to preserve one of the last remaining natural segments of the once mighty Missouri."[104] Funding was quickly approved, and BOR offered its experience in evaluating rivers for inclusion in the NWSR System.

Work on the Wild and Scenic Rivers evaluation took place during the summer of 1976, concurrently with USACE's overall Umbrella Study efforts. USACE held a number of public informational meetings during the summer of 1976, soliciting input on its overall proposed plan that included new hydroelectric development at existing dams,

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[103] *Missouri River, South Dakota, Nebraska, North Dakota, Montana: Review Report for Water Resources Development*, (U.S. Army Corps of Engineers, Omaha District, Paper 191,1977), 70; hereafter cited as Umbrella Study.

[104] Regional Director, Mid-Continent Region to Director, Bureau of Outdoor Recreation, memorandum, April 16, 1976. MS in files of Missouri National Recreational River Headquarters, Yankton, SD (hereinafter cited as Files of Missouri NRR), File MNRR II.

fish rearing ponds, bank stabilization efforts at different points on the river, and designation of the 59-mile reach. USACE received letters of comment from a wide range of local and state agencies in Nebraska, South Dakota, and Iowa. Similarly, many other entities, including conservation organizations, as well as MRBSA, provided favorable letters of response. With regard to bank stabilization and designation as a Recreational Component of the NWSR System, most responses were positive.

The two issues of bank stabilization and designation under the WSR Act normally would not be closely intertwined. In the case of the 59-mile segment of the Missouri River, however, they had been linked by the presence of the Section 32 demonstration projects, and they were not likely to be separated. The Nebraska Wildlife Federation, for example, enthusiastically supported NRR designation and pointed to the urgency of bank stabilization given the amount of land that was being lost each year. The organization praised the balance between the natural character of the river and bank stabilization that USACE had shown in the Section 32 projects built to date, and saw designation of the river as a way to open avenues of funding. Likewise, the Lewis and Clark Natural Resources District declared that "the concept of a 'Recreational River' with bank stabilization described at the hearing strikes a good balance for maintaining the river as nondestructive yet scenic and aesthetic." They also noted with approval that such a proposal would relieve them of operation and maintenance responsibilities. The Nebraska Game and Parks Commission, meanwhile, approved of the balance that had been shown. The bank stabilization structures built within the 59-mile stretch, they said, "appear to not only be compatible with but have the potential to enhance the river's value under Recreation River [sic] designation."

Amid general praise from those who submitted comments on the USACE's draft proposals, there were dissenting voices. Sources of dissent came from opposite perspectives. Planners for Yankton County, South Dakota, were leery of designating the river under the WSR Act: "designation of this reach of the river as a national recreation river should be made only after commercial navigation development from Sioux City, Iowa, to Yankton, South Dakota, has been ruled out or if it is found that recreation designation and commercial navigation can be developed in some mutual manner."[105] On the other hand, the South Dakota Department of Game, Fish, and Parks was deeply suspicious of the ability to integrate bank stabilization projects with preservation of the river's natural appearance. While recognizing the need for some stabilization, they urged additional time to evaluate the impact of the structures on the environmental and aesthetic qualities of the river.

Work on the Umbrella Study report, together with BOR evaluation of the NRR designation, continued through the fall and early winter of 1976-77. In a briefing report for BOR's Assistant Director, A. Heaton Underhill, in November 1976, BOR's Division of Water Resources noted that USACE was currently completing its draft report for the Umbrella Study, and was "enthusiastic to administer the river resource and all newly developed recreation areas." BOR's concern was that delays in the process would lead to

[105] Letter from Dun Juffner, Chairman of Planning Development District III, Yankton, SD to Harry F. Mumma, USACE, June 30, 1976, Files of Missouri NRR, Box MNRR II.

loss of local support for designation, which was based on riverbank stabilization.[106] A sense of this local support for bank stabilization can be seen in a review of the draft Umbrella Study report several months later by the Nebraska Game and Parks Commission. From the beginning of the process, the Director noted, the concept of a NRR designation and bank stabilization were linked together, but the report separated them as two separate proposals: "We strongly urge that every effort be made to see that the two separate plans move forward together at the same time."[107]

The November 1976 briefing report attributed the delays to FWS, which, it claimed, had a "negative COE [Corps of Engineers] bias" and opposed all erosion control structures. FWS, the report observed, "insists that any structures are bad for fish and wildlife and recreation." According to the briefing report, a meeting with FWS was scheduled shortly, in November 1976, to attempt a resolution, though no records of that meeting have been found for this administrative history. As the draft Umbrella Study report was circulated among federal agencies in January and February 1977, however, FWS continued its opposition to the attempt to incorporate bank stabilization structures with the NRR designation. The FWS Area Officer in Pierre, South Dakota, sent a letter in January to the Chief of USACE's Missouri Division expressing these concerns, and, in a letter to the Director of the Nebraska Game and Parks Commission in March 1977, the Director of FWS reiterated these reservations. FWS, he noted, "is deeply concerned about the adverse environmental effects on fish and wildlife habitat of bank stabilization measures. This is based on our observed degradation of such habitat by these measures." He observed that the Section 32 demonstration projects were currently under way, and expressed the preference that those studies be completed and evaluated before considering incorporating bank stabilization into the NRR designation.[108]

As BOR staff reviewed the draft Umbrella Study report, they, too, held some reservations, though they expressed those reservations in a more positive way. An interagency memo from the Chief of the Division of Water Resources to the Chief of the Division of Resource Area Studies in March 1977 posed a "basic policy question" that had not been addressed: can a 59-mile segment of river with bank erosion control structures placed an average of 2.4 miles apart qualify for inclusion in the NWSR System? The concern stemmed more from the aesthetic consideration than from concern for fish and wildlife: they had expected to see erosion control structures that were not visible from the water surface, "unlike those contained in the draft reports which, although constructed of natural materials, will be visible from both land and water."[109]

BOR's formal review, no doubt with a keen awareness of the importance of local support for the project, endorsed integration of bank stabilization measures and NRR

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[106] "Briefing Paper on the Missouri River Wild and Scenic River Study," Division of Water Resources, BOR-WASO, November 15, 1976. Files of Missouri NRR, Box MNRR II.
[107] Eugene T. Mahoney, Director, Nebraska Game and Parks Commission to William E. Reed, Missouri River Division, USACE, March 10, 1977. Files of Missouri NRR, Box MNRR II.
[108] Alfred C. Fox, Director of FWS, to Eugene T. Mahoney, Director, Nebraska Game and Parks Commission, March 7, 1977. Files of Missouri NRR, Box MNRR II.
[109] Memo, Chief of Division of Water Resources to Chief of Division of Resource Area Studies, March 11, 1977. Files of Missouri NRR, Box MNRR II.

designation. Their concern, however, lay with the design of the structures and with their requirement that BOR have a say in approving them. Indeed, the first point that BOR made in its review was that the Department of the Interior must be a part of the administration of the NRR since the WSR Act delegated major responsibility for management of the system to it. As to bank stabilization measures, "We cannot agree to 130,000 feet of bank stabilization for the area being considered for national designation without a role in determining compatibility with wild and scenic river designation and provisions for such modifications as many be necessary to assure compatibility." As a nod to FWS concerns, BOR concluded its endorsement of the proposal to integrate bank stabilization and NRR designation by recommending "that construction of these stabilization structures be staged in such a manner that a determination can be made that the structures will in fact be compatible with wild and scenic river designation before the total stabilization program is completed."[110]

After an extensive review process, USACE released the Umbrella Study report for public review in August 1977. No correspondence has been found for this administrative history to indicate USACE's response to BOR's comments. Throughout the report of the Umbrella Study, however, USACE clearly tied bank stabilization to designation as a Recreational River. The proposal to designate the 59-mile reach as a National Recreational River, the report noted, "will provide permanent protection and enhancement of the recreational, geologic, fish and wildlife, historic, archeologic, and other values on this approximately 60-mile segment of the Missouri River. These values will be retained for both recreation and scientific benefits for generations to come through selective land acquisition, easements, intensive management, and environmentally sensitive placement of compatible erosion control and bank stabilization structures."[111] There are no indications that USACE planned to delay implementation of either the bank stabilization or NRR designation to await further results from the Section 32 demonstration projects as FWS demanded and BOR suggested. However, USACE acknowledged the need for sensitive design in its summary of bank stabilization: "a major design consideration will be to hold disturbance of bank and far areas to a minimum to preserve a natural appearance. Suitability as fish habitat will be a primary criterion in the location and configuration of structures and selection of their construction materials."[112]

Elsewhere in the Umbrella Study, USACE announced that it would continue the Section 32 bank stabilization plans for the 59-mile reach, including twenty-five sites that totaled 130,000 linear feet. However, USACE also noted that only structures "that demonstrate aesthetic and biological effects compatible with NWSR [National Wild and Scenic Rivers] designation will be used in the river reach." Moreover, bank stabilization structures would be designed to the extent possible to "ensure that the within-high-bank

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[110] Derrell P. Thompson, Regional Director, BOR to William E. Reed, Missouri River Division, USACE, March 2x, 1977 (complete date not readable. Files of Missouri NRR, Box MNRR II. Spegel, *Missouri National Recreational* River, p. 71, contains a good discussion of the responses from BOR and FWS, including a comment that had a more complete evaluation been carried out, the future conflict between landowners could have been avoided.

[111] Umbrella Study, vol. 1, 82-83.

[112] Umbrella Study, Vol. 1, 67.

river features found to have outstanding remarkable value in the wild and scenic river study fully described later in this Section will be preserved."[113]

The Umbrella Study report also included the report of BOR as to potential eligibility of the 59-mile reach for inclusion in the NWSR System.[114] BOR's report, included within the Umbrella Study, is in the format of an Environmental Impact Statement, and is a thorough description and assessment of the river. The report noted the challenges of assessing the 59-mile stretch for designation, given the presence of the large dam immediately upstream, observing that "the river channel in this area remains essentially in a natural condition, unaltered by man; however, the river flow is regulated through the Gavins Point Dam."[115] In its assessment, BOR also noted that the reach already included several bank stabilization structures. In its final assessment, BOR recommended that the 59-mile reach was eligible for the NWSR System as a recreational river area: "The segment did not meet eligibility for SCENIC classification due to the extensive shoreline intrusions identified in Table E-17 and to the absence of outstanding scenic values. The reach did, however, merit more protection than that provided by the other alternative considered: NON-CLASSIFICATION."[116]

In its summary section, BOR also recommended that management of the river should fall to the Secretary of the Army "with the advice and counsel of the Secretary of the Interior and the Governors of Nebraska and South Dakota," in accordance with the provisions of the WSR Act. Further, it recommended that management of the river "should give primary emphasis to maintaining and enhancing the historic, esthetic, recreation, fish and wildlife, and geologic values. All recreation facility development, erosion control, and bank stabilization works be consistent with the protection of those values which enable the river to qualify for inclusion in the National System."[117] The river's values should also be protected through a combination of fee simple land purchases to the minimum extent possible (estimated at 424 acres for facility development), combined with purchase of scenic and recreation easements (covering approximately 14,500 acres) and land use zoning.[118]

Despite potential restrictions on bank stabilization methods, MRBSA saw Recreational River designation as another way to secure federal funding for bank stabilization. In addition to the Section 32 projects, designation under the NWSR System would involve the federal government in this stretch of the Missouri River to an even greater extent.[119] MRBSA continued its extensive lobbying work in 1977 and 1978 in support of Wild and Scenic Rivers designation, holding multiple public meetings which elected officials attended, and testifying before Congress.

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[113] Umbrella Study, Vol. 2, E-15, quoted in Spegel, *Missouri National Recreational River*, p. 72.
[114] See the Umbrella Study, Part 2, Section E; and summary in Spegel, *Missouri National Recreational River*, 71-72.
[115] Umbrella Study, Part 2, E-93.
[116] Ibid., E-116.
[117] Ibid., E-122-123.
[118] Ibid., E-125-126.
[119] Spegel, *Missouri National Recreational* River, 73.

As the Umbrella Study gained wider review, the USACE and BOR proposal received a mixed response from environmental groups. Environmentalists had been disheartened over the past several decades by impacts to the river resulting from the Pick-Sloan Plan, lamenting that so much of the Missouri River had been altered and its traditional, natural character lost. The concept of protecting at least one section through a federal environmental protection program was alluring, and many groups supported the proposed designation and were willing to either overlook or be patient with inclusion of bank stabilization measures. Others, however, expressed concern for inclusion of bank stabilization in what should have been a purely protective measure, iterating earlier concerns of FWS; some were concerned that including bank stabilization could be a slippery slope headed toward the kind of channelization that the lower Missouri had seen. In a series of meetings through 1977 and 1978, however, MRBSA, the Northwest Iowa Group Sierra Club, USACE, and the new Heritage Conservation and Recreation Service (HCRS, successor bureau within DOI to BOR), tensions were alleviated as bank stabilization under the Section 32 program came to be seen as compatible with designation under the Wild and Scenic Rivers Act.

National Parks and Recreation Act of 1978

By early 1978, in what would seem an unlikely alliance, both bank stabilization proponents and environmentalists felt that they could get what they wanted from designation of the 59-mile reach of the Missouri River downstream of Gavins Point Dam as a Recreational River component under the WSR Act. This had been achieved through a prodigious amount of ground work through 1976 and 1977 by USACE, BOR (succeeded by HCRS), MRBSA, and local and state agencies. As a result of this work, a huge amount of public sentiment had been amassed in favor of designation. In early 1978, legislators got to work to craft a bill.

By early 1978, although the Umbrella Study had not yet cleared final approval by USACE's headquarters, the various groups and federal and state agencies came to a general agreement that the 59-mile segment should be nominated as a National Recreational River (NRR). Moreover, there was general, if occasionally grudging, agreement that designation should include both recreational improvements and bank stabilization measures that continued and expanded upon the Section 32 demonstration projects. At the beginning of March 1978, a large gathering was convened by the Missouri River—Fort Randall to Sioux City Erosion Control Task Force with the goal of investigating legislative solutions to the erosion problem. The meeting included representatives from USACE, FWS, MRBSA, HCRS, and other interested groups. Representatives from FWS introduced the formal proposal that the 59-mile stretch below Gavins Point Dam should be designated as a NRR. Their proposal included erosion control structures and a river management group. A rough draft of the proposed bill contained the provision that the NRR would be administered by the Secretary of the Interior as a recreational river.[120]

[120] Summary of 1 March 1978 Meeting. Files of Missouri NRR, Box MNRR II.

The Assistant Directors for both HCRS and FWS circulated a draft of the proposed Missouri NRR designation among nearly forty local and state conservation groups, local public officials, and interested individuals. In their memo, they noted the great degree of local support for the proposal; with this local support, "the result of designation may be that river protection and required erosion control measures can be authorized and implemented at an early date." The two Assistant Directors then asked that the local and state groups review the proposal, and then "present the material through the proper channels to obtain national designation."[121]

In Washington, Assistant Secretary for Fish and Wildlife and Parks Robert Herbst supported the proposal. He then requested comment from the Director of HCRS, Margaret Maguire. Director Maguire determined that the 59-mile segment met the criteria for Recreational River under the WSR Act, and recommended that it be included as an amendment to the DOI Omnibus Bill.[122]

With this formal approval, Representative Virginia Smith (R-NE) began work on drafting the legislation. Smith was a strong advocate of bank stabilization and, by extension, designation of the 59-mile stretch under the WSR Act. In April 1978, she convened a meeting with staff members from the offices of Senators Edward Zorinsky (D-NE), George McGovern (D-SD), and James Abourzek (D-SD) and Representatives Charles Thone (R-NE) and James Abdnor (R-SD), together with other state and federal agencies. MBRSA and the Siouxland Interstate Metropolitan Council stated that they were in agreement with the proposed Missouri NRR so long as there were no forced sales and bank erosion was included. Representatives from FWS agreed that designation of the river as a NRR was essential for protecting environmental and aesthetic values of the river, and agreed to bank stabilization measures; the FWS position was that Section 32 forced FWS into annual reviews that they did not always have time to complete, and that providing for a more comprehensive program of stabilization would allow them to evaluate methods more effectively. Representatives from USACE, meanwhile, announced that their agency was in full support of NRR designation, and that they were the best agency to administer it. Following this meeting, Rep. Smith worked with local liaisons to draft the legislation, which they planned to insert in the DOI's Omnibus Bill.[123]

On May 3, 1978, Rep. Phillip Burton (D-CA) introduced H.R. 12536 into the House, officially known as the National Parks and Recreation Act, though informally known as the Omnibus Bill. It was a vast, sprawling bill proposing a range of DOI projects including funding increases, land acquisitions, and boundary changes. In the range of amendments, the Bill made several nominations to the National Wild and Scenic Rivers program, including the 59-mile segment of the Missouri River. Other rivers proposed for designation were portions of the Pere Marquette (MI), the Chattooga (NC,

[121] Memo from Albert G. Baldwin and Harold M Barber, March 14, 1978. Files of Missouri NRR, MNRR II.
[122] Spegel, *Missouri National Recreational* River, 86-88.
[123] Ibid., 88-89.

SC, GA), the Skagit (WA), the Upper Mississippi (MN), the Delaware (NY and PA), and the American (CA). The Bill was then referred to the Committee on Interior and Insular Affairs for review and comment.

The report that issued from the Committee clearly reflected the balance between natural river protection and riverbank stabilization and drew explicitly from USACE's Umbrella Study. In its comments on Section 708 of the bill (which proposed designation of the 59-mile segment), the report noted that this addition was "the result of a delicate negotiation between affected landowners; various governmental planning councils, groups and agencies; conservation interests; and members of Congress." After stating that any bank stabilization projects would have to include protection of the land "in accordance with the purposes of the Wild and Scenic Rivers Act," the report quickly limited the amount of land that could be condemned to no more than five percent of the acreage within the designated river boundary, limited to less-than-fee acquisition. The report then observed that rapid action was necessary, expressing concern "that lack of administration sense of urgency would have a serious impact upon those private landowners affected."[124]

The joint purpose of the river's designation, riverbank stabilization and protection of the natural appearance of the river, was reflected in its designated administration: "The river is to be administered by the Secretary [of the Interior], under contract with the Secretary of the Army, through the Corps of Engineers."[125] The report also placed responsibility of bank stabilization structures with USACE in accordance with the Umbrella Study so long as the structures were designed "to protect and enhance the river in accordance with the purposes of this Act." Finally, the report recommended, though it did not require, that the river segment be administered "in coordination with, and pursuant to the advice of, a Recreational River Advisory Group." This advisory group, "which may be established by the Secretary [of the Interior]," might consist of representatives from Nebraska and South Dakota, appropriate federal agencies, and private organizations.[126]

With the report issued from the Committee, Rep. Burton opened the initial debate on H.R. 12536 in the House on June 26, 1978. Both Representatives Thone and Smith spoke in favor of the proposed Missouri NRR segment. Rep. Thone cited two principal accomplishments expected of the river's designation: it would protect the environment while promoting recreation and it would address the problem of streambank erosion downstream of Gavins Point Dam. Rep. Smith, meanwhile, referenced the work of MRBSA in generating a substantial amount of public support, and emphasized the balance of streambank stabilization and natural river protection. In anticipation of the opposition, she noted that the Section 32 erosion control demonstration structures were insufficient because the act was limited in both temporal and geographic extent. H.R.

[124] House of Representatives, 95th Congress, 2nd Session, Committee on Interior and Insular Affairs, May 15, 1978, House Report 95-1165, p. 87
[125] Ibid.
[126] Ibid., p. 160.

12536, she claimed, provided more comprehensive streambank protection while limiting the government's ability to take land.

The House passed H.R. 12536 on July 12, 1978, with 341 yeas, 61 nays, and 30 abstentions. From the House, it was referred to the Senate Committee on Energy and Natural Resources as S. 2706 for a hearing with the Senate Subcommittee on Parks and Recreation. After relatively easy passage through the House, the bill faced strong opposition from NPS in the Senate subcommittee hearings. Although FWS eventually supported the combination of bank stabilization and NRR designation and, indeed, drafted the initial proposal for legislation, NPS took up their sister agency's earlier concerns and put the brakes on the bill's progress.

William Whalen, Director of NPS, testified before the subcommittee that the Carter Administration would support all proposed additions to the National Wild and Scenic Rivers Program except for the 59-mile segment of the Missouri River. NPS was concerned about the ability of bank stabilization measures to be integrated into the Missouri NRR, and recommended that additional testing and studies be conducted to determine more completely the impact of the stabilization structures on the natural character of the river. Rather than the $21 million allotted in the proposed bill, NPS recommended that $1 million be set aside for continued evaluations.

In a series of letters to local conservation groups in the summer and early fall of 1978, Assistant Secretary for Fish and Wildlife and Parks Robert Herbst explained NPS' position. According to Herbst, NPS was aware that bank stabilization in the 59-mile stretch below Gavins Point Dam was necessary, and that some stabilization structures might be compatible with NRR designation. The agency's concern, however, was "that the cumulative impact of the proposed structures on the environment of the river corridor and the river's free flowing characteristics might be so great that the river would disqualify for designation as a component of the National Wild and Scenic River System." As a result, NPS called for a full Environmental Impact Statement of the proposed stabilization structures before it could support designation of the Missouri NRR.[127]

This letter-writing campaign was a counter-offensive strategy to the full-court press undertaken by the region's Congressional delegation. Senator Abourzek, the chair of the Senate subcommittee to which William Whalen had testified, had not studied the issue and had not yet taken a stance. The remaining Nebraska and South Dakota senators appealed to Abourzek to support designation of the Missouri NRR, pointing out that the Section 32 demonstration projects had received a waiver from the requirement for an EIS on the grounds that the anticipated effects would be minimal; the senators argued for a similar waiver for the bank stabilization structures in the proposed NRR. Moreover, the senators, together with most others on the subcommittee, were concerned about the impact of delays in the process of designating the 59-mile reach on the coalition of

[127] Robert A. Herbst to Fred A. Priewert, Iowa Conservation Commission, October 4, 1978; typescript MS in the files of the Missouri NRR HQ, Box MNRR II. A nearly identical letter was sent by Daniel J. Tobin, Jr. to Constance Bowen, Nebraska Wildlife Federation, August 26, 1978.

landowners, environmental groups, and state and federal agencies that had come together in its support.

At the same time, local environmental groups appealed directly to Secretary of the Interior Cecil D. Andrus, seeking his intervention with NPS on behalf of the Missouri NRR designation. DOI, however, held firm and made their approval of the Missouri NRR contingent upon a complete EIS that would declare "that bank stabilization in the reach would be compatible with the WSRA [Wild and Scenic Rivers Act]."[128] While DOI held firm in its opposition to approving the Missouri NRR with the bank stabilization proposals, Senator Abourzek came to support the position of the remaining Senatorial delegation from Nebraska and South Dakota.

In the face of DOI opposition to S. 2706, Rep. Phillip Burton made another attempt to keep the bill alive. He appropriated S. 791, a bill which Senator Frank Church, from Idaho, had brought to the Senate earlier in the year to provide funding for additional land acquisitions in the Sawtooth National Recreation Area but which had never been released from committee. Burton successfully requested that the entire text of the bill that followed the enacting clause which appropriated the funds be stricken and replaced with his National Park and Recreation Act of 1978, including the original Missouri NRR designation intact, though amended slightly. On October 4, 1978, the House passed his new bill, S. 791.

When the bill was sent to the Senate in early October, Senator George McGovern, from South Dakota, spoke eloquently and persuasively in its favor. McGovern made a multi-front argument in his address to the Senate. He noted that while the Pick-Sloan Plan had brought many good things to the region, it had left damages in its wake as well, including unforeseen damages to the river such as extensive erosion and the loss of river-bottom land. He then discussed the agreement that had been hammered out among the various groups in different states which might otherwise not have come together. McGovern commented that the limit on the amount of land that the federal government could acquire for the Missouri NRR included an agreement with landowners to the effect that a request for bank stabilization from a landowner had to be accompanied by an offer from the landowner of an acceptable amount of land for protection of wildlife habitat. McGovern also signaled his openness to the possibility that studies could be carried out after the designation of the Missouri NRR, and that funds appropriated in the bill could be used for that purpose.[129]

On October 12, 1978, the Senate passed S. 791, an enormous omnibus bill as amended by the House, with its own amendment. The House agreed to that amendment the next day, and on October 26, 1978, the omnibus bill went to President Carter for his signature, with the designation of the 59-mile segment to the NWSR System intact. President Carter signed the bill into law, the National Parks and Recreation Act of 1978 (P.L. 95-625), on November 10.

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[128] Spegel, *Missouri National Recreational* River, 99.

[129] Spegel, *Missouri National Recreational River*, 102-103 provides an excellent summary of McGovern's speech in the Senate.

Conclusion

The designation of the 59-mile stretch of the Missouri River downstream of Gavins Point Dam as a national recreational river was unusual in a number of ways. Unlike other federal legislation to protect other rivers and wilderness areas, no dramatic threat spurred locals to action. No dam was proposed, nor did any agency suggest a new highway or large building. Instead, the river had already been impacted by dramatic interventions: Gavins Point Dam upstream and complete channelization downstream. A local organization, MRBSA, arose after these impacts had already been made in an attempt to correct damages caused by them, and kept the issue alive in the minds of both local and state organizations and Congressional representatives. Unusual also for local river protection approaches, particularly when the perceived damages had been caused by USACE, it was USACE that finally identified the solution. Moreover, a range of conservation organizations came together in support of a proposal that included USACE intervention in a river to be protected under the WSR Act. Nothing about the origins of the 59-mile segment of the Missouri NRR seems ordinary.

However, the fact that compromises were necessary for successful legislation to pass is entirely ordinary. Compromise is the stuff of legislation, and the Missouri NRR is replete with it. Two compromises in particular lie at the foundation of this unit of the NWSR System that make it distinctive and required a number of assumptions. The first compromise is integration of designed bank stabilization structures in a National Recreational River. The assumption, as described in the Umbrella Study and in other federal documents, was that bank stabilization methods could be employed to maintain the visual appearance of a broad and meandering river; the assumption rested on an awareness that the massive dam immediately upstream of the recreational river had irrevocably changed the dynamics of the river and the sediment load that it carried, a change which could be addressed only by additional intervention.

The second compromise involved shared responsibility of USACE and DOI for administering the Missouri NRR. Each federal agency, by rights, could have claimed the entire administration of the river segment, and, indeed, at times, did so. DOI had responsibility under the WSR Act to determine whether rivers could qualify for the NWSR System, thus giving them jurisdiction. However, USACE had responsibility, and the traditional expertise, to exercise jurisdiction over control of waters of the United States. Moreover, USACE had already been conducting the Section 32 bank stabilization demonstration projects that the enabling legislation for the Missouri NRR cited as the basis for future erosion control projects in the Missouri NRR.

Another unusual component of the 59-mile segment of the Missouri NRR was that landowners who fronted on the river, represented so energetically and tirelessly by MRBSA, were leading the request for federal intervention. In other words, the threat of federal control and/or acquisition of private land never became an issue from the local perspective. Instead, it was left to legislators, with apparently little prompting from local

organizations urging the action, to implement stringent restrictions on the ability of the federal government to acquire land. This was not the case with designation of the 39-mile segment of the Missouri River, along with the Niobrara River and Verdigre Creek, in 1991, as shall be seen in Chapter 3.

Chapter 3: Legislative History, 1991 Designation

For all of the complexity involved in designating the 59-mile segment of the Missouri National Recreational River (Missouri NRR) in 1978, in one sense it was more straightforward than in 1991, when the 39-mile segment was designated. The politics of the earlier segment were related primarily to inter-departmental differences within the Department of the Interior (DOI), largely pertaining to the compatibility of erosion control structures (bank stabilization) with a WSR Act designation. Local residents on and near the river within the 59-mile segment, however, were largely supportive of designation and just wanted the federal government to not waste any more time in establishing the means for bank stabilization. This was not the case in the mid- and late 1980s, when legislative designation of the 39-mile segment of the Missouri River was quietly joined to designation of parts of the Niobrara River. The contest for the fate of the Niobrara River was waged among neighboring landowners, county governments, and state agencies, all of whom had distinct and differing agendas. Several members of the Nebraska Congressional delegation, responsive to their respective constituencies, represented these concerns with several different bills between 1985 and 1990. The legislative path of the Niobrara Scenic River Designation Act of 1991 (P.L. 102-50) was considerably more complex than the earlier designation process of the Missouri National Recreational River.

Consequently, in addition to its greater political complexity, the 1991 designation differed from its predecessor in several other ways. First, the later designation had a wider geographical scope. The designation included two important rivers, the Niobrara and the Missouri, together with a small tributary to the Niobrara, Verdigre Creek. While the 39-mile segment of the Missouri was framed upstream (Fort Randall) and downstream (Gavins Point) by dams built by the US Army Corps of Engineers (USACE), and bordered two states, the Niobrara, lying mainly within Nebraska, remained largely free of impoundments. With different watersheds and existing impacts to the rivers, issues over river management were less monolithic than the 1978 designation and required more negotiation.

The second difference between the two designations was that the intra-state nature of the Niobrara River gave the discussions surrounding its potential designation a different character than the 1978 designation. The earlier, 59-mile segment involved only the Missouri River. Although it required cooperation from legislators in both Nebraska and South Dakota, the Missouri is a regional geographical feature less tied to any particular state. As a result, the earlier designation, involving the Missouri River alone, did not involve as much discussion at the level of local political subdivisions as the 1991 designation did.

The third difference between the two designations is related to the second. While the 59-mile segment of the Missouri River passes through primarily private land, the river itself had been the subject of extensive and visible alteration by the federal government. The presence of the large Gavins Point Dam upstream of the 59-mile segment and a

channelized section below that extended from Sioux City, Iowa, to the river's mouth altered the flow dynamics of the river in the 59-mile stretch, which had been affecting surrounding landowners for several decades by the time of the 1978 designation. Lands surrounding the Niobrara River, likewise, remained in private hands, but neither the state nor the federal government had yet had an impact on the river. Adjacent landowners took pride in the fact that the river had been under their care for so long, and most had no inclination to convey to the federal government responsibility for managing it. While the possibility of federal intervention on the 59-mile segment of the Missouri River was seen as a corrective for past abuses, such intervention on the Niobrara in the 1980s was new and was perceived as a threat to private ownership and as an accusation of an inability to care for the resource. This perception accounts for the strength of the opposition to designation.

Fourth, the principal issue for designation of the earlier, 59-mile segment was primarily a technical one joined to the question of finances: how best to solve problems of erosion that were a result of federally-altered flow dynamics in the Missouri River, and how to fund that solution. This was a matter that involved engineers, together with landowners whose banks were eroding, to a much greater degree than it involved politicians. While the MRBSA was extremely active in soliciting the region's legislators, the principal role of the legislators until near the end of the process was to urge various agencies to act: to bring together USACE, NPS, FWS, and any others who might help to find the funds that would lead to a solution of the technical problem.

The 1991 designation, by contrast, was focused almost exclusively on protection of the Niobrara. The Missouri River segment, together with the lower portion of Verdigre Creek, were added late in the process and never entered the discussions in a substantive way. From the beginning, the Niobrara's protection was less a technical, engineering issue and more a political one tied to broader questions of irrigation, water rights, and federal acquisition of property. Even among those who agreed that the Niobrara needed protection, there was no consensus on how best to achieve that end; many were entirely unconvinced that the federal government had any role to play, and others feared the impact of designation on irrigation and ground and/or surface water withdrawal measures. Local and national political considerations, therefore, were brought into play from the very beginning of the process.

Origins: Irrigation and Water Resources

The roots of the 1991 designation lie in issue of irrigation, beginning in the 1890s. The region surrounding the Niobrara River is typically high plains used primarily for agriculture and ranching. Upstream of Valentine, Nebraska, the river has cut a deep channel into the Ogallala Aquifer, which provides much of the river's flow from that

point.[130] The river's channel, by cutting into this large aquifer, also serves as a drain for much of the groundwater in the surrounding area.

Partly due to this lack of groundwater, agricultural lands nearby frequently face severe drought, and farmers and legislators have looked to the Niobrara to solve their resulting problems. One of the obvious solutions in the modern era has been to construct a dam on the Niobrara that would form a reservoir that would, in turn, feed an area-wide irrigation system. Calls for such a solution to the Niobrara valley's irrigation problems, not surprisingly, flared up in times of drought. Such a drought occurred in the 1890s, and a Niobrara dam was among a number of irrigation projects proposed for the region, though none were realized at that time.[131]

Hope for a dam on the Niobrara to provide water for irrigation was given new life in the 1940s and 1950s during the wave of river planning undertaken in the wake of the Pick-Sloan Plan. The Bureau of Reclamation began to evaluate the possibility of such a project in the late 1940s after the original Pick-Sloan Plan had passed into law and work had begun.[132] The Bureau of Reclamation released a report based on a broad study of the Niobrara River Basin. Similar to the earlier Pick-Sloan Plan, the proposed Niobrara development plan called for main-stem dams and other water control and irrigation projects on the Niobrara and its tributaries. One project which the Bureau of Reclamation proposed was a dam on the Niobrara near the Norden Bridge, a part of what came to be known as the O'Neill Irrigation Unit.[133] This was a project of enormous scope designed to provide irrigation for farms lying south of the Niobrara River. Norden Dam itself was designed as a 180-foot-high structure that would provide water to irrigate 77,000 acres, drawing water from the impoundment behind the dam and feeding it to a series of canals and laterals. Under the proposed project, the federal government would take approximately 30,000 acres for the dam, the impoundment, and the canals. It remained on paper in the planning stages until 1972, when Congress authorized the plan and appropriated funds.[134]

This gap in time, from the early 1950s to the early 1970s, presented severe challenges to successful implementation of Norden Dam and the O'Neill Irrigation Unit projects. These were decades that saw the rapid rise in influence of the environmental movement, much of it focused on the nation's waterways.[135] The era of massive dam-building was ending in the 1960s and 1970s, due, in part, to pressures brought upon the federal and state governments from environmental groups. Signaling the challenges to come, the National Outdoor Recreation Resources Review Commission identified the Niobrara between Gordon and Valentine, Nebraska as one of twelve rivers that it would

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[130] James A. Roeder, "The One Hundred and Second Congress and the Niobrara Scenic River: Old Arguments, New Compromises," *Nebraska History* 85 (2004), 117.
[131] H. Lee Becker, "Nebraska State-Led Study of Alternatives to the Norden Dam," c. 1984, p. 356. Files of Missouri NRR.
[132] Ibid.
[133] Roeder, p. 117.
[134] Ibid; Jon Farrar, "The Niobrara as a Scenic River," in Paul A. Johnsgard, *The Niobrara: A River Running Through Time* (Lincoln, NE: Bison Books for University of Nebraska Press, 2007), 139.
[135] See Chapter 2 for a more extended discussion of this movement.

include in a national system of wild and free-flowing rivers. By the early 1970s, recreational boaters had discovered the river. As Farrar has noted, "The Niobrara, with its reliable flows, scenic charms, and few water hazards, became the state's premier canoeing water."[136]

The growing environmental movement did not stop Congress from authorizing and funding the O'Neill Irrigation Unit, with Norden Dam, in 1972. Indeed, work began on the project by the mid-1970s, including road and bridge work that would allow for construction access.[137] The project had a great deal of support in the region, particularly from agricultural interests that depended on a reliable source of water for irrigation and from several regional Natural Resources Districts (NRDs). Opposition to the project, however, arose almost immediately from a coalition of interests. In particular, the Save the Niobrara Association (STNA) was established in 1975, organized by a coalition of environmentalists and ranchers, with organizational support from the Audubon Society in Nebraska. After beginning the work of alerting residents in the region and throughout the state to the threat to the scenic and recreational features of the river that the O'Neill Irrigation Unit and Norden Dam posed, STNA filed a lawsuit to block construction of the dam. In 1977, a U.S. District judge granted a temporary injunction against the Bureau of Reclamation, requiring it to stop work on the grounds that the environmental impact statement (EIS) for the work was deficient. The Bureau of Reclamation developed a new EIS, but, in 1979, the same judge ruled that it, too, was deficient because it did not answer questions about the dam's geological stability. The judge refused to lift the injunction.[138]

Opposition to the dam proceeded on other fronts as well. The Niobrara's value as a recreational river was coming to be prized by more and more boaters during the late 1960s and throughout the 1970s, with an increasing number of boat rental companies and guides setting up shop. Recreational boaters were drawn by the wild and free-flowing nature of the river, which was beginning to be increasingly appreciated by a wide range of environmentalists as well. By the 1980s, the Niobrara had become a premier boating destination; as Farrar has colorfully noted, "Canoe camps and private dwellings popped up like mushrooms after a spring rain. In response to these changes, a cry to preserve the Niobrara's scenic splendor grew loud and strident."[139]

The ranchers in the area also valued the untouched nature of the Niobrara River Valley and did not have the same need for irrigation that drove many of the farmers in the region to support the dam. The momentum clearly was with the opponents of the Norden Dam. In addition to the judicial setbacks to the Bureau of Reclamation, the Nebraska Water Resources Association supported a 1977 federal proposal to study a 120-mile stretch of the Niobrara River for inclusion in the NWSR System. This brought additional attention to the threats to the scenic and recreational features of the river represented by

[136] Farrar, "Niobrara as a Scenic River," 139.
[137] Ibid, Becker, , "Nebraska State-Led Study" p. 357.
[138] Farrar, "Niobrara as a Scenic River," 140.
[139] Ibid. See also Roeder, "Niobrara Scenic River," 117 for information on the opponents to the Norden Dam.

the proposed dam. In 1979, the FWS raised the issue of the threatened and endangered species known to exist in the Niobrara River and its environs. Finally, in 1980, The Nature Conservancy purchased 52,000 acres along the river, including much of the land that would have been taken by the Norden Dam's reservoir. As Farrar has noted, "With opposition mounting in all quarters, the Bureau of Reclamation began to study less intrusive alternatives."[140]

Capitalizing on this momentum, the STNA resurrected the possible designation of the Niobrara River as a component of the National Wild and Scenic River system that the Water Resources Association had suggested in 1977. Designation as part of the NWSR System would, they hoped, end any possibility that the Norden Dam could be revived. Members of the organization conducted a survey of local landowners to gauge their reception to the idea and found substantial support. In a 1986 memo to his colleagues at The Nature Conservancy regarding possible designation of the Niobrara, Al Steuter recounted that "a large part of the strategy and support for designation at this time [1980] was directly attributable to defeating the proposed O'Neil [sic] Unit's Norden Dam. The organized opposition to which, had been going on through The Save the Niobrara Association since 1972."[141] On the strength of their survey, STNA approached Senator J. James Exon (D-NE) in 1980 about sponsoring legislation to designate the Niobrara a National Wild and Scenic River.[142]

Senator Exon, a former Governor of Nebraska, also had property on the Niobrara and supported the proposal. With regard to the Niobrara, however, the attention of Congress was focused on Norden Dam and the O'Neill Irrigation Unit. In 1981, with opposition too strong to resist, the Bureau of Reclamation acceded to Congress' request to abandon Norden Dam and look into alternative means to provide for irrigation.[143]

In August 1983, Senator Exon headed the move in Congress to authorize federal funds for a state-led review of alternative approaches to irrigation. The focus of the new effort was the use of groundwater rather than drawing from the river, and the Department of Water Resources examined a range of methods for both securing and delivering the water. A report of the study was released in early 1985, in which the Department of Water Resources suggested a combination of ground water recovery from beneath the Niobrara and a diversion dam near Springview.[144] In August 1985, following release of the report, alternatives to the original O'Neill Irrigation Unit project were introduced into both houses of Congress.

Throughout the early 1980s, as discussions continued regarding irrigation and alternatives to the O'Neill Irrigation Unit, STNA and its supporters maintained an interest in having some portion of the Niobrara designated under the WSR Act. In 1984, the

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[140] Farrar, "Niobrara as a Scenic River," p. 140.
[141] Memo, Al Steuter to Ross Sublett, Mark Heitlinger, November 4, 1986. Files of Missouri NRR, Box NIMI V-1, #33.
[142] Roeder, "Niobrara Scenic River," p. 117.
[143] Becker, "Nebraska State-Led Study," p. 357.
[144] J. Michael Jess, H. Lee Becker, "Nebraska Sate-Led O'Neill Unit Alternatives Study," Nebraska Department of Water Resources, Lincoln, NE, January 31, 1985.

group approached Senator Exon again, requesting that he support legislation in Congress that would designate the river. Meetings with Sen. Exon continued into 1985 as the group prepared a draft of proposed legislation. In summer of 1985, Sen. Exon shared the draft bill with Governor of Nebraska Robert Kerrey. Kerrey, in turn, passed it to the Nebraska Natural Resources Commission (NRC) for their review and comment. This initial draft identified a 76-mile segment of the Niobrara River for designation under the Wild and Scenic Rivers Act, from Borman Bridge near Valentine downstream to the State Highway 137 Bridge, and called for the designated portion of the river to be under administration of FWS. Dayle Williamson, the Director of NRC, then wrote to the Director of FWS for clarification on a number of points regarding jurisdictional matters, allowable activities on the river, and impacts on water rights and landowner's property rights.[145]

Initial draft legislation, which Exon included in a letter to landowners in July 1985 for review and comment, provided for an advisory council that would consist of a farm or ranch owner, a canoe outfitter, and representatives of affected county and local governments and private organizations. It also limited land acquisition to voluntary sales only with exception of a conservation easement on no more than five percent of privately-owned acreage within a corridor extending 880 yards from the river on both sides; reserved subsurface rights for natural gas and petroleum to private landowners; specified public access easements; permitted the existing land use practices; refused the federal government the right to control hunting, fishing, or camping on private property within the boundaries; and allowed owners of more than forty acres within the boundaries to relocate their residence or build a new residence. Exon planned, at that point, to introduce the legislation at the beginning of August and wanted to ensure that he kept landowners informed as he introduced the bill.[146]

It is telling that, in his letter to landowners, Exon also noted that the bill would be "compatible with the alternative to the O'Neill Irrigation Project, which has been introduced in both Houses of Congress. I will specify protection in the bill, before it is introduced, for any diversion facility for the Springview Component of the new project which will be in the protected area."[147] These early explorations of the Niobrara's possible designation took place while plans for the O'Neill Irrigation Unit were still evolving and impacts to the river from the irrigation proposals remained a live issue for nearby residents. Although Norden Dam was no longer a viable possibility, the need for irrigation in the surrounding farms remained, and agricultural interests and NRDs pressed for solutions. In the early 1980s, after the proposed Norden Dam was effectively quashed, the Nebraska Department of Water Resources initially investigated the possibility of using a smaller diversion dam on the Niobrara, downstream of the Norden Dam site and the State Highway 137 bridge, near Springview, Nebraska. From there, water could be pumped to the O'Neill irrigation lands. The problem, they found, was that this water tended to be laden with silt, which would have to be filtered. The Nature Conservancy

[145] Dayle Williamson, letter to Robert A. Jantzen, July 5, 1985. Files of Missouri NRR, Box NIMI V-1, #5.
[146] J. James Exon to Al Steuter, July 19, 1985. Files of Missouri NRR, Box NIMI V-1, #33.
[147] Ibid.

then proposed the possibility of drilling wells near the Springview site to tap the region's ground water, thus eliminating the problem of silt.

The proposed diversion dam would be located within the 76-mile stretch proposed for designation under the Wild and Scenic Rivers Act, and the several initial bills which proposed this designation retained a provision for the dam. The groundwater-gathering facilities, on the other hand, were located downstream of the State Highway 137 bridge which formed the downstream end of the proposed designated section and would not affect designation or be affected by it.

During the course of deliberations about the Niobrara River, from the mid-1980s until the final Congressional action in 1991 that resulted in the law's passage, various segments of the Niobrara were proposed to be added or removed from the designation. All of these proposals were designed to make designation of the Niobrara River under the WSR Act more palatable to different constituencies. In early 1986, for example, the Audubon Society proposed removing a ten-mile segment from one side of the river and a seven-mile segment from the other side to avoid those areas where opposition was strongest. Senator Exon requested input from NPS as to whether a segmented designation was possible; in June 1986, NPS replied affirmatively and cited examples of segmented sections of designated rivers. This proposal, however, was quickly dismissed.

The more substantial proposal was to include the alternative to the O'Neill Irrigation Unit. A reservation for a six-mile segment of the Niobrara River within the larger 76-mile segment, from Chimney Creek to Rock Creek, emerged as a compromise for those who were concerned about the ability to draw water from the Niobrara River. Of several proposed compromises for the designation of the Niobrara River, this one alone survived to the end and was included in the final bill.

Initial Legislation: 1985-1987

Senator Exon introduced his first bill for designation of seventy-six miles of the Niobrara River, S. 1713, in the Senate on September 30, 1985. Although Exon had sought out comments from landowners along the river and waited to introduce the bill until he felt that a majority of them supported it, the bill rapidly produced strong opposition after its introduction. As early as October 11, Ron Klataske, with the National Audubon Society, reported that "water development interests have launched and sustained a surprisingly intense effort to block designation of the Niobrara as a national scenic river."[148] Acknowledging the response that Sen. Exon's bill prompted, State Senator Howard Lamb, whose district included the proposed stretch of the Niobrara, made a public request to NRC to hold hearings on the matter as "the logical entity to study this controversial proposal in an objective manner."[149] In the face of the opposition

[148] Ron Klataske, memorandum to Special Niobrara River Valley Landowners, October 11, 1985. Files of Missouri NRR, Box NIMI V-1, #33.
[149] Howard Lamb, press release, October 7, 1985; files of the Missouri NR, Box NIMI V-1, #33.

that emerged to his bill, Senator Exon agreed to table it until a greater consensus could be achieved.[150] In December, 1985, following the lead of State Senator Lamb, Senator Exon sent a request to NRC to conduct a study of the proposed designation; Governor Kerrey joined him in this request.

Before agreeing to undertake the study, however, NRC held a public meeting in Springview to allow for input on the proposal. The meeting, held on January 7, 1986, attracted over 200 attendees. Speakers included both supporters and opponents of the proposed designation, together with a representative of Senator Exon. Based on a newspaper account of the meeting, it seems that the opposition was more active at the meeting than the supporters of designation. Those opposing the bill included representatives of two NRDs, irrigation districts, local governments, the Nebraska Farm Bureau Federation, and the Nebraska Landowners and Sportsmen's Association. Their principal argument was that local individuals and local government entities were more capable and more likely to protect the river than the federal government. Among the supporters, a canoe outfitter referred directly to the O'Neill Irrigation Unit plans, fearing that, without federal protection, the worst of the proposals for the unit could be resurrected. Ron Klataske, meanwhile, speaking for the Audubon Society, raised the possibility of excluding from the district the approximately ten miles on one side of the river and seven miles on the other, which was where most of the opponents of designation lived.[151]

Following this public meeting, NRC met on January 16, 1986, to discuss the proposed designation and the request from Senator Exon and Governor Kerrey to conduct a study of it. NRC voted to undertake the study, which would include a survey of all landowners within a one-half mile corridor of the 76-mile segment of the river from Borman Bridge to the U.S. Highway 37 bridge, and would outline potential local alternative actions. As Director of NRC Dayle Williamson noted in a letter to the NRC executive committee before the January 16 meeting, "The end result of this initial effort should be an identification of the important values of the river segment in question, if the NRC feels there are any, and an explanation of why the Commission believes they do or do not need protection (i.e., protection of what, from what?)." Among alternatives he suggested NRC could consider were "Federal designation as a scenic river, a state scenic river, state instream flow appropriation, county zoning, and the purchase of conservation and preservation easements pursuant to state law."[152]

The three-person committee of NRC began conducting its study in the spring of 1986, and Senator Exon continued to keep S. 1713 on hold in Congress. Opposition continued from landowners and several natural resources organizations, many of whom made appeals to NRC during the course of the study. The Middle Niobrara Natural Resources District, for example, sent a resolution to NRC opposing designation of the

[150] Roeder, "Niobrara Scenic River," p. 118.
[151] "Many at Hearing Question Scenic River Bill," *Holt County Independent* (O'Neill, NE), January 9, 1985; clipping in the files of the Missouri NRR, Box NIMI V-1, #3.
[152] Memorandum, Dayle E. Williamson to Executive Committee of Natural Resources Commission, January 15, 1986; files of the Missouri NRR, Box NIMI V-1, #4.

Niobrara River on the basis of what they claimed was a majority opposition to the proposal, expected erosion of the region's tax base, opposition to "federal bureaucratic control over local resources," and the feeling that locals could best maintain the Niobrara's scenic qualities.[153] Meanwhile Harlin Welch, President of the Nebraska Landowners' and Sportsmen's Association, claimed in a letter to NRC that the majority of the river's landowners opposed designation and preferred to protect the river through local means.[154] During the summer of 1986, also, one of the members of the three-person river designation committee, Vince Kramper, brought to the committee a resolution that NRC oppose the designation. The committee voted to table the motion until the September NRC meeting.

The NRC scenic river designation committee completed its work late in the summer of 1986, in time for NRC's September meeting. In its meeting prior to the full NRC meeting, the scenic river committee acknowledged the great scenic and natural values of the Niobrara but stopped short of making a recommendation with regard to designation under the Wild and Scenic Rivers Act. However, the scenic river committee meeting on September 10, and the full NRC meeting on September 11, had two important results. First, participants at the scenic river meeting brought forward the possibility of using local zoning to protect the Niobrara River. In particular, State Senator Lamb, who opposed the proposed NWSR designation, raised the possibility of expanding the state's Interlocal Cooperation Act, which allowed all political subdivisions to form cooperative agreements, to permit planning and zoning districts that could help in protecting the river. Second, rather than present a recommendation regarding designation, NRC, in its meeting on September 11, adopted a resolution emphasizing protection at the local level but calling for all levels of government and the private sector to join in the attempt "to preserve, protect, and manage the special values of the Niobrara River."[155]

The fall of 1986 was an active time in planning for possible designation of the 76-mile segment of the Niobrara River. Concurrently with the September 1986, meeting, NRC prepared a letter for Governor Kerrey's signature requesting involvement of NPS for the first time. In his letter, Governor Kerrey requested NPS assistance in developing a river conservation program for Nebraska, including a statewide river assessment, and in developing a local corridor plan for the portion of the Niobrara included in Senator Exon's bill.[156] Although NPS agreed to do so and met with NRC, the issue was put on hold during the transition from Governor Kerrey's administration to that of the new Governor, Kay Orr. Meanwhile, staff from NRC met with Senator Exon to discuss ways of amending S. 1713 to ensure more local representation. These suggestions included various provisions for continued water usage, requiring DOI to work with counties to use

[153] Middle Niobrara Natural Resources District to Scenic River Committee, Nebraska Natural Resource Commission, June 10, 1986; files of the Missouri NRR, Box NIMI V-1.
[154] Harlin D. Welch to Larry Moore, Chairman, Nebraska Natural Resource Commission, June 6, 1986; files of the Missouri NRR, Box NIMI V-1.
[155] Memorandum to Interested Persons from Dayle Williamson, n.d.; Minutes of the Niobrara Scenic River Committee Meeting, September 10, 1986; files of the Missouri NRR, Box NIMI V-1, #3.
[156] Gov. Robert Kerrey to Charles H. Odegaard, Midwest Region, NPS, September 12, 1986; files of the Missouri NRR, Box NIMI V-1, #3.

local zoning in ways that would minimize federal land acquisition, and raised the possibility of shortening the designated section at the downstream end.[157]

Late in the fall of 1986, the focus of efforts regarding the Niobrara River lay with local and state action. Senator Exon continued to keep his Senate bill tabled. In addition to concerns over lack of support for the bill among the landowners, he wanted to avoid forcing Governor Orr into the issue before she had prepared a position.[158] NRC played a key role in keeping discussions alive by serving as a clearinghouse for information and as a neutral negotiator. In December 1986, NRC announced a meeting set for January 2, 1987 with representatives from surrounding counties and natural resource districts. The purpose of the meeting would be to discuss the possibility of county zoning, the alternative of state legislation including State Senator Lamb's proposed bill to expand the state's Interlocal Cooperation Act, and possible federal designation of the river under the WSR Act. As Dayle Williamson noted in December, however, federal designation "may have a low priority since it appears our emphasis now may be more towards local and state action.[159]

Representatives from the four counties that lay along the 76-mile section of the Niobrara River (Brown, Cherry, Keya Paha, and Rock), along with the Middle Niobrara and Lower Niobrara Natural Resource Districts, were invited to the meeting in Ainsworth, Nebraska. As expected, much of the discussion centered on the feasibility of using county-level zoning to provide protection. State Senator Lamb provided an update on his proposed legislation in the Unicameral to expand the Interlocal Cooperation Act, which he intended to re-introduce during the coming session.[160] However, he had no recommendations as to how specifically it could pertain to protection of the Niobrara River. Brown and Keya Paha were the only counties to send representatives to the meeting; the Keya Paha County representatives noted that the county was currently looking into the possibility of zoning; others at the meeting were skeptical regarding the likely success of zoning, particularly because such zoning would require that four counties come together to determine uniform standards and degrees of enforcement.

The unexpected feature of the meeting involved renewed discussion of the possibility of federal designation, to which opposition was less strong than in 1986. In particular, several noted that, under federal designation, unlike with local zoning, landowners would receive compensation for the limitations on their property. Additionally, in the ensuing period since the state identified more localized control for river protection as a prospective solution in 1986, only one of the four counties had made any steps toward using zoning for local protection of the river. While attendees at the

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[157] Dayle Williamson to Frank Bartak, November 25, 1986; files of the Missouri NRR, Box NIMI V-1, #3.
[158] Ron Klataske, Memorandum to Niobrara Valley Landowners Interested in the Scenic River Proposal, December 23, 1986; files of the Missouri NRR, Box NIMI V-1, #33.
[159] Dayle Williamson to Greg Pallas, Senator Exon's Office, December 12, 1986; files of the Missouri NRR, Box NIMI V-1, #3.
[160] Nebraska is the only state with a single-chamber legislature (though two U.S. territories, Virgin Islands and Guam, have single-chamber legislatures), and is the only single-chamber legislature that is also non-partisan.

meeting came to no firm conclusions, it was clear that there was a degree of movement toward a national designation under the WSR Act.[161]

Despite the softening of resistance, in terms of the Niobrara River and its potential designation as a scenic river, the January 1987, meeting marked a cessation of activity that lasted for nearly two years. Senator Exon's bill remained tabled, and there was no word of State Senator Lamb's bill to expand the state's Interlocal Cooperation Act to allow for local planning and zoning on behalf of the river. Both proponents and opponents of designation fell largely silent. It was not an entirely quiet period, however: like a river, the placid surface belies the swift current beneath. While the issues surrounding the Niobrara River remained quiescent, there were signs of life on the Missouri River. These signs of life came through the initiative of Congressman Douglas Bereuter (R-NE), who played a decisive role in designation of the additional Missouri River segment and the Niobrara River.

Resumption of Legislation: Enter the Missouri

The 39-mile stretch of the Missouri River was barely a blip on the Wild and Scenic River radar until 1988. In early 1977, during discussions that revolved around the 59-mile segment of river downstream, the Nebraska Game and Parks Commission passed a resolution urging DOI to include that portion of the Missouri River from Fort Randall Dam downstream to the mouth of the Niobrara River for future designation under the WSR Act. At that time, however, all of the region's attention was focused on the 59-mile segment, and interest in the upstream segment waned. In 1988, in response to a request from the Director of the Nebraska Game and Parks Commission, Rep. Bereuter sent a request to the National Park Service for an assessment of the eligibility of the 39-mile segment of the Missouri for inclusion as part of the NWSR system. It is not clear if, at that point, he intended to incorporate this segment of the Missouri River into the Niobrara River designation.

The Midwest Regional Office of NPS carried out the evaluation in the late winter of 1988, consisting of site visits, research in public sources, analysis of aerial photography, and interviews with local and regional people familiar with the river and its issues. NPS issued its draft report in 1988. While not making any formal recommendations, the report contained the determination that the 39-mile segment qualified for inclusion in the NWSR system given that it was free-flowing (between the two dams) and relatively undeveloped and was the setting for many historical and

[161] Annette Kovar, Memorandum, January 7, 1987; files of the Missouri NRR, Box NIMI V-1, #1. In an internal memorandum to The Nature Conservancy (November 4, 1986), Al Steuter noted the impact that federal money for scenic easements could have, observing wryly that "'Farming' the federal government as you know has become a rural as well as urban occupation."

archeological sites. The report did not include a recommendation as to the proposed classification of the river segment (wild, scenic, or recreational).[162]

The potential designation of this stretch of the Missouri River lay fallow throughout the rest of 1988, however, as the issue of the Niobrara River's designation began to rise again to the surface. Late in the summer of 1988, two residents who had been active in the designation issue in 1985-1986, Harlin Welch (Nebraska Sportsmen's and Landowners' Association) and Don Zwiebel (Niobrara Basin Environmental Improvement Commission), wrote to Governor Orr requesting state guidance on preparing a basin-wide plan for the Niobrara River. These requests went unanswered, and, later in the year, the requests were repeated. NRC had been copied on the correspondence and sought to move the issue forward for the first time since January 1987. Senator Exon's earlier bill, S. 1713, remained the only legislative option, and, on December 30, 1988, NRC took part in a meeting regarding the Niobrara River designation. Although Governor Orr had not yet announced a position on the potential designation, NRC decided to continue to provide input to Senator Exon's bill while urging the Senator to solicit input from those who had opposed designation in 1985-1986.[163]

Later in January 1989, Governor Orr announced her support for designation of the Niobrara River under the WSR Act, with the provisions for additional local input that NRC had suggested in 1986. With this backing, and frustrated by lack of movement at the local or state level to protect the Niobrara, Senator Exon and Senator Kerrey introduced S. 280 in the Senate on January 31, 1989. The bill was identical to S. 1713 that Senator Exon had introduced and then tabled in the fall of 1985.[164] As a way to reinforce the setting within which the Niobrara's designation existed, Senators Exon and Kerrey introduced a bill to amend the O'Neill Irrigation Unit plan on the same day, finally eliminating all references to Norden Dam and replacing them with the groundwater recharging program as described in the state's report from 1985.[165] In the House, Representative Peter Hoagland (D-NE) introduced the Niobrara River Scenic River Designation Act (H.R. 761) on February 2, 1989, which was identical to the Senate bill introduced by Senators Exon and Kerrey. These bills were the opening shots in what would become a volley of bills over the next two years.

The Senate hearing on S. 280 was held on April 5, 1989. The bill had been referred to the Committee on Energy and Natural Resources, with the Subcommittee on Public Lands, National Parks and Forests to hold hearings. Senator Exon testified strongly on behalf of the bill before the subcommittee, citing wide approval among Nebraska's residents for designation and describing the financial benefits that would accrue from the river's protection and association with the NWSR System. He was

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[162] "Missouri River, Lewis and Clark Lake to Fort Randall Dam Segment: A Determination of the Eligibility and Classification for Potential Inclusion in the National Wild and Scenic Rivers System," May 1988; files of the Missouri NRR, Box MNRR Series I.
[163] Briefing Paper, NRC, January 6, 1989; files of the Missouri NRR, Box NIMI V-5, #12.
[164] J. James Exon to Al Steuter, January 30, 1989; files of the Missouri NRR, Box NIMI V-1, #33.
[165] *Congressional Record-Senate* January 31, 1989, S-844.

supported by written testimony from Senator Kerrey. Subsequent speakers, however, called the bill into question. The Deputy Director of NPS, Dennis Galvin, testified against the bill. He insisted that, despite the strong qualities of the river, a study would be needed prior to designation. Galvin stated that NPS would need to conduct the study, as described in Section 5a of the Wild and Scenic Rivers Act, to determine proper land use planning and clarify the exact location and length of the designated section. In addition, Galvin commented that NPS was not comfortable with the blanket allowance for oil and gas exploration and extraction. Moreover, according to Deputy Director Galvin, the bill's provision for only one year to produce a management plan was unreasonable, particularly with the advisory committee prescribed in the bill.[166]

Following Deputy Director Galvin's testimony, the subcommittee read a letter submitted by Rep. Virginia Smith (R-NE). Echoing opponents to the bill from 1986, Rep. Smith stated that her correspondence pointed to a substantial amount of opposition to the measure in the region. Rather than immediate designation of the river, Rep. Smith proposed that NPS be authorized to conduct a study of the river's eligibility in accordance with the WSR Act. Toward that end, she introduced her own bill, H.R. 173, which would require NPS to study the entire Nebraska portion of the Niobrara River, with specific provisions for public participation. She noted that her bill had the support of Governor Orr, who had increasing doubts about Senator Exon's bill on the grounds of local participation in, and control over, the designated section of the Niobrara. The final testimony, however, came from Ron Klataske, representing the Audubon Society. Klataske attempted to refute both NPS and Rep. Smith, claiming that no additional studies were required. He also cited letters of support from landowners along the river over the past decade as proof that not all landowners opposed designation..[167]

NPS remained involved in the process during the summer of 1989. On June 9, Rep. Bereueter met in Washington, D.C., with John Haubert, a member of the NPS staff who had written extensively about the NWSR System, to discuss the agency's reservations with regard to S. 280. In addition to concerns about the management structure that would pre-empt NPS's options for protection of the resources, Haubert explained that the bill contained provisions for a diversion dam at Springview, within the 76-mile segment, which would be incompatible with the NWSR System. In the meeting with NPS, Rep. Bereueter mentioned that he was considering introducing his own bill and requested support in reviewing a draft of the legislation.[168] A NPS briefing in July 1989, iterated opposition to both S. 280 and its companion in the House, H.R. 761, largely on the grounds of the provision for a diversion dam in the 76-mile segment.

Senator Exon's bill, S. 280, passed out of the Senate Energy Committee in October 1989, in an amended form. The amendments were substantial: among the largest was the removal of authorization for the Springview diversion dam and pumping station,

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[166] S. Hearing 101-43, April 5, 1989.
[167] Ibid.; see also Kay Orr to J. James Exon, March 14, 1989; files of the Missouri NRR, Box NIMI V-1, #12.
[168] Memorandum, John Haubert to Mike Lambe, June 14, 1989; files of the Missouri NRR, Box NIMI V-1, #28.

within the six-mile segment of the river downstream of the U.S. Highway 137 bridge being set aside as a study segment. In addition, the designated river corridor was expanded from 880 yards to one-quarter mile on each side of the river, in accordance with WSR Act standards; the period of development for a management plan was extended from one year to two years; the provision allowing for a second home under certain conditions was removed in order to keep the federal government from local zoning issues; and the development of oil and gas resources were limited in accordance with the Wild and Scenic Rivers Act.[169] On November 9, 1989, the Senate passed S. 280, and sent it to the House to be discussed in conjunction with Rep. Hoagland's bill, H.R. 761.

Final Legislation: From Four Bills to One

Before the House of Representatives had a chance to consider the proposed Senate amendments to S. 280, however, Rep. Bereuter changed the grounds of the debate. On November 21, 1989, in the closing hours of the first session of the 101st Congress, he introduced the Omnibus Nebraska National Park and River Act of 1990 (H.R. 3823), a vastly enlarged proposal of which the 76-mile segment of the Niobrara was only a part. As he noted in announcing his bill, he had decided to wait for the Senate to complete action on S. 280 but would advance his legislation as the House Interior Committee reviewed H.R. 761.

Bereuter's legislation contained a wide array of proposals, most of which continued to revolve around the Niobrara River. He incorporated one provision from S. 280, the designation of a 76-mile segment of the Niobrara River from the Borman Bridge downstream to State Highway 137 as a scenic river, though, in his original bill, NPS would be required to submit the management plan to the Nebraska State Legislature for review and comment. He reserved the six-mile segment downstream of the State Highway 137 bridge for possible use for a diversion dam. In addition, his bill called for designation of two river segments as recreational rivers under the WSR Act: the first, a 25-mile segment of the Niobrara River upstream from its confluence with the Missouri River, together with Verdigre Creek from the north boundary of the community of Verdigre downstream to its confluence with the Niobrara River, and, the second, the 39-mile stretch of the Missouri River from Fort Randall Dam downstream to the headwaters of the Lewis and Clark Reservoir. His bill also authorized studies of two segments of the Niobrara River, one segment of the Snake River, and one segment of Long Pine Creek, all in Nebraska, to determine their eligibility under the WSR Act.

In addition to designation of these three segments of the river as scenic or recreational, he included a provision that authorized NPS to study the possibility of a National Recreation Area in Nebraska adjacent to the Lewis and Clark Reservoir and Lake above Gavins Point Dam. Finally, he called for creation of a Niobrara-Buffalo

[169] Memorandum, Larry Mehlhaff to Nebraska Executive Committee of Sierra Club, October 18, 1989; files of the Missouri NRR, Box NIMI V-1, #26.

Prairie National Park that would include the Ft. Niobrara Wildlife Refuge, the Niobrara Valley Preserve currently owned by The Nature Conservancy, and other adjacent areas. As proposed, this would be Nebraska's first national park, and would be managed jointly by FWS, NPS, and The Nature Conservancy.[170] His proposal clearly was grand in scale. As he recalled in a 2015 interview, he was drawn to the Niobrara River following the proposed water reclamation project near Ainsworth. Unlike his colleague, Rep. Smith, Bereuter, former Planning Director for the State of Nebraska, opposed the proposed development: "I visited landowners in the area, I canoed the Niobrara, in that stretch of it, and, based upon my knowledge of that area and the fact that I knew the state in general. . . .I decided it was best to be supportive of that legislation to create the Scenic River." In doing so he drew the ire of Rep. Smith, also a Republican, as "it was in her District, and she was very parochial about it." After Rep. John J. Cavanaugh (D-NE) resigned from Congress, "I was the only remaining on-the-record supporter in the Nebraska delegation in the U.S. House of Representatives."[171]

At the beginning of 1990, then, the House of Representatives had four bills to consider: Rep. Hoagland's bill to designate the 76-mile segment of the Niobrara River as a scenic river, which was identical to Sen. Exon's original bill in the Senate (S. 280); the amended version of S. 280 which the Senate had sent to the House; Rep. Smith's bill to authorize a study of the entire Nebraska portion of the Niobrara River, together with its tributaries, for designation under the Wild and Scenic Rivers Act; and Rep. Bereuter's omnibus bill that included designation of the 76-mile segment of the Niobrara as a scenic river, designation of the 25-mile downstream portion of the Niobrara River, the downstream portion of Verdigre Creek, and the 39-mile segment of the Missouri River, as recreational rivers, and other NPS-related provisions. It took all of 1990 and into 1991 for the House of Representatives subcommittee on National Parks and Public Lands, with input from public officials in Nebraska, to sort out all of these possibilities.

At the request of Governor Orr, NRC's Director, Dayle Williamson, served as liaison among the Congressional delegation in hopes of finding a consensus approach. He held meetings with several local organizations and governments along the Niobrara River and traveled to Capitol Hill in Washington, D.C., in early January 1989 to meet with staff of interested members of Congress. On January 24, 1989 he attended a meeting in Washington with Nebraska's entire Congressional delegation except Sen. Kerrey, who declined to attend. While Rep. Smith continued to hold to her proposal to carry out a study in advance of designation, Mr. Williamson reported on discussions with staff for Rep. Bruce Vento (D-MN), chairman of the House Subcommittee on National Parks and Public Lands, who suggested that he would not approve a study prior to authorization of the segment.

The Senate subcommittee on National Parks and Public Lands, of the Committee on Interior and Insular Affairs, held hearings on all four bills on March 29, 1990. Five members of Nebraska's Congressional delegation testified at the hearing, along with

[170] Rep. Doug Bereuter, news conference notes, November 29, 1989; files of the Missouri NRR, Box NIMI V-1, #26.
[171] Rep. Doug Bereuter interview, June 15, 2015.

State Senator Howard Lamb and Herbert Cables, Deputy Director of NPS. In addition, twelve men and women representing various Nebraska organizations provided testimony at the hearing. With the exception of Rep. Smith, all members of Congress supported designation of the Niobrara under the WSR Act, although Rep. Bereuter was alone in supporting his omnibus bill which, he hoped, would become the basis of a compromise bill. Bereuter, in particular, made specific reference to the Norden Dam issue, noting that "some of those who talk Federal intrusion and condemnation of land have forgotten how many thousands of acres of land would have been condemned had the Norden Dam and canal system been built." While he mentioned the designations of the Niobrara and Missouri Rivers in his testimony, his real emphasis was the proposed Niobrara-Buffalo Prairie National Park which, he suggested, "will bring greater long-term economic benefit to North-Central Nebraska—and not just to a relatively small number of land owners, but to a much broader number of people in the entire region."[172]

Rep. Smith, meanwhile, maintained that, while the Niobrara River had been identified several times over the years as a possible candidate for designation, none rose to the level of a study as defined in Section 5a of the WSR Act. Moreover, she stated that the vast majority of correspondence she had received regarding the matter was in opposition to national designation of the river, and that all of the elected officials in the four-county region surrounding the river opposed designation. Rep. Smith was joined in support for her bill (H.R. 1673) by NPS.[173] In his testimony, Herbert Cables explained that a Section 5a study was the customary way for a river to be designated and urged Congress to continue that established practice. Moreover, according to Cables, the other three bills all had elements that would "prohibit, severely limit or require specific land use practices or land acquisition authorities." He felt that these should be developed through the established management plan process instead. In a letter to Rep. Smith, moreover, Secretary of the Interior Manuel Lujan stated that he would recommend that the President veto any of the bills, should Congress pass one of them, except for hers.[174]

Testimony before the subcommittee tended to be in opposition to designation under the WSR Act. The basis for much opposition was the notion that protection would best be maintained at the local level. In addition, many local landowners remained suspicious that they would experience a loss of private property to federal control, a loss of tax revenues, and a restriction on economic activity should designation succeed. While many of the themes in opposition to designation had been in circulation since Sen. Exon

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[172] Doug Bereuter, Letter to the Editor, April 29, 1992. Clipping from unnamed newspaper, in files of Missouri NRR, Box NIMI I-1

[173] Rep. Smith did not name individual officials, but the Niobrara Basin Preservation Association in early March 1990 prepared a four-page list of organizations that had passed resolutions opposing the Niobrara Scenic River bill as proposed by Sen. Exon, including the Cherry County Farm Board, the Nebraska Water Resources Association, the Lower Niobrara Natural Resource District, the Brown County Farm Bureau, the Cities of Ainsworth, Atkinson, O'Neill, Long Pine, and Valentine, the Holt County Board of Supervisors, the Village of Springview, the Keya Paha County Commissioners, the Cherry County Commissioners, and others. Files of the Missouri NRR, Box NIMI V-1, no. 18.

[174] Manuel Lujan to Rep. Virginia Smith, March 29, 1990; files of the Missouri NRR, Box NIMI V-1. Copies of all testimonies read before the 1990 House subcommittee meeting cited above and below can also be found in the files of the Missouri NRR, Box NIMI V-1, various files.

first introduced his bill in 1985, Dayle Williamson, in a discussion paper dated January 18, 1990 for the NRC's meetings with Congressional delegations and staff, noted that, in recent meetings they had held in the Niobrara region, "the governing boards we held meetings with seemed more hostile now than they did three years ago when similar meetings were held." He observed that much of the concern arose from fears of an extension of federal regulations once NPS gained a foothold in the region: "They anticipate Federal regulations will go far beyond the corridor. The issue is also very emotional, and many find it difficult to accept an interpretation of the law."[175]

In the early months of 1990, when NRC was conducting local meetings and the Congressional delegation was meeting to discuss the different bills, several public meetings featured Charles Cushman, executive director of the National Inholders Association, now the American Land Rights Association. Cushman was a staunch opponent of federal control over private property and intensely concerned about the strength of the environmental movement. In public meetings regarding possible designation of the Niobrara River, according to newspaper accounts, "Cushman urged the residents to mount a campaign to halt passage of the bill or at least force changes that restrict the controls federal officials exercise from going beyond those Exon intends."[176] In an assessment of the subcommittee hearings in March 1990, Dayle Williamson reported his conversation with a staff member for one of the subcommittee members, saying that "since the committee members are getting so many letters from people in the Niobrara area with misinformation inspired by Charles Cushman, the scenic river bill is bound to come out of committee without much problem. He said the members are really concerned that Cushman got into the act and will react strongly by pushing for passage of the bill."[177]

Following the hearing, the Subcommittee on National Parks and Public Lands began crafting a compromise bill based on the four that were under consideration. Rep. Smith was not inclined to step away from her commitment to a study prior to any designation, so the committee worked with the other three proposals. In May, the Senate subcommittee reported the compromise bill, identified as S. 280, which incorporated many of Rep. Bereuter's proposals. It called for designation of the 76-mile stretch of the Niobrara River as scenic river and designation of the lower 25 miles of the Niobrara River, the lower portion of Verdigre Creek, and the 39-mile stretch of the Missouri River as recreational rivers; defined a Niobrara Scenic River Advisory Commission; allowed for a five-year period to develop a water resources project on the six-mile stretch of the Niobrara below the State Highway 137 bridge; placed only modest limits on the federal government's ability to acquire land within the Niobrara River corridor; authorized a Lewis and Clark National Recreation Area Special Study; and authorized a feasibility study of a Niobrara-Buffalo Prairie National Park.

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[175] "Discussion Paper for Use with Staff and Congressional Delegation," January 18, 1990; files of the Missouri NRR, Box NIMI V-1, #16.
[176] Fred Thomas, "Regional Park Service Director Denies Association's Allegations," *Omaha World-Herald*, February 16, 1990; clipping in the files of the Missouri NRR, Box NIMI V-2.
[177] Dayle Williamson to Bud Cuca, April 3, 1990; print of electronic communication in the files of the Missouri NRR, Box NIMI V-1, #18.

In comparison to the provisions in S. 280 for the Niobrara River, those for the Missouri River were minor. The bill called for a recreational river advisory group which would consist of representatives of Nebraska and South Dakota, counties from each state, organized private groups, and "such individuals as the Secretary [of the Interior] deems desirable." In addition, the bill allowed construction of bridges within the Missouri River segment without any requirements beyond those required of the Department of Transportation.[178] Finally, the bill allowed the Secretary of the Interior, in consultation with the advisory group, to permit bank stabilization via a riprapping method using rocks from the region "in as inconspicuous and harmonious a manner as practicable related to natural channels along shorelines."[179] The bill was then sent to the House Committee on Interior and Insular Affairs.

As soon as the amended bill had been reported to the full committee, Governor Orr wrote to Morris K. Udall, chair of the committee, to voice her opposition to the bill. Her concern was that provisions for local involvement were not protected. She turned her support to Rep. Smith's bill that called for a study, saying, "Frankly, S. 280's provisions for immediate designation without appropriate study have always troubled me." The subcommittee, she claimed, "ignored the pleas of the local people for a study as provided by the legislation of Congresswoman Virginia Smith." She concluded by recommending an amendment offered by Congressman Robert Lagomarsino (R-CA) providing for a study of the 76-mile segment that would involve "a detailed analysis of the role and ability of the local, state, and federal governments to accomplish the resource protection goals of the plan."[180]

Despite this plea from Governor Orr, the Senate Committee on Interior and Insular Affairs sent the bill to the House without amendment. On June 26, 1990, the House passed S. 280 by a vote of 358-59 after defeating a weakening amendment offered by Rep. Don Young (R-AK) and Rep. Smith's substitute study bill. Upon passage, however, Sen. Exon was concerned about the House version of S. 280 because it removed some restrictions on federal condemnation of lands that were in the Senate's version and would allow the federal government to condemn up to thirty-one percent of the Niobrara River corridor. The Nebraska Congressional delegation then negotiated through the summer of 1990 and announced a compromise bill on October 18, 1990.

In the compromise bill, the House accepted the Senate's limitations on federal land acquisition. Under the new bill, the federal government's ability to acquire land or scenic easements were limited to five percent of river frontage as long as local preservation efforts were successful; the means to determine success, however, were not defined. In addition, not more than two percent of the land could be acquired in fee, with the remainder protected through scenic easements. In his press release announcing the compromise, Sen. Exon iterated that limits on scenic easements were predicated on the

[178] See Chapter 9 for additional discussion of the bridges that were built across both sections of the Missouri NRR.
[179] House Report 101-530, June 7, 1990.
[180] Kay A. Orr to Morris K. Udall, May 10, 1990; files of the Missouri NRR, Box NIMI V-1, #19.

success of local preservation efforts, clearly a nod to the effort through the late 1980s to develop local protection measures.[181]

The compromise bill contained few changes with regard to the Missouri River segment. The one change of substance related to construction of erosion control (bank stabilization) structures. The compromise bill avoided specific references to the riprapping method of erosion control. Instead, the Secretary of the Interior, in consultation with the advisory group, would permit erosion control techniques "including the use of rocks from the area for streambank stabilization purposes. . .to protect the resource values for which such river segment was designated."[182] Although the nature of the erosion control structures was a vital issue for designation of the 59-mile segment in 1978, no notes have been located for this administrative history regarding the negotiations that indicate the reason for this change in language.

Once the compromise bill was released, the Senate voted on October 27, 1990, to approve S. 280 and sent it to the House for immediate consideration. Once there, however, Rep. Smith, in her final action before retiring from Congress, enlisted the assistance of Senator Bill Armstrong (R-CO) to delay the vote on the bill until the final hours of the 101st Congress, when most of the members had left. The House was, therefore, working under a suspension of the rules, and the legislation required a two-thirds majority to pass. The vote in the House fell eleven votes short of the required majority, and was, therefore, not passed.

Senators Exon and Kerrey, and Representatives Bereuter and Hoagland, reintroduced the identical bill in the Senate (S. 248) and the House (H.R. 614), respectively, on January 23, 1991. While the bill was unchanged, some of the people involved were new. In particular, Rep. Smith had retired, and was succeeded in the House by Rep. Bill Barrett (R). Barrett held to his predecessor's opposition to designation, and favored Rep. Smith's proposal for a study of the river's potential designation.

In addition, Kay Orr was defeated in her gubernatorial re-election bid, losing to Ben Nelson (D). In contrast to Orr's reluctance to support designation legislation, Nelson quickly came out strongly in favor of the bill. The state, Nelson claimed, had ample opportunity to provide protections for the Niobrara River in the past but had failed to do so.[183] In March, Nelson sent a letter to Rep. Vento, who remained chair of the Subcommittee on National Parks and Public Lands, offering his support for the compromise bill. "Unfortunately," Nelson told Vento, "Nebraska does not have an established policy for protecting unique river areas." He descried the either/or approach to protecting the Niobrara: either federal protection or at the local level: "Too seldom have some of the competing interests given serious thought to how well we might do the job if all levels of government work together." Nelson observed that a bill was currently

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[181] Press Release, Office of Senator Jim Exon, October 18, 1990; files of the Missouri NRR, Box NIMI V-1, #20.

[182] H.R. 614, 102nd Congress, 1st session, January 23, 1991; this bill was identical to S. 280..

[183] David E. Lynch, "Nelson says state too late on Niobrara," *Lincoln Journal*, February 5, 1991; clipping in the files of the Missouri NRR, Box NIMI V-1, #22.

before the Unicameral, introduced by State Sen. Lamb, which would allow county boards to use zoning to protect rivers or streams with special values. "At this point," Nelson stated, "it is not certain that the bill will be approved. However, that bill should be viewed as a supplement to and not as a substitute for the carefully designed federal legislation proposed." He, therefore, supported H.R. 614, because its sponsors in the House and the companion legislation in the Senate "understand the importance of a cooperative effort. They desire that state and local governments in Nebraska have meaningful involvement in the development of the management plan and that Nebraskans also accept much of the responsibility for managing the river once it is designated."[184]

With the compromise in place, both Senators in favor, and without the obstacle of Rep. Smith's legislative seniority in the House, the bill began a relatively smooth passage through Congress. In February 1991, the Senate Energy and Natural Resources Committee reported S. 248 unanimously and without any changes. In March, the Subcommittee on National Parks and Public Lands again held a hearing on the bill, a year after the first hearing and still under the chairmanship of Bruce Vento of Minnesota. Robert Lagomarsino (R-CA), a member of the subcommittee, provided opening comments in which he stated his opposition to the bill and supported a study of the Niobrara River. He was also concerned that the conditions for waiving the limitations on federal land acquisition would undercut the effectiveness of the limits and allow the legislation to be turned from river protection to federal land-use planning.

Rep. Bereuter then offered his testimony, giving full support to the bill. He noted that the language was identical to the bill that passed the Senate the year before, and was defeated only on a procedural vote at the last moment. Many of the members of the House, he suggested, changed their vote "only out of sympathy for our former colleague, Virginia Smith. They didn't want her to go out with a loss in literally the last hour of her 16-year career in the House." Again noting the context of the legislation in the issue of water rights and irrigation, he speculated further that many opponents of the legislation were buoyed by the hope that the Norden Dam project would be resurrected at some point. He also downplayed the need for an additional study, stating that the river had already been extensively studied, and he acknowledged that the compromise legislation included strict limitations on federal acquisition of land. Rep. Hoagland, the sponsor of the bill, provided further specifics on the limits of land acquisition in his testimony in favor of the bill.

The two strongest opponents of the bill were Rep. Barrett, who succeeded Rep. Smith, and Principal Deputy Assistant Secretary for Fish and Wildlife and Parks Scott Sewell. Barrett cited strong opposition to the proposed designation among those who lived along the river and announced that he planned to introduce a bill in the House the same day that would call for a study of the designation and would encourage the Department of the Interior to look seriously at state and local options. Going beyond the proposal of his predecessor, however, Barrett's bill also would require the development of a management plan before the designation could be considered.

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[184] Ben Nelson to Bruce Vento, March 13, 1991; files of the Missouri NRR, Box NIMI V-1, #21.

Scott Sewell reasserted the Department of the Interior's opposition to the bill which was based on the lack of a study which, he said, should be done prior to designation. In particular, given the local conditions and the recent history of the issue, he felt that the study should include management regimes which had not been a part of previous studies. Beyond the lack of a study, however, NPS was concerned with specific provisions contained within the legislation, particularly establishment of commissions and advisory groups without details of their duties and functions. In a subsequent exchange, Rep. Vento strongly disputed Sewell's testimony, insisting that no further studies of the Niobrara River were needed and stating that many of the rivers designated as part of the NWSR program had been accomplished without such a study.

Vento had support in this regard from Elizabeth Norcross, Legislative Director of American Rivers, who testified on behalf of the bill. In disputing the need for a study, she noted that "few rivers which have gone through the normal 5A study process have had the level of scrutiny and analysis and public involvement that the Niobrara has." While American Rivers supported the legislation, Norcross expressed several concerns, including the limitations placed on federal land acquisitions, which American Rivers felt might not be enough to protect the river, and the provision to allow a water diversion project between the scenic and recreational components of the Niobrara. Finally, alone among all other commenters throughout the entire legislative process, she expressed concern about what she saw as the blanket allowance of erosion control measures on the Missouri River section. While bank stabilization is not necessarily incompatible with a recreational river designation, she argued that stabilization plans should be considered on a case-by case basis rather than calling on the Secretary of the Interior and the advisory group to permit them.[185]

With Congressman Vento clearly in support of the bill, the committee reported favorably on H.R. 614 on a vote of 28-16. Rep. Lagomarsino led development of a dissenting view to the committee's report, decrying the "instant designation" of the river outside the bounds of the standard study process identified by the WSR Act. Despite the dissent, however, H.R. 614 went to the full House, where it was debated on May 14. Rep. Barrett again called for a study of the Niobrara River that would address issues of land ownership and management options. His bill was debated as an amendment but was defeated on a roll-call vote of 293 to 109. Rep. Don Young (R-AK) again introduced an amendment, as he had the year before, which would prohibit any condemnation or forced easements. After debate, his amendment, too, was defeated, 283-124. The House then voted on H.R. 614 without any amendments, which passed 333 to 71. It was identical to the Senate version, S. 248, and was sent directly to President George H. W. Bush.

During the committee hearings in the House in both March 1990, and March 1991, representatives from the Department of the Interior stated that they would recommend a veto if the bill passed. After the bill was sent to the White House, Rep. Barrett met with President Bush's staff to urge a veto. Sen. Exon, meanwhile, met with

[185] Subcommittee on National Parks and Lands of the Committee on Interior and Insular Affairs, House of Representatives, 102nd Cong., 1st sess., Hearings on H.R. 614, March 21, 1991. The transcripts of the meetings indicate no follow-up questions or discussions pertaining to the Missouri River segment.

Secretary of the Interior Manuel Lujan to argue in favor of the river's designation and against a presidential veto. In the face of these conflicting pressures, President Bush signed into law the Niobrara Scenic River Designation Act of 1991 on May 24, though he announced that he was disappointed that the river was being designated without a study under the Wild and Scenic Rivers Act.[186]

Conclusion

Although the 39-mile stretch of the Missouri River, together with the lower portions of the Niobrara River and Verdigre Creek, are now components of the Missouri NRR and are administered conjointly with the 59-mile segment by NPS, they were initially a separate entity. Indeed, Rep. Bereuter added the Missouri River, lower Niobrara River, and Verdigre Creek components of the 1991 designation based on his own interests in these river reaches, and deliberately without consulting his South Dakota colleagues for fear of creating a source of controversy.[187] Together, these new NRR components were, in the overall scheme of things, an afterthought to the significant part, the 76-mile stretch of the Niobrara River. Likewise, USACE was not involved, and little consideration appears to have been given to the impacts of designation of the Missouri even though USACE's actions have an impact on the flows of the river.

The focus of the 1991 designation was, instead, exclusively the Niobrara River and associated park planning projects. An important feature of these discussions was that, with the exception of a small section, the 76-mile segment of the Niobrara passes through private land. Unlike the Missouri, which had been so profoundly impacted by the Pick-Sloan Plan, the Niobrara had no federal intervention since the collapse of the Norden Dam proposal and, by the 1980s, many of the residents along the river hoped that it would remain that way. Because of vocal opposition to designation of the river from so many local individuals, organizations, and municipalities, members of the Nebraska Congressional delegation were forced to take into account these local concerns and incorporate stringent protections against federal land acquisition and to increase significantly the authority of a local advisory group. These concessions, like those that were incorporated into the 1978 designation, would continue to influence the management of the Missouri NRR.

[186] Roeder, "Niobrara Scenic River," 123-124 contains an excellent summary of the final legislative process.
[187] Rep. Doug Bereuter interview, June 15, 2015; see also Rep. Doug Bereuter to James M. Ridenour, NPS, June 18, 1992, files of Missouri NRR, File NIMI I-2.

Chapter 4: Precursor to Implementation, 1979-1982

Immediately after passage of the Omnibus Parks and Recreation Act of 1978, which included Section 707, creating the Missouri NRR, the Department of the Interior (DOI) was faced with several sets of issues. The first consisted of technical matters required to comply with specific terms of the Act: entering into a Cooperative Agreement with USACE regarding administration and management of the new Missouri NRR, and creating an Advisory Group. While additional agreement and planning documents were interspersed with these two basic actions, both requirements were completed by October 1981.

While these initial agreement documents were being completed, however, implementation of administration of the Missouri NRR was hampered by two principal bureaucratic constraints: questions over which agency of DOI would administer the new NRR, and how USACE would secure funds necessary to conduct required work. Both of these challenges were, in turn, underlain by an even more fundamental issue that affected both the Department of the Army and the Department of the Interior and continues to provide administrative and management difficulties today. This issue is the perceived incongruity of marrying bank stabilization efforts with a component of the NWSR System, the legislation for which prohibits such efforts. Both DOI and USACE recognized the difficulty at the time. Within a few years of passage of the 1978 act, the powerful irony of the situation became visible: the compromise that was designed to allow for federal funds to be used for such projects was unusual enough that it created difficulty in securing federal funds within the traditional federal budget processes.[188]

The years leading up to the 1978 designation of the Missouri NRR has been recounted in Chapter 2. In summary, however, the status of the Missouri River between Gavins Point Dam, the lowest of the Pick-Sloan Plan dams, and Sioux City, Iowa, had been under discussion throughout the late 1960s and mid-1970s. Landowners who bordered on the river had been experiencing an accelerated rate of bank erosion that, they claimed, was caused by the changed flow patterns and sediment load that resulted from USACE's management of Gavins Point Dam. Congress, acting through USACE, was under pressure to correct this development. In the early 1970s, Congress authorized a demonstration project to construct and test sample bank stabilization structures: Section 32 of the Streambank Erosion Control Evaluation and Demonstration Act of 1974. At the same time, USACE developed an Umbrella Study that incorporated the results of several studies pertaining to the Missouri River and the Pick-Sloan Plan over the previous two decades.

The Missouri NRR is unusual among the NWSR System, among other reasons, for its joint administration by DOI and USACE. Both were named in the 1978 legislation that created the Missouri NRR, and were tightly intertwined in implementation of the legislative provisions for the designated section of river. While both DOI and USACE are, of necessity, discussed in this chapter, the focus in this chapter is on the agencies of

[188] Chapter 5 provides a discussion of USACE's attempts to secure funding for these projects.

DOI that were involved in negotiations and plan development in the first several years: HCRS, NPS, and FWS. The following chapter, Chapter 5, will provide additional insight into the role that USACE played and the challenges they faced during later implementation of the legislation in the 1980s.

Department of the Interior Delegation

Section 707 of P.L. 95-625, which designated the 59-mile segment of the Missouri River as a NRR, provided few details regarding its management. Overall administrative responsibilities for the Missouri NRR clearly were to be handled by DOI. The nature of these responsibilities was not defined, nor was a specific DOI bureau designated to handle administration of the Missouri NRR. The principal concern of the legislation was for bank stabilization, which included both existing Section 32 stabilization sites and any new sites which USACE deemed necessary. USACE, according to P.L. 95-625, also was to permit access to "such pumping and associated pipelines as may be necessary to assure an adequate supply of water for owners of land adjacent to such segment and for fish, wildlife, and recreational uses outside the river corridor."

USACE clearly had been the dominant federal agency on the Missouri River for several decades prior to designation of the Missouri NRR. Various agencies within DOI had been actively involved with the Missouri River generally, and the 59-mile segment particularly, for several years, including natural resources, cultural resources, and recreational developments. FWS had been providing input to USACE regarding impacts to aquatic species, while BOR had largely assumed responsibility for recreational development from NPS. BOR, which was created in 1963, was the principal agency that conducted the studies to determine eligibility for inclusion of the Missouri River in the NWSR System. BOR approached USACE in April 1976, offering its help with a study of the 59-mile segment to determine its eligibility for the NWSR System.[189] In 1978, however, BOR was folded into a new agency within the Department of the Interior, the Heritage Conservation and Recreation Service (HCRS).[190] Responsibility for carrying out eligibility studies for the NWRS System likewise transferred from BOR to HCRS, which continued to work with USACE.

This cooperative spirit on the part of HCRS extended past designation of the Missouri NRR in November 1978. HCRS took the early lead in coordinating with USACE, based in part on a suggestion from Darrell Thompson and Al Baldwin of HCRS shortly after the Missouri NRR designation. Thompson and Baldwin "look upon it as an excellent opportunity to work with the Corps of Engineers and bring them into the Wild and Scenic Rivers program in proper fashion."[191]

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[189] Albert G. Baldwin, BOR to Dave Billman USACE, April 19, 1976. Files of Missouri NRR, File NRR II.
[190] See Department of the Interior Press Release, "Heritage Conservation and Recreation Service Created," January 30, 1978, Lenexa, KS, FRC, Accession No. 079-89-0007, Box 6, File L7423.
[191] Memorandum, William E. Rennebohm, HCRS, to Director, December 18 1978. Files of Missouri NRR File MNRR Series II.

Almost immediately, however, confusion emerged within other bureaus of DOI which, as noted earlier, were deeply suspicious of designation of the 59-mile reach. As a result of this opposition, DOI remained disengaged from the process in the first several months of planning following designation. USACE commenced its initial planning with little input from any DOI bureaus except HCRS, although USACE wanted to coordinate its development of a Cooperative Agreement with DOI. Because of its earlier role leading the WSR study of the Missouri as BOR, HCRS assumed responsibility for coordinating with USACE, although it had no directives to that effect from DOI in Washington, D.C. William Farrand, Special Studies Coordinator for NPS' Midwest Regional Office (MWRO), addressed the confusion in January 1979, following a call from the Missouri River Division of USACE. Without consulting NPS, FWS had told HCRS that neither FWS nor NPS was interested in administration of the new Missouri NRR. Farrand's assessment, in a memorandum to the MWRO Regional Director, was that NPS should become involved "if the alternatives being considered in WASO [Washington, D.C. office of NPS] include a HCRS lead or signing over responsibility to the Corps of Engineers." "If the land-managing interior [sic] agency that was assumed to have the lead (FWS) has no interest," he concluded, "then the National Park Service should assume the responsibility."[192]

The following month, on February 14, 1979, Assistant Secretary for Fish and Wildlife and Parks Robert Herbst officially delegated responsibility to HCRS for coordinating with USACE on development of agreement documents, including the Cooperative Agreement that was required by the Missouri NRR legislation. Herbst's memorandum was prompted by correspondence between Representative Virginia Smith (R-NE) and USACE in December 1979, urging haste in developing the Cooperative Agreement and beginning work to implement the Missouri NRR. Herbst's charge to HCRS was to develop a Memorandum of Agreement (MOA) that would lead to the full Cooperative Agreement with USACE, and that would name USACE as the day-to-day manager of the new Missouri NRR. "If the Corps of Engineers accepts the challenge of managing a unit of the National Wild and Scenic Rivers System," Herbst continued, "you are delegated the Department's responsibilities for preparing the management plan required by Section 707. The management plan developed under these circumstances shall identify the Corps management actions which would require consultation with and concurrence by the Secretary of the Interior." If USACE declined to accept day-to-day management responsibilities of the Missouri NRR, then either FWS or NPS would be delegated responsibility to develop the management plan.[193] This conditional delegation,

[192] Memorandum, Special Studies Coordinator to Regional Director, Midwest Region, January 12, 1979. Lenexa, KS, FRC Accession No. 079-89-0007, Box No. 6.

[193] Memorandum from Assistant Secretary for Fish and Wildlife and Parks to Director, Heritage Conservation & Recreation Service, February 14, 1979. Files of Missouri NRR, File MNRR Series II. See also letter from Robert L. Herbst to Major General Charles I. McGinnis, USACE, February 13, 1979; Charles I McGinnis to Robert L. Herbst, December 29, 1978; Rep. Virginia D. Smith to Clifford Alexander, USACE, December 11, 1978, Files of Missouri NRR, File MNRR Series II.

based on HCRS' ability to get USACE to agree to day-to-day management of the Missouri NRR, was reinforced during subsequent correspondence within NPS.[194]

Not all in NPS agreed with this delegation to HCRS, and discontent simmered into the summer of 1979, during planning for the Missouri NRR management plan and Cooperative Agreement. As Randall R. Pope, Acting Regional Director of MWRO, noted in a memorandum to the Regional Director of the Rocky Mountain Region, "The designation of HCRS as the lead agency has been a controversial matter at the Washington level and was accomplished only after consideration of objections by the Director."[195] NPS, along with FWS, was participating on the management plan team, but the status of any of the agencies with regard to management and administration of the Missouri NRR remained uncertain and contentious.

HCRS hosted an inter-agency meeting at its Mid-Continent Regional Office on June 26, 1979 to begin the processing of determining which DOI agency would administer the Missouri NRR. All potential administering agencies attended, including HCRS, FWS, NPS, and BLM. The urgency to determine DOI's responsible agency was heightened by the lack of agreement from USACE to take on management of the river. The DOI goal was to provide overall administration of the river, but leave day-to-day management regarding bank stabilization and recreational development to USACE. At that point, according to a meeting summary prepared by William Farrand, "Corps of Engineers management of the river is questionable at this time due to the lack of a cooperative agreement and restrictive directives given to its District office." It seemed possible, even likely, that a DOI agency may have to take on active management of the Missouri NRR.[196]

During the meeting, HCRS and BLM were eliminated from further consideration. BLM had little presence along the Missouri River, and HCRS was not a land-managing agency and did not have the experience to administer the Missouri NRR.[197] The choice was, therefore, between NPS and FWS, with each pointing to the other as the best agency to take on administrative responsibility. According to Farrand in his report of the meeting, HCRS joined FWS in suggesting that NPS be the administering agency, though NPS disagreed.

Following the June 1979, meeting, each agency was directed to prepare an option paper regarding administration of the Missouri NRR which the Secretary of the Interior could use in making a determination. Factors considered included familiarity and experience with management of National Wild and Scenic rivers, in-house ability to handle land acquisition and easements, experience with USACE permits, budgetary capacity, and acceptability to landowners. The option papers were prepared quickly and

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[194] Memorandum, David G. Wright, Chief, Office of Park Planning and Environmental Quality to Director, March 2, 1979, Lenexa, KS, FRC Accession No. 079-89-007, Box No. 6.
[195] Memorandum, Randall R. Pope. Acting Regional Director, Midwest Region to Regional Director, Rocky Mountain Region, April 23, 1979. Lenexa, KS, FRC Accession No. 079-0007, Box No. 6.
[196] Memorandum, Bill Farrand, Rivers, Trails and Water Resources Coordinator to Regional Director, MWRO, June 28, 1979. Files of Missouri NRR, File MNRR Series II.
[197] Ibid.

compiled by HCRS in early July 1979. The FWS assessment, prepared by Larry Kellmeyn, a biologist in the Pierre, South Dakota, office, acknowledged that it had the basic capacity to administer the Missouri NRR, so long as USACE handled the land acquisition and day-to-day management, though he demurely suggested that "We see no problems with others being given the overall assignment, assuming a thorough job of protecting the resources of the area is accomplished," and noted that FWS' primary concern is "to see that the area and, in particular, fish and wildlife habitats are protected."[198]

The official response of NPS in its position paper was similarly circumspect, acknowledging that it had the capacity to administer the Missouri NRR. Acting Regional Director Randall Pope, however, was far more blunt in a memorandum to Emanuel Lauck of HCRS. After a review of the criteria that were identified in the June 1979, interagency meeting, he argued that "we cannot support a recommendation for NPS administration or management. The natural processes of the river, combined with the language of the river designation, create the potential for a high degree of bank stabilization. Despite the unobtrusive appearance of these structures, the more stabilization that occurs the less natural the river will become and the more inconsistent [sic] the resource will be with the traditional NPS role." Moreover, the principal impact of bank stabilization structures likely would be on fish and wildlife resources, which suggested administration by FWS.[199]

HCRS served as referee in the decision, having been given responsibility to present a recommendation to DOI in Washington, D.C. On July 31, 1979 Albert W. Baldwin, Assistant Regional Director for HCRS, delivered a memorandum to the Assistant Directors for Planning and Programming at WASO. In this memorandum, Baldwin recommended NPS as the best suited to carry out DOI's responsibilities. Given the one-year deadline for the Cooperative Agreement as established in the legislation, Baldwin recommended that a decision be made by September 1, 1979, so as to complete the Cooperative Agreement by November 10.[200]

NPS continued to object to having administrative responsibilities for the Missouri NRR. In early August, a representative of MWRO sent a memorandum to the Chief of the Office of Legislation in WASO in reply to a request for follow-up to HCRS recommendation. The response was blunt: "The National Park Service does not want this authority." Much of the concern resulted from the process of creating the Missouri NRR in the first place, seeing it as "primarily a ruse by which local farmers were able to extend the Corps of Engineers' bank stabilization program," combined with concerns of FWS

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[198] Memorandum, Larry Kallemeyn, FWS to Emanuel Lauck, HCRS, July 2, 1979. Files of Missouri NRR File MNRR Series II.

[199] Randall R. Pope, Acting Regional Director, to Regional Director, Mid-Continent Region, Heritage Conservation and Recreation Service, July 6, 1979. Files of Missouri NRR, File MNRR Series II. Pope sent a Memorandum to the Director of the National Park Service on July 31, 1979, repeating these assertions that FWS was best suited to administer the Missouri NRR given the nature of the resources that were likely to be affected. Files of Missouri NRR, File MNRR, Series II.

[200] Memorandum, Albert W. Baldwin, HCRS to Assistant Director, Planning and Assistant Director, Programming, July 31, 1979. Files of Missouri NRR, File MNRR Series II.

for protection of rare paddlefish breeding grounds that would cause management problems. In addition to the bank stabilization measures, the memo continued, "the farmers saw to it the [sic] legislation stripped away any meaningful acquisition authority, thereby precluding any real hope for managing a true Wild and Scenic River." Finally, the author noted that the House Subcommittee staff "have told me there will be Hell to pay if the National Park Service is saddled with the Missouri River Segment. . . .The staff is equally distressed that HCRS was named to decide who would manage the Missouri. I believe these complaints should fortify our efforts to stay clear of the project. Surely, a lot of embarrassment will be avoided if Fish and Wildlife is named to supervise the river."[201]

Despite the need to finalize the Cooperative Agreement with USACE later that year, DOI delayed naming a bureau to be administrator of the Missouri NRR for nearly two years. While the Cooperative Agreement was finally signed in early 1980, a decision from DOI regarding the administering bureau did not come until the summer of 1981. HCRS, which had been formed from BOR in 1978, was then merged into NPS on June 1, 1981. HCRS had been coordinating DOI interaction with USACE regarding the Missouri NRR, making the assignment seem natural. On July 27, 1981 Assistant Secretary for Fish and Wildlife and Parks G. Ray Arnett wrote to the Director of Civil Works for USACE, assigning administrative responsibility for the Missouri NRR to NPS. At that point, functions remained at NPS's Rocky Mountain Regional Office in Denver, the same city where HCRS had been headquartered, but it would soon be relocated to MWRO in Omaha, Nebraska.[202]

Cooperative Agreement

The Secretary of the Interior, according to the 1978 NRR legislation, was to administer the segment as a recreational river. Moreover, the Secretary of the Interior "shall enter into a written cooperative agreement with the Secretary of the Army (acting through the Chief of Engineers) for construction and maintenance of bank stabilization work and appropriate recreational development." This Cooperative Agreement was to be completed within one year (that is, by November 1979), with public notice and consultation, after which time the Secretary of the Interior was to implement administration of the Missouri NRR and begin work that included both bank stabilization and recreational developments.

Due, in part, to prompting by Rep. Virginia Smith (R-NE), who urged speed in preparing and executing the Cooperative Agreement so that bank stabilization work could commence as soon as possible, USACE began work almost immediately. By the end of 1978, USACE had developed a draft Cooperative Agreement to serve as a basis of

[201] Memorandum, Keyman, Midwest Region to Chief, Office of Legislation, August 9, 1979. Files of Missouri NRR, File MNRR Series II.
[202] G. Ray Arnett, NPS to E.R. Heiberg, USACE, July 27, 1981. Files of Missouri NRR, File MNRR Series II.

discussion with DOI and had replied to Rep. Smith.[203] NPS, on the other hand, was far slower to act than USACE, given the lack of a lead agency. HCRS, and its predecessor agency, BOR, had been coordinating with USACE about the Missouri River for nearly a decade when the Missouri NRR was designated in late 1978. FWS argued against any involvement at that early stage by either FWS or NPS, saying that involvement of either agency might trigger Section 10(c) of the WSR Act, which mandated that any component of the NWSR program administered by either of those two agencies would become part of either the National Wildlife Refuge System (FWS) or the National Park System (NPS). As noted previously, HCRS, on the other hand, welcomed the opportunity to continue to coordinate with USACE, seeing it as a way to bring the Army engineers into management of a NRR in a positive way.

As previously described, Assistant Secretary for Fish and Wildlife and Parks Robert Herbst assigned responsibility to coordinate with USACE to HCRS on February 14, 1979. The primary responsibility, according to Herbst, was to develop a MOA with USACE that would name USACE as manager of the Missouri NRR. If USACE accepted that responsibility, then HCRS was to move forward to a management plan that would identify specific actions. If USACE did not accept the role as manager of the Missouri NRR, then the DOI agency that would serve as manager would take on responsibility for working with USACE on development of a management plan.[204]

By the middle of March 1979, three versions of a DOI-USACE Cooperative Agreement were available for review. HCRS and USACE had met in Washington, D.C. in late February to revise an earlier USACE draft, while other versions were prepared by FWS and by HCRS staff at the Mid-Continent Regional Office in Denver, Colorado. According to a review by William Farrand, who was coordinating NPS participation in the planning process for MWRO, "all three have some weaknesses." The FWS version, for example, overemphasized wildlife enhancement as a management goal, while the HCRS staff version failed to commit USACE to management of the Missouri NRR.[205] The joint HCRS-USACE version, meanwhile, also did not name USACE as manager of the Missouri NRR. An Interim Memorandum of Understanding between HCRS and USACE was prepared in late March 1979. It deferred the question of who would manage the Missouri NRR, requiring USACE only to "cooperate fully with the Heritage Conservation and Recreation Service to determine the appropriate agency which will have prime responsibility for administration of the recreational river segment."

HCRS continued to lead the efforts to develop both a Cooperative Agreement and a management plan for the Missouri NRR through the spring of 1979. A meeting in

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[203] Spegel, "Missouri National Recreational River," 2008, 111-112.

[204] Memorandum, Robert L. Herbst, Assistant Secretary for Fish and Wildlife and Parks to Director, Heritage Conservation and Recreation Service, February 14, 1979. Lenexa, KS, FRC Accession No. 079-89-0007, Box 6.

[205] Memorandum, Bill Farrand, Rivers, Trails & Water Resources Coordinator, NPS, to Regional Director, Midwest Region, NPS, March 13, 1979. Lenexa, KS, FRC Accession No. 079-89-0007, Box 6. The FWS draft of the Cooperative Agreement is attached to a Memorandum, Albert G. Baldwin, Assistant Regional Director, Resource Planning Services, HCRS to Chief, Division of Natural Resource Systems Planning, HCRS, March 2, 1979. Files of Missouri NRR, File MNRR Series II.

Vermillion, South Dakota, on May 11, 1979 served to kick off management plan development with representatives from USACE, FWS, NPS, the Missouri River Bank Stabilization Association (MRBSA), and local and state agencies. While notes from the meeting indicate the need to have USACE accept day-to-day management responsibilities for the Missouri NRR, it is clear that such agreement had not yet been reached.[206] That situation, according to Acting NPS Director Ira J. Hutchinson, "causes us considerable concern." The nature of the management plan was dependent upon which agency would have management responsibilities, and, although a plan with USACE as managing agency would be more complicated, "We still feel that such an action would be the correct approach."[207]

USACE was actively discussing this situation as well during the spring and summer of 1979. In June, Lieutenant General J.W. Morris prepared a brief on behalf of the Chief of Engineers recommending that DOI "have overall responsibility for day-to-day administration of the Recreation River, including maintenance, operations and replacement of recreation facilities," while USACE "will maintain bank stabilization works." A month later, however, C.A. Selleck, Division Engineer at the Omaha District Office, argued on behalf of a more robust presence for USACE, noting, for example, that USACE still would have responsibility for permits on the river. Moreover, Selleck was concerned that deferring too much to DOI would mean that USACE could construct only those bank stabilization structures that DOI mandated and to which DOI had secured access. "This arrangement," he warned, "would do little toward expeditious and orderly protection against erosion in the reach." In evaluating Selleck's argument, Morris recommended in late August 1979 that "final resolution of whether the Corps or some agency of USDI [Department of the Interior] will eventually become the Federal manager of the Recreation River" would have to await a final review by the Office of the Chief of Engineers in Washington, D.C.[208]

HCRS continued to lead development of a management plan for the river, and USACE took the lead on developing the Cooperative Agreement, while discussions of both the river's management and the delegation of a DOI agency to take the lead swirled. The inter-agency planning team continued to meet through the spring and summer of 1979 and issued a draft management plan for public review and comment on July 14. The planning team held public meetings regarding the management plan in Yankton and Vermillion, South Dakota, and in New Castle, Nebraska, in August 1979. The interagency team met to revise the management plan concurrently with the public meetings.

William Farrand, NPS representative on the interagency team, reported on the meeting in late August 1979. USACE had two developments to report. First, Rep. Smith had secured a $500,000 appropriation to begin implementation of the Missouri NRR,

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[206] Missouri Management Plan Meeting, May 11, 1979. Files of Missouri NRR, File MNRR, Series II.
[207] Memorandum, Ira J. Hutchinson, Acting Director, NPS to Director, HCRS, May 21, 1979. Files of Missouri NRR, File MNRR, Series II.
[208] These three documents are collected under one Memorandum from Morris to Division Engineer, Missouri River, August 30, 1979. Files of Missouri NRR, File MNRR Series II.

largely to carry out a series of studies over the course of six years. Second, USACE presented a draft manpower estimate for managing the river as authorized by the Omaha District. As Farrand noted, "This is not a declaration of their intent to manage but is a positive move for the Corps at the field level considering recent history on the management issue." The level of management that USACE was proposing was light, consisting only of a full-time ranger for recreation management, a full-time engineer for erosion control structure management, and a small seasonal staff. "I doubt that this approach would be acceptable to the [DOI] Secretary's administrative agency (yet to be appointed)," Farrand concluded, "but does represent a starting point for negotiation of the actual cooperative agreement."[209]

Negotiations surrounding management of the Missouri NRR began almost immediately. On August 31, 1979, the Chief of the Planning Division for the Omaha District of USACE, John Velehradsky, distributed a draft Memorandum of Agreement that would serve as the basis for planning and implementing administration of the Missouri NRR. This draft MOA included a provision for USACE to serve as managing agency, which DOI saw as an important first step.[210] NPS Acting Regional Director Randall Pope responded ten days later, acknowledging this vital first step but requesting clarification of the roles that were appropriate for USACE as managing agency. The MOA assigned land acquisition, design and construction, operation and management, and others to USACE, but assigned cultural resources, fish and wildlife, interpretation, and others to DOI. Pope thought that categories of responsibility assigned to DOI were properly management responsibilities, thus falling to USACE. "If these were implemented by several agencies according to expertise," he argued, "a confused management situation would be created. Implementation of these programs by a single agency charged with management of the river would provide more efficient management." Instead, he suggested that the most appropriate role for DOI's administering agency would be review and approval of projects proposed by USACE.[211]

A planning meeting in Omaha on September 27-28, 1979, among HCRS, NPS, FWS, and USACE resulted in a draft Cooperative Agreement. FWS raised concerns about the draft agreement almost immediately. The overriding concern of FWS was that not enough protections had been built into the agreement to protect and enhance wildlife resources. In particular, FWS was concerned that limitations on acquisition of land and interest in land through easements was focused only on bank stabilization and did not obligate USACE to coordinate with DOI on acquisitions. FWS argued that USACE's concept of what should be acquired "often is significantly different from what Interior believes is necessary to protect the River values—particularly the wildlife resources." FWS felt that a requirement within the Cooperative Agreement for DOI concurrence on

[209] Memorandum, William E. Farrand, Rivers, Trails, and Water Resources Coordinator to General Files, August 29, 1979. Files of Missouri NRR, File MNRR Series II.
[210] Circular letter to [Planning] Team Members from John E. Velehradsky, USACE, August 31, 1979. Files of Missouri NRR, File MNRR Series II.
[211] Randall R. Pope, NPS to John Velehradsky, USACE, September 10, 1979. Files of Missouri NRR, File MNRR Series II.

acquisition of land and interests in land would help to ensure that wildlife values were being preserved.[212]

HCRS addressed comments on the draft Cooperative Agreement, and delivered the revised version to USACE, FWS, and NPS on November 6, 1979. FWS approved the revised document on November 19, and USACE approved it the next day. Once it reached DOI in Washington, D.C., however, the process slowed down as officials there made changes to the language of the agreement. DOI completed its revision in early January 1980 and sent the executed agreement to USACE on January 10. The Chief of Engineers then signed the agreement on February 1, 1980. On March 18, 1980 the Secretary of the Interior forwarded the executed Cooperative Agreement, together with the completed management plan, to Congress.[213] This allowed ninety days for review before becoming effective and, thus, implementing the plan.

Because DOI had not yet delegated responsibility for the Missouri NRR to any of its agencies, the Assistant Secretary for Fish and Wildlife and Parks was named in the Cooperative Agreement as having joint responsibility with USACE. HCRS provided staff support for the agreement until July 1981, when it was merged into NPS, and NPS was then delegated responsibility for administration. Under the terms of the Cooperative Agreement, DOI was charged with establishing a Recreational River Advisory Group, providing technical assistance to USACE when requested, submitting budget requests, and determining whether any activities "are occurring or threatening to occur along the designated river segment which constitute serious damage or threat to the values for which the segment was designated."

USACE, meanwhile, was obligated by the Cooperative Agreement to submit the budget requests for planning, land acquisition, interpretive facility development, and stream bank stabilization and recreational features construction, and for operations, maintenance, and replacement. Moreover, USACE, subject to available appropriations, was to carry out a series of studies, including cultural resources, visual resources, wildlife resources, and mineral resources; determine the bank stabilization structures necessary to control erosion, and determine how much land was necessary both to construct the structures and to "protect and enhance the river in accordance with the purposes of the act," acquire lands and interests in lands "required to carry out the river preservation and recreational purposes of the act;" as well as design, construct, operate, and maintain the bank stabilization structures, river preservation structures, and recreational and interpretive features.

The Management Plan for the Missouri NRR was submitted to the Secretary of the Interior concurrently with the Cooperative Agreement. The Management Plan began with a brief overview of the river and the creation of the Missouri NRR, and provided the

[212] Memorandum, Director of FWS to Director of HCRS, October 5, 1979. Files of Missouri NRR, File MNRR Series II.
[213] Memorandum, Assistant Secretary for Fish and Wildlife and Parks, NPS to Regional Directors, Region 6, FWS; Regional Director, Mid-Continent Regional Office, HCRS; Regional Director, MWRO, NPS, N.D. Files of Missouri NRR, File MNRR, Series II.

first statement of a boundary. The boundary definition provided few details and deferred more specific details for later, noting only that its length was from downstream of Gavins Point Dam to Ponca State Park, "bounded by the adjacent flood plan, selected slopes visible from the river, and lands above the river bank required for protection of the river characteristics. Specific deviations within these areas will be based on characteristics identified during advanced planning and upon the availability of land for project purposes."[214] The Management Plan then provided an overview of existing recreational features including federal, state, and county facilities providing passive recreation and boat access, the City of Yankton's riverfront, and privately-operated recreational enterprises, along with information about the surrounding land uses.

While the Cooperative Agreement specified the management role that USACE would have, the Management Plan sidestepped the issue in its section on administrative goals and responsibilities. While noting that the Secretary of the Interior would provide the overall administration of the river, and acknowledging that USACE had responsibility for bank stabilization work and for determining what lands would be required for erosion control and recreational projects, it stipulated that all other management responsibilities would be held by "a designated federal agency." These responsibilities included negotiating for lands or interests in lands, managing those lands and interests in lands, and working with local government regarding possible zoning. The Management Plan then included a detailed discussion of transactions and the types of interests in lands that could be acquired, including different kinds of easements, tax delinquent property, bargain sales, donations of land or interests in lands, bequests, life estates, and others. The Management Plan also included an extensive discussion of objectives, such as management of recreation, fish and wildlife, erosion control, cultural and natural resources, visual resources, grasslands, woodlands, agricultural lands, and water resources. Each of these resource areas was accompanied by a series of recommended programs to protect and enhance them.

The Management Plan would become effective ninety days after being forwarded to Congress, at which point implementation of administration of the Missouri NRR would begin. Implementation was to include budget development, an inventory of land ownership status, the identification of river bank areas where erosion control would be required, studies of natural and cultural resources, the identification of land acquisition goals, plans for recreational developments and interpretation, and coordination with local and state agencies on land use goals. Significantly, however, the Management Plan did not address the need for coordination regarding permits.

USACE Studies/General Design Memorandum

The Cooperative Agreement, which was executed on February 1, 1980 and delivered to Congress on March 18, obligated USACE to carry out a series of

[214] Heritage Conservation and Recreation Service [HCRS], *Missouri National Recreational River Management Plan: Gavins Point Dam, South Dakota to Ponca State Park, Nebraska*. 1980.

environmental studies in accordance with the Management Plan. In addition, USACE was required, under Army guidelines, to complete a General Design Memorandum (GDM), together with an Environmental Impact Statement (EIS) as a supplement to the earlier Umbrella Report.[215] USACE began work on both the studies and the GDM simultaneously as soon as the Cooperative Agreement had been executed, and, since DOI had not yet designated an administering bureau, continued to coordinate their work with NPS and FWS through HCRS.

The GDM was USACE's first priority. A draft needed to be in place by the end of July 1980 in order for the Missouri NRR to be part of appropriation planning for the 1982 fiscal year (FY82). In early April 1980, the Missouri River Division of USACE provided the Omaha District Office with extensive instructions for preparing the GDM. While General Design Memoranda were standard planning documents prepared by USACE, the situation of the Missouri NRR made this one different, and, according to USACE District Engineer C.A. Selleck, Jr., it "should be considered as an extension and detailing of the Missouri National Recreation [sic] River Management Plan, prepared by HCRS." The GDM, according to these instructions, was to define a strategy for implementing the Management Plan of the Missouri NRR. The task was to identify all planning and construction activities that would be required to comply with the Cooperative Agreement and Management Plan, together with estimated budget requirements. The GDM also would need to "document with some confidence that the outstandingly remarkable values which the designated river reach possesses can be preserved and protected for the public benefit given the constraints imposed by Section 707 of PL 95-625. This will require a greater detailing of those values than is provided in the HCRS management plan." The principal constraint was the limit on acquisition of land and interests in land that was mandated in the Missouri NRR designation as discussed in Chapter 6.[216]

USACE completed a draft of the GDM in early June and distributed it to HCRS, NPS, and FWS on June 18, 1980. A follow-up meeting was held on June 23. According to a note from Emmanuel Lauck with HCRS, the "meeting went well, usual conflicts between C/E and F&WS, nothing really major."[217] FWS comments on the draft GDM were more extensive and detailed than those prepared by NPS and included a greater recognition of USACE's management responsibilities, clarifications on ways that fee acquisitions and easements would be handled and the purposes to which they would be put, and recommendations for additional protection measures for the values for which the river segment was designated.[218]

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[215] Memorandum, Assistant Secretary for Fish and Wildlife and Parks, NPS to Regional Directors, Region 6, FWS; Regional Director, Mid-Continent Regional Office, HCRS; Regional Director, MWRO, NPS, N.D. Files of Missouri NRR, File MNRR, Series II

[216] C.A. Selleck, Jr., Division Engineer, to District Engineer, Omaha, April 7, 1980. Files of Missouri NRR, File MNRR, Series II.

[217] Handwritten memo from Emmanuel [Lauck] to Bob Karaklo (sp.), June 27, 1980. Files of Missouri NRR, File MNRR, Series II.

[218] James W. Salyer, FWS to Vito D. Scipo, USACE, June 27, 1980. See also Randall R. Pope, NPS to Stipo, June 30, 1980. Lenexa, KS, FRC Accession No. 079-89-0004, Box 2, File No. L5815.

As finalized in July 1980, the GDM clearly acknowledged USACE's day-to-day management responsibilities for the Missouri NRR, with administration by DOI. An important component of the document provided information regarding real estate issues, with estimates based on restrictions on land acquisition in the Missouri NRR legislation. These restrictions included the requirement to acquire land only from willing sellers, with the exception that up to five percent of the acreage within the boundaries of the Missouri NRR could be acquired in less than fee title (such as easements) without the consent of the owner (a total of 900 acres from the total of 19,000 acres in the Missouri NRR boundary). The legislation also allowed for acquisition in fee of no more than 100 acres per mile on both sides of the river. USACE recommended that scenic and preservation easements should be acquired for approximately 15,600 acres, one-third of which would be for bank stabilization programs and the remaining two-thirds for scenic purposes. USACE further noted that approximately 3,400 acres adjacent to current eroding areas would require bank stabilization structures "on which the Corps of Engineers will assume operation and maintenance;" According to the GDM, 2,100 acres had potential for passive recreational use; and 600 acres should be acquired in fee, much of it for development of a major park in South Dakota. Finally, the GDM noted that 1,300 acres were already in public ownership, including 700 acres in Ponca State Park, and 600 acres held by various state and county agencies. The GDM then presented a discussion of several methods for land acquisition, including landowner negotiations, right-of-entry, different types of easements, and fee acquisition where major recreational developments were planned.[219]

The GDM also described outstandingly remarkable values of the Missouri NRR and outlined of methods for protecting and enhancing them. The values specified were visual resources; recreational resources; fish and wildlife, including habitats and threatened and endangered species; and cultural resources. The GDM contained a significant section on the bank preservation and stabilization program. This section identified the river characteristics and erosion problems, measures to identify sites that needed protection and ways to establish priorities, design considerations, and monitoring methods. Finally, the GDM addressed requirements for permits within the Missouri NRR, though it did not include references to the backlog of after-the-fact permits, which will be discussed in the Permits section of this chapter.

The GDM concluded with a discussion of implementation of administration of the Missouri NRR, plans for which were the responsibility of USACE. The implementation plan, it noted, "will include programs for bank preservation, recreation, and preservation and enhancement of identified resources which meet the requirements necessary to carry out the provisions of the authorizing legislation." The implementation, however, "will be conditioned upon the availability of lands and interest in lands necessary to protect and enhance the river in accordance with the purposes of the Wild and Scenic Rivers Act." USACE also was to complete the ongoing studies, described below, before implementation of administration of the Missouri NRR could take place. It is clear also

[219] Omaha District Corps of Engineers, *Missouri National Recreational River, Nebraska and South Dakota, General Design Memorandum MRR-1: Gavins Point Dam, South Dakota to Ponca State Park, Nebraska*. July 1980, 2-2, 2--3.

that implementation would be dependent upon funding from Congress. If FY81 funds become available, it noted, "the first segment of the project could be implemented. This segment would consist of interest in land for a recreation site, bank preservation measures, and scenic and recreation easements at Bolton Bend and Volcano Hill sites provided that easements are available from willing sellers."[220]

USACE was conducting various studies of the Missouri NRR during preparation of the GDM. Rep. Virginia Smith (R-NE) had made provisions for an add-on appropriation of $500,000 to conduct these initial planning studies. By the middle of March, the Omaha District had assembled a team consisting of an archeologist, a landscape architect, a community planner, an environmental resources specialist, a program analyst, two civil engineers to study erosion control, a real estate appraiser, a realty specialist, two real estate attorneys, a civil engineer to handle permits, and an outdoor recreation planner. USACE's archeologists joined with HCRS staff to meet with the State Historic Preservation Officers (SHPOs) of Nebraska and South Dakota, the environmental resource specialist joined with HCRS staff to meet with FWS, and the landscape architect met with BLM to discuss the visual resource management study, while the chief of regulatory functions and HCRS staff met with FWS, officials with the States of Nebraska and South Dakota, NPS, and MRBSA to discuss permits. USACE also began a study of erosion sites, identifying those areas most in need of attention and determining land ownership for acquisition of land or easements.[221]

This heady pace continued through the summer and fall of 1980. Cultural resources, fish and wildlife, and recreational resources studies were well under way by the late spring of 1980, along with contracts for extensive aerial photography. By the end of the summer of 1980, USACE real estate specialists had identified properties for easements, including James River Island and seven priority bank stabilization sites, while eleven recreation sites had been identified, with agreements from the owners of eight of those sites to sell the property for recreational uses. In addition, USACE staff began the visual resources study, using methods based on those developed by BLM, with mapping and analysis continuing throughout the summer.[222]

Permits

Like so many issues associated with the Missouri NRR, questions regarding permits for bank-related activities by USACE extend back to the 1970s. USACE is authorized to regulate waters of the United States, which it does in part through issuance of permits to conduct particular activities. Two Congressional acts in particular give USACE responsibility to issue permits for work along the banks of the Missouri River:

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[220] Ibid., 11-1, 11-2.
[221] V.D. Stipo, USACE to Derrel Thompson, HCRS, March 12, 1980. Files of Missouri NRR, File MNRR Series II.
[222] Memorandum, Richard L. Buse to unknown, Status Report on the Missouri National Recreational River, June 20, 1980. Lenexa, KS, FRC Accession No. 079-89-0004, Box 2, File No. L5815; V.D. Stipo, USACE to Derrell Thompson, HCRS, September 2, 1980. Files of Missouri NRR, File MNRR Series II.

Section 10 of the Rivers and Harbors Act of 1899, and Section 404 of the Clean Water Act. These sections of Congressional acts, often referenced jointly as Section 10/404 permits, pertain to dredging, excavating, filling, and other similar activities within either navigable waters or surface waters of the United States. Section 10 of the Rivers and Harbors Act is designed specifically for projects below the Ordinary High Water level of the nation's navigable waters, while Section 404 permits pertain to lands above the Ordinary High Water level only when wetlands are present.

By the early 1970s, landowners along the Missouri River downstream of Gavins Point dam had been complaining about the extent of erosion of the river banks for years with few satisfactory responses. Many of them began taking matters into their own hands to stabilize the banks with any materials that they had at hand, including old cars piled along the banks to act as buffers. USACE professed an inability to monitor such activities along the river bank with any degree of regularity and consistency given both the limited manpower to cover such a large section of river and the fact that these activities were carried out by private individuals rather than organizations or governmental agencies. According to a 1980 briefing paper prepared by FWS, USACE "contends they are unable to resolve the problems due to manpower constraints and the lack of authority to correct a situation."[223] When these individual activities were brought to light, however, those who deposited the car bodies or concrete blocks applied for "after-the-fact" (ATF) permits to allow such makeshift structures to remain in place. The question of permits generally, and ATF permits particularly, was an important issue during initial implementation of administration of the Missouri NRR that continues to linger.

Prior to designation of the 59-mile segment as the Missouri NRR, FWS handled relations with USACE over original permits and ATF permits. This gave FWS a great deal of experience and, frequently, a great deal of frustration with USACE in this segment of the river. As an example, USACE asked FWS to comment on unauthorized bank stabilization consisting of used cars and blacktop on the south bank of the river in late 1977. FWS replied quickly and recommended that USACE require removal of the materials. No action was taken until early 1979, however, when USACE approved an ATF permit for the work subject to a review by the Nebraska Department of Environmental Control to assess any violation of applicable water quality standards.[224]

Because bank stabilization was the crucial issue for the Missouri NRR, the role of permits for private work was an important part of discussions over management of the river. Rather than the two federal agencies that were involved before the Missouri NRR designation, three were now involved: USACE and FWS regarding Section 10/404 permits, as before, and, now, NPS, which had responsibility for work carried out within the Missouri NRR under Section 7(a) of the WSR Act. By early 1980, following

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[223] Kent Keenlyne, FWS, "Briefing Statement—Section 10/404/13 Permit issues on Wild and Scenic River segment, Gavins Point Dam to Ponca State Park, Missouri River," July 21, 1980. Files of Missouri NRR, File MNRR, Series II.

[224] Correspondence between USACE and FWS, November 14, 1977; December 6, 1977; January 7, 1979. Correspondence pertaining to this bank stabilization site after the NRR designation by then included the NPS: April 9, 1980; May 14, 1980; May 30, 1980. Lenexa, KS, FRC Accession No. 079-89-0004, Box 2, File No. L5815.

completion of both the Cooperative Agreement between USACE and DOI and the Missouri NRR management plan, permits again came under discussion. Several DOI agencies made comments on the management plan at a meeting on March 20 regarding a uniform policy on permits; in a letter to USACE on May 8, however, Kent Keenlyne, an Area Supervisor with FWS, pointed out that DOI's proposed guidelines had not been implemented.[225]

These principal agencies, along with other local interests, had an initial meeting regarding permits in September 1980. Emmanuel Lauck, Manager of Water Resources for HCRS in Denver, developed a list of suggested topics for the meeting, including after-the-fact permits, general permits, a permit task force, an emergency assistance program for landowners who need help protecting their river banks, and a public information program. In addition, he prepared a sample check list for evaluating Section 10/404 permit requests, including standards for pumping stations, boat docks, and erosion control. Within the standards were minimum setbacks for pumping equipment and vegetation for screening, requirements for placement of intakes related to recreation areas, information on types of materials that could be used for boat docks (metal drums could be allowed, for instance, but biocide chemical containers or barrels could not), and description of appropriate materials for erosion control, which included broken concrete under certain conditions, natural stone, and cabled trees but not car bodies, trash, tires, asphalt, and other forms of scrap.[226]

No agenda for or minutes from the meeting were identified during research for this Administrative History. Kent Keenlyne, Area Supervisor for Environment in the FWS Pierre Area Office, however, wrote a scathing report of the meeting. While FWS hoped that it would be an internal meeting between Interior and USACE staff to determine an appropriate, coordinated response to bank stabilization permits, HCRS also invited representatives of local agencies and MRBSA. After a brief summary opening by Emmanuel Lauck of HCRS, Keenlyne reported that USACE conducted the rest of the meeting, which focused largely on specific permits. The meeting then concluded with agreements on permitting in general, what Keenlyne suggested were "concessions" by Interior, that included a grandfathered acceptance of all individual bank stabilization efforts that were put in place prior to the Missouri NRR designation, a case-by-case approach to bank stabilizations that were begun after the Missouri NRR designation in 1978, and new guidelines regarding irrigation intakes and structures to be developed by HCRS. In addition, USACE would develop a "general permit" that would streamline the process to approve individual stabilization efforts.[227] An initial attempt by USACE to develop a general permit faltered, and USACE withdrew it "because it felt that it was becoming too restrictive and not within the means of landowners along the river."[228]

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[225] Kent Keenlyne, FWS to Vito Stipo, USACE, May 8, 1980. Lenexa, KS, FRC Accession No. 079-89-0004, Box 2, File No. L5815.
[226] Emanuel Lauck, HCRS to Ralph J. Miller, USACE, September 8, 1980. Files of Missouri NRR, File MNRR Series II.
[227] Memorandum, Area Supervisor, Environment to Area Manager, South Dakota-Nebraska-Kansas, October 3, 1980. Files of Missouri NRR, File MNRR Series II.
[228] Memorandum, Field Supervisor, Ecological Services, FWS to Area Manager, FWS, December 23, 1981. Lenexa, KS, FRC Accession No. 079-89-0004, Box 2, File No. L5815.

Following this meeting, there was little action with regard to permits throughout the rest of 1980 and into 1981. This was due in part to a lack of funding to USACE for Missouri NRR activities, but also to indecision within DOI regarding delegation of responsibility. With delegation to NPS in July 1981 as the bureau responsible for administering the Missouri NRR, however, the river became a unit of the National Park System in accordance with Section 10 (c) of the WSR Act. As a result, NPS gained official status with regard to permits in the 59-mile reach. NPS, with former HCRS staff, met with FWS on August 14, 1981, regarding management of the river. Permits were an important part of the discussion. With NPS now the administering agency and the river a unit of the National Park System, the two agencies saw an opportunity to reopen discussions with USACE regarding Section 10/404 permits. The two agencies agreed that FWS would continue to serve as the clearing house for DOI comments on permits, except that NPS would now review and comment on permit applications that pertained specifically to the Missouri NRR. As noted in a report of the meeting, "Section 7 (a) [of the WSR Act] protects the River by prohibiting any manner of Federal assistance for a water resource project that would have a direct and adverse effect on the values for which the River segment was designated. We are required to make such determination before the Corps of Engineers can issue a permit."[229]

The pressure to develop new permit procedures and a General Permit increased during late 1981 and into 1982 as USACE accumulated a backlog of permit applications. Most of these were ATF applications filed by landowners.[230] Following a December 1981 meeting among USACE, FWS, and NPS, USACE began work again to develop a General Permit for these "self-help" bank stabilization projects. USACE released the draft General Permit for public comment in the early spring of 1982, before consulting with either FWS or NPS. Not surprisingly, therefore, FWS found that "the General Permit, as written, is unacceptable." In commenting on behalf of DOI, James Salyer, with FWS, pointed out that the draft General Permit did not reference the special permitting requirements of the Missouri NRR, and NPS's role in approving work on the designated river segment. Moreover, specific, unacceptable methods and materials for stabilization, including tires, trees, and timber bulkheads were not defined clearly enough, the use of vegetation for screening and stabilization was not emphasized, the length of appropriate structures was not defined, and visual and aesthetic considerations were not included.[231] In a similarly critical review, the South Dakota Department of Game, Fish and Parks suggested that the federal agencies, including FWS, NPS, USACE, and various state agencies meet to develop a workable General Permit.[232]

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[229] Memorandum, Bill Dean, NPS to Regional Director, MWRO, August 20, 1981. Lenexa, KS, FRC, Accession No. 079-89-0004, Box 2, File No. L5815.
[230] Memorandum, Field Supervisor, Ecological Services, FWS to Area manager, FWS, December 23, 1981. Lenexa, KS, FRC Accession No. 079-89-0004, Box 2, File No. L5815.
[231] James W. Salyer, FWS to Vito D. Stipo, USACE, April 15, 1982. Lenexa, KS, FRC, Accession No. 79-90-0003, Box 3, File No. L5815.
[232] Robert L. Hanten, SD Department of Game, Fish and Parks to Omaha District Corps of Engineers, April 15, 1982. Lenexa, KS, FRC, Accession No. 079-90-0003, Box 3, File No. L5815.

NPS also was disappointed in the way that USACE handled the initial General Permit. In a report to MWRO Regional Director, Chief of the Division of Rivers and Trails J.L. Dunning acknowledged that he was sympathetic to the problems of landowners; such work, he said, "is performed by landowners legitimately concerned about losing their property to the river." Many requests for after-the-fact permits, he pointed out, were falling to NPS to review, and they had begun to work with USACE "toward developing acceptable criteria for the issuance of a General Permit which would accelerate the process required to enable landowners along the MNRR to legally perform compatible self-help bank protection measures." The USACE decision to issue a public notice of the draft General Permit without DOI review, in a form which was "unacceptable as written," set back the process because it forced NPS to request, through FWS, that the permit not be issued. As a result, Dunning argued, "the development and issuance of a General Permit will probably be delayed. This could result in unwarranted public reaction aimed at NPS."[233]

Staff from the Omaha District of USACE met with MWRO staff on September 14, 1982 to discuss several issues related to management of the Missouri NRR, including attempts to secure funding for USACE work on the Missouri NRR, bank stabilization structures, and the General Permit. USACE was working on a revised General Permit and intended to have a draft for NPS review within one month. At the same time, USACE planned to conduct an inventory of permitted work and pledged to increase monitoring capacity for permit requirements, when USACE was funded, to keep an operational presence on the Missouri NRR.[234]

USACE again prepared a draft General Permit, the distribution of which was coordinated by the new Missouri National Recreational River Advisory Group in January 1983. By this point, however, complexities of funding priorities and determining specific terms of a General Permit proved to be too much. No further discussion was recorded, and the concept of a General Permit faded away. In its place, USACE maintains a three-way review procedure for reviewing individual permits with FWS and NPS, both proposals for new work and for after-the-fact permits. The process for approving permits continues to have NPS provide a review of the proposed action, while FWS conducts correspondence with USACE. In September 1983, for example, FWS approved an ATF permit for placement of fill in the 59-mile reach, noting that a review of the project pursuant to Section 7 (a) of the WSR Act found that the project did not have a direct and adverse effect on the scenic and natural values of the river, a determination that was to be made by NPS.[235] Earlier that year, MWRO reviewed a proposed permit for a new water intake structure in the 59-mile reach as proposed by an individual landowner. The project consisted of a ten-inch diameter pipe extending ten feet into the water, with a pump located twenty-six feet back from the river screened by two rows of cedar trees. MWRO

[233] Memorandum, J.L. Dunning, Chief, Division of Rivers and Trails, NPS to Regional Director, MWRO, April 23, 1982. Lenexa, KS, FRC, Accession No. 079-90-0003, Box 3, File No. L5815.
[234] Memorandum for the Record, Meeting of District Engineer with Regional Director, National Park Service, 9/14/82. Lenexa, KS, FRC, Accession No. 079-90-0003, Box 3, File No. L5815.
[235] Kent Keenlyne, FWS to William R. Andrews, Jr., USACE, September 9, 1983. Lenexa, KS, FRC, Accession No. 079-90-0003, Box 3, File No. L5815.

conducted the review and informed FWS that it, too, would have no effect on "the values for which the river has been designated."[236]

The Recreational River Advisory Group

The 1978 Missouri NRR legislation called upon the Secretary of the Interior to administer the designated segment "in coordination with, and pursuant to advice of a Recreational River Advisory Group." This Advisory Group was to include representatives of various federal agencies that were involved in the river, state and local governments, and local private organizations. Given that the federal agencies, including the USACE, FWS, HCRS, and NPS, were unclear at the outset on how the Missouri NRR would be managed and administered, it is no surprise that the Advisory Group was slow in being developed.

HCRS Director Chris Therral Delaporte had assumed the lead of the initial implementation of administration of the Missouri NRR after the November, 1978, designation. After a year of on-and-off discussion, with no action taken on development of the Advisory Group, the area's members of Congress, particularly Representative Douglas Bereuter (R-NE) raised strong questions to both USACE and DOI as to causes for the delay. In April, 1980, responding to a query from Rep. Bereuter, HCRS Director Delaporte raised the issue of the Recreational River Advisory Group to Assistant Secretary for Fish and Wildlife and Parks Constance B. Harriman in Washington, D.C. Emanuel Lauck with HCRS had already prepared a draft charter for the Advisory Group along with the management plan and the signed Cooperative Agreement in February, but Interior Secretary Cecil D. Andrus had not yet taken action. Approval for the Advisory Group charter, he noted, was important to Congressional representatives from both Nebraska and South Dakota: "we have made a commitment to report to them on how we are moving this effort forward. I would like your assistance in getting the Charter cleared by OMB [Office of Management and Budget]."[237]

Staff with DOI finally reviewed and revised the draft Charter for the Advisory Group later in 1980, and Lauck distributed it to the members of the interagency management plan team in early December. As revised, the Charter called for an Advisory Group that "will gather and participate in the decision-making process regarding the management of the river," in an advisory capacity only but analyzing information, presenting local concerns, reviewing plans and proposals, and making recommendations for operation and maintenance "of the features developed along the river segment." The Advisory Group would consist of one appointee each by HCRS, NPS, FWS, USACE, and the Coast Guard; two appointees each by the Governors of South Dakota and Nebraska; two representatives from each state, one member from among nominees from

[236] J.L. Dunning, MWRO to Regional Director, FWS. Lenexa, KS, FRC, Accession No. 079-90-0003, Box 3, File No. L5815.
[237] Memorandum, Director, Heritage Conservation and Recreation Service to Assistant Secretary for Fish and Wildlife and Parks, April 18, 1980. Files of Missouri NRR, File MNRR Series II.

Clay, Union, and Yankton Counties in South Dakota and Cedar and Dixon Counties in Nebraska, and one member from among the nominees from Elk Point and Vermillion, South Dakota, and Ponca and Newcastle, Nebraska. There were also to be an additional six public members appointed by the Secretary of the Interior, including two from river basin commissions or bank stabilization associations and four from among local civic, recreational, cultural, environmental, or conservation groups. Finally, there was to be a federal representative based in Washington, D.C., to be appointed by the Assistant Secretary for Fish and Wildlife and Parks. This federal representative would be the liaison between the Advisory Group and DOI. DOI would continue to convene this Advisory Group based on a review every two years.[238]

As DOI struggled to identify an agency that would administer the Missouri NRR through the first half of 1981, the Advisory Group remained in limbo. Secretary of the Interior Andrus signed the charter on September 8, 1980, but no further action was taken. In July 1981, however, Assistant Secretary for Fish and Wildlife and Parks G. Ray Arnett designated NPS to administer the new Missouri NRR on behalf of Secretary of the Interior James G. Watt. In August 1981 the Acting Director of NPS revised the charter of the Advisory Group to reflect that agency's new administrative role. In transmitting the revised draft charter, the Acting Director noted that no appointments had yet been made, though HCRS had compiled a set of nominations.[239] Secretary James Watt signed the revised charter later in 1981, and, in early 1982, NPS began soliciting nominations for Advisory Group members from local, state, and federal agencies and private groups.

The list of nominees from local and state organizations was presented to Secretary Watt in early April, 1982, and the inaugural membership of the Advisory Group was finalized by late June, 1982, with an initial meeting planned for August 26, 1982.[240] The meeting was held at the Lewis and Clark Lake Visitor Center. Midwest Region Chief of Rivers and Trails Bob Martin had been appointed Chairman of the Advisory Group, and introduced the group to the special nature of the Missouri NRR. It was, he noted, the only unit of the NWSR system and the only NPS unit "where the U.S. Army Corps of Engineers has a direct management role." After that, the Advisory Group was briefed on the status of the components of the implementation process, including the series of studies being carried out by USACE, the General Permit, and bank stabilization priorities. The Advisory Group also discussed at length the role of the Section 32 bank stabilization demonstration projects, the continuation of which was uncertain given the nature of funding from USACE. Because the reach of the river was, by then, under the jurisdiction of NPS through the WSR Act, the status of contracts to carry out the rest of the Section 32 projects was uncertain. In leading this discussion, William Farrand of NPS "stated that the National Park Service intended to work with the U.S. Army Corps of

[238] The Draft Advisory Group charter was circulated to the Management Plan Team Members by Emmanuel Lauck by memo dated December 2, 1980. Lenexa, KS, FRC, Accession No. 079-90-0002, Box 1, File No. A18.
[239] Memorandum, Acting Director, NPS to Secretary of the Interior, August 21, 1981. Lenexa, KS, FRC, Accession No. 079-90-0002, Box 1, File No. A18.
[240] Memorandum, Ira J. Hutchinson, Acting Director, NPS to Secretary of the Interior, April 5, 1982; circular letter to Advisory Groups members from Robert P. Martin, Chief, Division of Rivers and Trails, MWRO, June 30, 1982. Lenexa, KS, FRC Accession No. 079-90-0002, Box 1.

Engineers to complete the present contract, resolve funding obstacles, and provide for the mandated easements to accompany bank stabilization." The Advisory Group closed the meeting with a number of resolutions that included having NPS and USACE review the existing Cooperative Agreement to determine if any changes were needed and to announce a consensus that the Missouri NRR "is an operating project eligible for the expenditure of construction and operation and maintenance funds as provided for in Public Law 95-625."[241]

A second meeting of the Advisory Group was held at the Gavins Point Dam Visitor Center on April 14, 1983. One casualty of the lack of budgeted funds for the Missouri NRR was that no travel expenses could be reimbursed. Unfortunately, no minutes for this meeting have been located during research for this Administrative History. According to subsequent reports, however, the discussions focused on the status of funding through USACE and the possibility of renegotiating the Cooperative Agreement between USACE and NPS.[242] No further minutes or meeting reports were identified, and this first Advisory Group was disbanded once its original purposes were fulfilled.

Missouri River Bank Stabilization Association

MRBSA had been deeply involved in creating the legislation that designated the 59-mile reach of the Missouri NRR, and in pushing the legislation through Congress. The organization was well-organized, well-connected, and highly influential in securing passage of the designation. The goal of the organization with regard to the Missouri NRR clearly was to secure support and funding for protection of eroding sections of the banks of the Missouri River. This erosion, they argued successfully, was largely attributable to changes in the river following construction of Gavins Point Dam by USACE. Once the bill was passed in November 1978, MRBSA reasonably expected to be involved early on and to see progress made on the bank stabilization program that was such a crucial part of the legislation in their eyes.

In addition to seeking progress on bank stabilization, MRBSA strongly advocated for the Advisory Group. The glacial pace of progress through 1979 and into the early 1980s, as DOI had its internal debates and as USACE developed the various studies, clearly was frustrating. The river had not ceased to flow and erode banks as the federal agencies sought to work out the management and administration of the Missouri NRR. If not as omnipresent as it was before the 1978 designation, MRBSA maintained its presence in the Missouri NRR's early implementation of its management plan.

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[241] "Missouri National Recreational River Advisory Group Meeting, August 12, 1982, Minutes." Lenexa, KS, FRC Accession No. 079-90-0002, Box 1. A more complete discussion of the complexities of funding for USACE work on the Missouri NRR can be found in Chapter 5.

[242] Memorandum, Chief, Division of Recreation Resources, MWRO to Field Supervisor, FWS, April 25, 1983. Lenexa, KS, FRC Accession No. 079-90-0003, Box 3.

In September 1979 the President of MRBSA, Earl Rowland, wrote directly to Secretary of the Interior Cecil Andrus. In particular, word had reached MRBSA that OMB was skeptical about establishment of an Advisory Group for the Missouri NRR. It was always their intent, he pointed out, "that an advisory group be appointed. This appointment is essential to the future success of the plan. . . .This group would provide advice, coordination and the local input so necessary to the several plans called for in the Management Plan and in ongoing Recreational River development." Appointment of the Advisory Group, he concluded, would "insure the cooperation we have had with everybody concerned about the river and to insure the success of the Management Plan."[243]

The charter for the Advisory Group, which Secretary of the Interior Andrus signed in 1980, did not specify inclusion of MRBSA but clearly pointed to its involvement. As approved in 1980, the charter called for six public members to be appointed by the Secretary of the Interior, two "from among persons active in a river basin commission or bank stabilization association," with four others who have been active in civic, environmental, recreational, or other types of organizations.[244] As constituted, the inaugural Advisory Group included three members who were involved with MRBSA: Earl Rowland and Darrel Curry, who were the President and Vice President, respectively, of the organization, and James Peterson, an attorney and professor at the University of South Dakota in Vermillion, who later served as President of MRBSA.[245]

In addition to supporting the Advisory Group, MRBSA took part in implementation of administration of the 59-mile reach of the Missouri NRR by continuing to testify before Congress. MRBSA had been particularly effective in its Congressional testimony leading up to the 1978 legislation and hoped to continue with the river's designation. In 1981, for example, Earl Rowland and Darrel Curry testified in subcommittee hearings to encourage an appropriation for the Missouri NRR in the FY83 budget. After restatement of the bank erosion problems that were accentuated by the USACE dams, the two officers identified what the appropriations would support, including bank stabilization construction work and purchasing scenic and conservation easements "necessary to save remaining woodlands, wildlife habitat and to protect the scenic beauty of the river so that future generations may see what we have too often taken for granted." They then went into greater detail, noting that first year plans included two sites for erosion control with the necessary scenic easements, another scenic easement for wildlife habitat, and a recreation easement for a development site to be purchased. In addition, they called for funds necessary for USACE to take over operation and maintenance of the Section 32 erosion control structures already in place. Finally, they highlighted the uniqueness of the Missouri NRR which, unlike other components of the

[243] Earl Rowland, MRBSA, to Cecil Andrus, Secretary of the Interior, September 10, 1979. Files of Missouri NRR, File MNRR, Series II.
[244] Charter included as an attachment to Memorandum form Emanuel Lauck, HCRS, to Management Plan Team Members, December 2, 1980. Lenexa, KS, FRC Accession No. 079-90-0002, Box 1, File A18.
[245] See *Federal Register*, Vol. 47, No. 151, Thursday, August 5, 1982, p. 34053. Copy located in Lenexa, KS, FRC Accession No. 079-90-0002, Box 1, Folder No. A18.

NWSR system, drew upon the support of landowners along the river who "have contributed a large amount to the work already done, granting construction easements and land use preservation agreements without cost to the government."[246]

Delays in implementing administration of the Missouri NRR were particularly galling to MRBSA because lands owned by its members were often those most directly impacted. In February, 1983, more than four years after creation of the Missouri NRR, MRBSA invited William Andrews, Commander of the Omaha District of USACE, to be the guest speaker at its annual meeting in Newcastle, Nebraska. Andrews spoke of the causes of the delay, in particular the questions of how USACE could fund projects, given the budgetary and administrative restrictions placed on it. After Andrews' talk, Earl Rowland, President of MRBSA, described the situation that landowners faced and led a discussion for the members. As recounted by a FWS staff member, Kent Keenlyne, who attended the meeting, one MRBSA member recalled that, before the Missouri NRR designation, MRBSA would identify two or three of the worst erosion sites, go to Congress to request funds, and see the work done the following year. With designation of the Missouri NRR, however, that recurring cycle had changed. "Earl agreed," Keenlyne noted, "and stated that he felt the designation of the Recreation River [sic] was a serious error." He felt that the inability to tap into millions of dollars that were approved for bank stabilization in the Missouri NRR designation was due largely to its status as a National Recreational River. Rowland, according to Keenlyne, "feels that the term Recreation at the present time is a bad word and that the terminology of Recreation River [sic] probably is impeding their efforts to obtain appropriation for the $18 million of bank stabilization along the river."[247]

The attention of DOI was divided during these early years of the Missouri NRR as it sought, first, to decide which bureau would have responsibility for administration. It was not a high priority for DOI until NPS was delegated administrative responsibility in the summer of 1981. There were clear misgivings among DOI agencies regarding taking on administration of the Missouri NRR, due in great measure to the unusual requirement of working with USACE, a compromise which was driven largely by MRBSA and its supporters. Although the Missouri NRR became a unit of the National Park System in July, 1981, the story of the early years of this component of the NWSR system is best told, not by NPS, but by USACE.

[246] "Statement of Earl Rowland, President and Darrel Curry, Vice President of the Missouri River Bank Stabilization Association," n.d. Files of Missouri NRR, File MNRR Series II.
[247] Memorandum, Kent Keenlyne, FWS to Field Supervisor, Ecological Services, FWS, March 2, 1983. Lenexa, KS, FRC Accession No. 079-90-0003, Box 3, File No. L5815.

Chapter 5: Initial Coordination with USACE

The fact bears repeating: the Missouri NRR is unique in the NWSR system as being operated jointly by NPS and USACE. This unusual combination arose from the particular circumstances by which the 59-mile segment was designated, and the particular purposes for the designation. The previous chapter focused on early attempts to provide a management structure for the Missouri NRR in the first several years after designation, and was centered on the three DOI agencies: HCRS, NPS, and FWS. Once the management and agreement documents were in place by the early 1980s, attention shifted to USACE. Involvement of USACE in management of a NRR was unusual for the NWSR System, but also for USACE itself.

In a discussion of the role of USACE as day-to-day manager of the Missouri NRR through the 1980s, therefore, two factors must be taken into consideration. First, USACE's role with the Missouri NRR is unlike any other water resources project that USACE was then managing. In contrast to projects that involved studies, design, and engineering leading to construction, USACE had a limited construction function on the Missouri NRR, and its construction activities were to be taken in conjunction with NPS, which was oriented more toward protection and enhancement of the natural river environment. Traditionally, this was not how USACE worked.

The second important factor to be considered is that USACE was in a period of profound change in how it operated. These changes began to take place in the early and mid-1970s, largely in response to the growing power of the environmental movement, and accelerated in the 1980s with attempts to streamline the federal government. Throughout much of the twentieth century, USACE had constructed massive water development projects at the behest of members of Congress, who were eager for the federal funds that came with them to benefit their districts, but who had little regard for cost effectiveness. The increased scrutiny given to such projects, first as a result of growing environmental regulations and then as a result of fiscal belt-tightening, had an impact on how USACE commenced work on the Missouri NRR.

The environmentalist movement emerged from the fringes in the late 1950s to become a powerful force in the 1960s with a string of legislative victories. It took some time for these acts to move from legislation to regulations with which federal agencies had to comply, but, by the early and mid-1970s, changes were well under way, and a number of agencies were changing the way that they managed resources under their care.

In the run-up to the 1976 presidential election, the environmentalist movement had a strong ally in Jimmy Carter, the Democratic nominee. Carter, as one historian has observed, was "the first successful presidential candidate to campaign on environmental issues."[248] His track record on environmental issues as Governor of Georgia, particularly

[248] Burton I. Kaufman, Scott Kaufman, *The Presidency of James Earl Carter, Jr.* (Lawrence: University Press of Kansas, 2nd revised edition, 2006), 132. See also Paul E. Scheele, "Jimmy Carter and the Water

with regard to water developments, was impressive. In a rare move for a governor, Carter vetoed construction of a dam that USACE had proposed. The Sprewell Bluff dam on the Flint River in west Georgia had already been studied, authorized, and scheduled for construction when Carter put an end to it. This was a widely publicized move that endeared him to environmentalists around the nation.[249] The political controversy that surrounded his decision made Carter more alert to federal water projects generally and informed his political and policy moves as president. As a recent history of Carter's actions with regard to federal water projects noted, Carter's position emerged from a combination of environmental concern and fiscal conservatism. His study of the Sprewell Bluff dam "led Carter to believe that many other Corps projects were both economically inefficient, if not downright wasteful, and bad for the environment."[250] During his campaign for president, Carter aligned himself with those who sought to restore and protect rivers, and, in a July, 1975, press release, he proclaimed that "the Army Corps of Engineers ought to get out of the dam building business."[251]

Carter brought this skepticism regarding the benefits of federal water projects into his presidency. As Paul E. Scheele has noted, Carter found institutional support for his position "in several agencies, such as the Office of Management and Budget (OMB) which for years has questioned the economic justification for water projects, the Council of Environmental Quality (CEQ) and the Water Resources Council (WRC), both concerned about environmental effects, and Congress's own General Accounting Office (GAO) which had challenged many projects on several grounds: economic benefit, environmental, engineering, repayment (in Reclamation projects), and safety. Usually these efforts had failed."[252] Carter staked out his position very early in his administration by targeting water resources development projects that had been approved and were in the FY78 budget that he inherited from his predecessor, Gerald Ford. In presenting his revised budget to Congress, Carter struck nineteen water development projects from funding that, he argued, had adverse environmental effects and little or no economic justification. In taking this aggressive stance, Carter hoped to draw support from both environmentalists and fiscal conservatives who wanted reduced government spending. While he had substantial support, the response from Congress was swift and decisive. Congress bundled the restoration of funding for the water development projects into a larger legislative package that included many of President Carter's other domestic initiatives and priorities. Rather than lose those, he approved the bill, which also funded the nineteen water projects.

Projects: A Case Study in Presidential and Congressional Decision-Making," *Presidential Studies Quarterly* 8 (Fall 1978), 349-350.

[249] See Jeffrey K. Stine, "Environmental Policy During the Carter Presidency," in Gary M. Fink and Hugh Davis Graham, eds., *The Carter Presidency: Policy Choices in the Post-New Deal Era* (Lawrence: University Press of Kansas, 1998), 181; Scheele notes that governors are no longer able to veto USACE projects.

[250] Sean Q. Kelly, Scott A. Frisch, *Jimmy Carter and the Water Wars: Presidential Influence and the Politics of Pork* (Amherst, NY: Cambria Press, 2008), 40.

[251] Quoted in Stine, "Environmental Policy," 182.

[252] Scheele, "Jimmy Carter and the Water Projects," 350.

USACE had traditionally been responsible primarily to Congress and the legislative branch, which desired the massive public works projects that USACE managed, rather than to the executive branch and the president.[253] Members of Congress were apparently willing to overlook the economic inefficiencies and limited justification for many of the water development projects because they brought so much federal money and jobs to their districts. As Stine observed, these federal water projects were "among the most highly prized (and carefully protected) activities in the federal government, at least from the standpoint of those congressional members who used them to channel federal expenditures into their districts and states."[254] What Carter was trying to do, instead, was to bring the work of USACE under control of the executive branch and away from traditional, pork-barrel uses of their water development projects.

Carter's attempts to rein in USACE and its Congressional funders came at a time of profound change for USACE generally, as the environmental movement took a greater hold on the regulatory apparatus of the federal government. The Federal Water Pollution Act of 1972 (also known as the Clean Water Act), the Endangered Species Act of 1973, and 1977 Executive Orders related to floodplain and wetlands management all forced changes in the way that USACE, along with other agencies, including TVA and BLM, carried out their land management work. In addition, by the 1970s, USACE, along with BLM, had already placed dams on many of the nation's major rivers, and the supply of potential water projects was declining. As noted in a 1999 study of USACE's approach to water resources planning, funding for federal water projects declined substantially, from $6 billion per year in 1968 to only $1.3 billion in FY84. Between 1977 and 1983, the report stated, during a period of federal belt-tightening, "more Corps civil works projects were canceled than were authorized.[255]

While President Carter was committed to federal fiscal restraint and conservatism, his successor, President Ronald Reagan, was elected in 1980 with a mandate to restrict the growth and, ultimately, reduce the size of the federal government. While Reagan's success at achieving this lofty goal was limited at best, the popular mood that brought him to office, combined with changes that were already underway within USACE, had a powerful, limiting effect on development and implementation of the management plan for the Missouri NRR. With OMB and the Congressional Budget Office (CBO) now watching more carefully the economic viability of a range of USACE projects, securing funding for new projects became more difficult. Because the Missouri NRR was such an unusual project for USACE, upper management in Washington, D.C., could not fit it easily into USACE's budget program, and it rarely rose to a level of even modest priority.

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[253] For a very useful overview of the development of USACE in regard to both executive and legislative branches of the federal government, see Todd Shallat, "Engineering Policy: the U.S. Army Corps of Engineers and the Historical Foundation of Power," *The Public Historian* 11 (Summer 1989), 6-27.
[254] Stine, "Environmental Policy," 185.
[255] Water Science and Technology Board, National Research Council, "New Directions in Water Resources Planning for the U.S. Army Corps of Engineers" (Washington, D.C.: National Academic Press, 1999), 18.

While USACE is often imagined as an imperious agency bringing federal dollars to a project and forcing its will on state and local governments, many of its projects were coordinated with local entities through a policy of cost-sharing. This approach, in which the local sponsor of a project bore a portion of the burden of the project, was in place as early as the 1936 Flood Control Act, but it came to play a greater role in the development of USACE projects through the 1960s and 1970s. Under the new scrutiny of federal water projects that emerged in the late 1970s and early 1980s, cost-sharing became a requirement for a project to move forward, although the form of the local contribution varied and included cash and in-kind support. While flood control costs for reservoirs and harbor navigation improvement projects normally were exempt from cost-sharing, a range of other developments associated with these projects, such as recreation programs, were not exempt. This changed with the passage of the Water Resources Development Act of 1986 (WRDA). This act, according to the 1999 study of USACE, "significantly changed the relationship between the Corps and local project interests." The impact of the 1986 WRDA on projects such as the Missouri NRR was mixed. During discussions leading to its passage through the early 1980s, USACE became more attuned to, and placed a greater requirement for, local cost-sharing. Unfortunately, local and state entities that supported the Missouri NRR had not planned on such a financial burden. At the same time, though, the 1986 WRDA opened the door to new types of studies and projects for USACE, "especially when environmental outputs are a main objective."[256]

USACE Implementation of Missouri NRR: Funding Priorities and New Starts

Immediately following passage of PL 95-625 in November 1978, USACE began work with gusto to implement administration of the Missouri NRR. As recounted in Chapter 4, USACE began work on a draft Cooperative Agreement as required in the act and, soon after that, initiated an ambitious series of studies, including cultural resources, visual resources, fish and wildlife, and recreation. Through 1980 and 1981, as DOI settled on its administering agency, USACE also began to evaluate sites of active erosion along the banks of the Missouri River within the NRR, and to plan for the acquisition of land or easements that the act required.

By 1982, however, this energetic pace slowed to a standstill. Two issues, driven by the changes in the way that USACE operated and managed its projects, limited its activities through much of the 1980s: procedures for securing funding within the federal budget process, and cost-sharing requirements. Put simply, the Office of the Chief of Engineers in Washington, D.C., did not know what to make of the Missouri NRR, and so opted to do little or nothing for several years, mirroring NPS's level of engagement. Discussions between NPS and USACE regarding commencement of work on the Missouri NRR revolved around these issues through much of the 1980s, with little change in topics and few real results.

[256] Ibid, 19-20.

Over the years, USACE had developed detailed procedures for initiating and funding its projects, a process that involved studies, design and planning, land acquisition, construction, and operations and management, each accomplished in distinct phases with separate budgets. This was a pipeline approach, with every project having to flow through the same channel. Projects that did not flow in this same channel, such as the Missouri NRR, were anomalies that caused issues. As opportunities to start new projects declined through the 1970s, and with increasing scrutiny given to budgets for water resource projects in the 1980s, opportunities to fund unusual programs became even fewer.

The key question with regard to the Missouri NRR, as the time came for implementation in the early 1980s, was whether it actually was a new construction project that needed a separate Congressional authorization and appropriation. NPS came to realize the difficulties of this issue almost immediately upon being given administrative responsibility for the Missouri NRR in the summer of 1981. In late October 1981, Robert Martin and William Farrand from MWRO met with Arvid Thomsen, Karl Cuffman, and Bill Sweigle from USACE's Omaha District Office. The USACE staff, according to a report prepared by Martin, acknowledged that "little has been done in the way of active management of the River with respect to the terms of the cooperative agreement." The only funding that USACE had received, they pointed out, were small Congressional add-on appropriations for planning studies in FY80 and FY81.

Funding for acquisition of land and interests in land, and for construction of bank stabilization structures and recreational developments, was tied up in the confluence of USACE's project development structure and new directives on federal spending. "In the Corps of Engineers' normal appropriations process," Martin described, "the acquisition and development monies needed to get the MNRR underway would require construction phase funding as a 'new start' construction project. . . .At present, the Administration, through the Office of Management and Budget, is not requesting any 'new starts' from Congress. Hence, no funding is projected through FY 82 and FY 83." USACE had already made attempts with the Office of the Chief of Engineers in Washington, D.C., to point out the unique situation of the Missouri NRR, "and that funding could proceed under the authority of the Wild and Scenic Rivers Act. Attempts at congressional add-on appropriation, which could create a back door 'new start' without OMB approval have also been unsuccessful."[257] In addition to new construction starts, USACE discovered, in the fall of 1981, that OMB had "also imposed a deferral of recreation development funds for COE [USACE] projects currently in construction funding phase." Even making the argument that Missouri NRR was authorized separately under the WSR Act failed to persuade the Office of the Chief of Engineers or OMB.[258]

Adding to the complication of USACE's position on the Missouri NRR, but also opening a way around the budget impasse, was the former Section 32 bank stabilization

[257] Memorandum, Robert Martin, Chief, Division of Rivers and Trails, NPS to General Files, October 30, 1981. Lenexa, KS, FRC Accession No. 079-89-0004, Box 2, File No. L5815.
[258] Memorandum, Chief, Division of Rivers and Trails to General Files, November 18, 1981. Lenexa, KS, FRC, Accession No. 079-89-0004, Box 2, File No. L5815.

authorization. As described in Chapter 2, USACE was authorized to develop a series of demonstration structures in the Missouri and other rivers throughout the nation by Section 32 of the Streambank Erosion Control Evaluation and Demonstration Act of 1974 (PL 93-251). USACE built and monitored nine structures in what became the Missouri NRR in the mid-1970s under the Section 32 authorization, before the Missouri NRR was designated, as well as two other structures under another authorization. In this sense, USACE had an existing construction start in the Missouri NRR, and the hope was that this would provide the bridge to allow for implementation of the Missouri NRR, including additional bank stabilization and recreational features, along with necessary land acquisition. The Section 32 demonstration program, however, was designed to end in September 1982, and the structures were to be transferred to the local sponsors. NPS made the case that, because these structures were within the 59-mile reach of the Missouri River when the Missouri NRR was designated, the Section 32 authority for those structures was superseded by the WSR Act, "making the Section 32 projects, MNRR features from the time the Act was amended in 1978."[259] NPS attempted this argument several times in the early 1980s, all without success.

The next hope to secure USACE funding for the Missouri NRR was to elevate the discussion from the Omaha District Office through the Missouri River Division to the level of the Office of the Chief of Engineers in Washington, D.C. In November,1982, William Andrews, Jr., Commander of the Omaha District Office, requested of the Missouri River Division that the issue be brought to the Office of the Chief of Engineers. Andrews noted that operations and maintenance responsibility for the existing bank stabilization structures was returned to the local sponsors under the Section 32 legislation, but the law that designated the Missouri NRR "intended that the government would retain that responsibility in the MNRR, or reassume it when required interests in MNRR lands were made available." Because local sponsors had assumed that the federal government would continue to maintain the existing structures as well as construct new ones, they were unlikely to perform any maintenance, without which "both the structures and the Federal investment in them will be lost." Andrews further argued that operations and maintenance funding, which normally is authorized only after construction, is justified in the case of the Missouri NRR given the existing structures and the Cooperative Agreement between USACE and DOI. He summarized the difficult situation he faced:

> I have an existing uncompleted project that has not been funded for construction, but which contains structures that I am authorized, and expected, to operate and maintain. The project is a unit of the National Park Service for which I have been assigned development and management responsibility through a Cooperative Agreement. To permit our stabilization features to deteriorate would be a default I would find difficult to bear. It is important that these unique characteristics be

[259] Memorandum, Chief, Recreation Resources Division, NPS to General Files, August 19, 1982. Lenexa, KS, FRC Accession No. 079-90-0003, Box 3, File No. L5815.

brought to the attention of OCE [Office of the Chief of Engineers] and that appropriate budgetary accommodation be made.[260]

The Commander of the Missouri River Division raised the issue to the Office of the Chief of Engineers later that month, but with few options. He recommended that USACE continue operations and maintenance of existing structures, including land acquisition. When balancing anticipated costs of ongoing management of the Missouri NRR "in light of the Administration's budgetary objectives," however, he suggested that USACE begin planning to re-open negotiations with DOI regarding the Cooperative Agreement. The idea was to shift budgetary responsibility for the Missouri NRR budget to DOI. There was no response from the Office of the Chief of Engineers in the winter of 1983, however, and staff at MWRO were concerned that no discussions were yet planned between the Washington levels of both USACE and DOI.[261] Finally, in March 1983, Assistant Secretary for Fish and Wildlife and Parks G. Ray Arnett sent a letter to William Gianelli, Assistant Secretary of the Army. While containing little of substance, the letter expressed Arnett's concern for the lack of funding and, more importantly, for the lack of progress in protecting the river. "Landowners, State and local officials, and the Congress," Arnett pointed out, "are raising questions. I believe that both our Departments must be responsive to those voices and to the questions being posed. As cooperating agencies, we need to demonstrate good faith with the local groups, landowners, and supporting agencies as well as the Congress." Arnett then suggested that they discuss their respective administrative roles.[262]

Replying quickly on behalf of the Office of the Chief of Engineers, Major General John F. Wall pulled no punches on the status of funding for the Missouri NRR. In a March 14, 1983, memo to the Commander of the Missouri River Division of USACE, Wall noted that the Missouri NRR had been reviewed in each of the previous four budget cycles, but its priority was not deemed high enough to be included in the budget submitted to Congress. Moreover, Wall opined that it was unlikely to be given a budget priority in the foreseeable future, given the federal fiscal situation: "the current Federal Budget deficit dictates that projects of this type, whose beneficiaries are primarily local in nature and which are not clearly beneficial to the nation as a whole, be given a low priority in the formulation of the national program of water resource projects. This situation does not show much promise of change in the immediate future, which means that the probability of this project being recommended as a construction new start is extremely low." Wall, moreover, did not agree with the NPS argument that existing bank stabilization structures could be funded under authority of the WSR Act. He recommended, instead, that the Missouri River Division begin work to revise the existing

[260] Memorandum, Commander, Omaha District USACE to Commander, Missouri River Division, USACE, November 10, 1982. Lenexa, KS, FRC Accession No. 079-90-0003, Box 3, File No. L5815.
[261] Memorandum, Chief, Division of Recreational Resources, NPS to Regional Director, NPS, February 10, 1983. Lenexa, KS, FRC Accession No. 079-90-0003, Box 3, File No. L5815.
[262] Memorandum, G. Ray Arnett, NPS to William R. Gianelli, USACE, March 9, 1983. Lenexa, KS, FRC Accession No. 079-90-0003, Box 3, File No. L5815.

Cooperative Agreement in a way "which would assign budgetary responsibility to the Department of the Interior."[263]

This uncompromising response from USACE understandably raised concerns at MWRO. Randall Pope, Acting Regional Director, described the situation to NPS Director Russell E. Dickenson. He noted that USACE's position was understandable, given the previous four years with no success in securing funding, but that it still put NPS in a difficult position. NPS, he pointed out, is responsible for the Missouri NRR by virtue of its delegation in 1981, but the Missouri NRR "is not being properly developed for public use and is experiencing resource deterioration because of the now 4-year delay in funding." The issue had now exceeded the authority of MWRO, and needed to be addressed at the Washington level.[264]

Response from NPS came the next month. Assistant Secretary for Fish and Wildlife and Parks Ray Arnett wrote again to William Gianelli, Assistant Secretary of the Army, on April 11, 1983. Arnett countered USACE's argument regarding the bank stabilization structures, identifying them as an incomplete USACE water resources project rather than a "new start," and "expressed concern about the Corps of Engineers' policy regarding funding for the MNRR." Arnett's response, however, suggested that "both Departments may be approaching a stalemate before negotiations begin." In response, MWRO developed a compromise position in a proposed new Cooperative Agreement. In it, NPS would budget responsibility for all recreational components of the Missouri NRR, while USACE would continue to be responsible for bank stabilization and land acquisition components. This, it was hoped, would "overcome the Corps' of Engineers' 'new construction stat' funding policy, making it possible to fully implement this unit of the National Wild and Scenic Rivers System."[265]

Correspondence between Arnett and Gianelli continued through the summer of 1983, with no resolution. Giannelli was unconvinced that there was any need to go to the trouble of renegotiating the Cooperative Agreement. The problem, as he saw it, was simply that Missouri NRR was not a high enough priority for USACE in a time of constricted budgets. He recommended, instead, that Arnett raise the issue directly with OMB to allow USACE to revise its priorities.[266]

This approach by USACE national headquarters, assigning a low priority to the Missouri NRR in budget discussions, leading to continued delays, produced a stalemate for several years through the mid-1980s. Rather than full implementation of the Missouri NRR according to the legislation and the Cooperative Agreement between USACE and

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[263] John F. Wall, USACE to Commander, U.S. Army Corps of Engineers Division, Missouri River, March 14, 1983. Lenexa, KS, FRC Accession No. 079-90-0003, Box 3.
[264] Memorandum, Randall R. Pope, NPS to Director, NPS, March 25, 1983. Lenexa, KS, FRC Accession No. 079-90-0003, Box 3.
[265] Arnett's letter to Gianelli was not located during the present research. It is summarized in a Memorandum from Randall R. Pope, NPS to Director, NPS, May 4, 1983. Lenexa, KS, FRC Accession No. 079-90-0003, Box 3.
[266] William R. Gianelli, USACE to G. Ray Arnett, NPS, May 11, 1983; August 3, 1983. Lenexa, KS, FRC Accession No. 079-90-0003, Box 3, File No. L5815.

DOI, routine operations through the mid-1980s focused on evaluation of permits. Landowners who bordered on the river still needed to protect their banks and build boat docks and ramps. Review of these permits for work within the Missouri River followed the normal course, with an initial application to USACE followed by a review by FWS. The difference, now, was that NPS also had regulatory authority under the WSR Act to determine whether the proposed activity would impact the values for which the segment of river was designated and, if so, whether the impact would be adverse or not. This permit process afforded new opportunities for both collaboration and conflict.

In early 1984, for example, Charles Odegaard was appointed as Regional Director of MWRO, replacing J.L. Dunning, who had served through the early years of the MNRR implementation discussions with USACE. Senator J. James Exon (D-NE) wrote to Odegaard to congratulate him on his appointment, and took the opportunity to ask him about the delays in conducting bank stabilization work. Exon noted that USACE had resisted requests from various members of Congress to fund the work, and that "the Corps has indicated that some of this responsibility rests with the National Park Service."[267] In his response, Odegaard pointed out that, according to the Cooperative Agreement, responsibility "for carrying out these activities and seeking the necessary appropriations rests with the Secretary of the Army, acting through the Chief of Engineers." Since USACE had not placed a priority for the Missouri NRR in its budgets, all that NPS could do was to continue "to monitor activities affecting the MNRR through our review of Corps of Engineers permit notices."[268]

A small break in the funding stalemate came in the FY85 budget. Largely a result of pressure from members of Congress, including Representative Tom Daschle (D-SD) and others, Congress included $200,000 for operations and maintenance of existing bank stabilization structures in the Missouri NRR. USACE claimed that these funds could be used only for maintenance on existing structures and not for recreational and bank stabilization activities identified in the initial Missouri NRR legislation. This limitation was in effect, USACE argued, because any work on new structures required them to acquire the land or interest in the land first, which was not included in the FY85 budget. In what was to become a recurring approach, Odegaard requested advice from DOI's Regional Solicitor in Denver as to whether USACE was correct in this assessment. The response was affirmative, and there was no opportunity to use the funds for any new Missouri NRR projects.[269]

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[267] Senator James J. Exon to Charles H. Odegaard, NPS, February 27, 1984. Lenexa, KS, FRC Accession No. 079-02-0004, Box 9, File No. L6015. In this letter, Exon included a copy of a letter that he had written to Mark O. Hatfield, Chair of the Senate Committee on Appropriations, on April 21, 1983.

[268] Charles H. Odegaard, NPS to Senator James J. Exon, March 12, 1984. Lenexa, KS, FRC Accession No. 079-02-0004, Box 9, File No. L6015.

[269] Memorandum, Randall Pope, Acting Regional Director, NPS to Regional Solicitor, DOI, February 11, 1985; Regional Solicitor, DOI to Regional Director, NPS, February 27, 1985; Randall Pope, Acting Regional Director, NPS to William Andrews, USACE, March 7, 1985. Lenexa, KS, FRC Accession No. 079-02-0004, Box 9, File No. L6015.

USACE Implementation of Missouri NRR: Cost-Sharing

The question of land acquisition was not the only issue with this appropriation in the FY85 budget. Instead, this appropriation, too, was held up by a second issue aside from the question of whether the Missouri NRR constituted a "new start." This was the question of cost-sharing. As previously described, USACE had a long-standing policy of requiring local sponsors to share the cost of projects that it undertook in their jurisdictions. While many river and impoundment projects, traditionally, were exempt from cost-sharing, the new budget scrutiny of the 1980s led USACE to apply cost-sharing requirements to all of their projects. In regard to the Missouri NRR, this issue was rarely raised in the early 1980s, as there were no funds to be shared. With the $200,000 appropriation for FY85, however, cost-sharing became a sticking-point.

Rep. Daschle, of South Dakota, sought to push the work of the appropriation through and held discussions first with USACE. In a subsequent letter to the Director of NPS, Daschle noted that USACE felt obligated to spend the money only on a cost-sharing basis, but that "the administrating body of that project is the National Park Service (NPS), an agent of the federal government. The National Park Service apparently has said that, as a federal entity, they do not cost share with anyone. The Corps on the other hand, has maintained that they are required by law to cost share with the administrating agency, which in this unique case is the federal government." This interagency battle, he warned, was continuing to hold up an already delayed program, and the funds needed to be spent by May 1986 or be lost.[270]

In March 1986, Assistant Secretary of the Army for Civil Works Robert K. Dawson, wrote to Assistant Secretary for Fish and Wildlife and Parks William P. Horn regarding cost-sharing requirements for the FY85 appropriation. There were no longer any cost-sharing requirements for NPS, but Dawson affirmed the requirement for a local cost-share requirement in order to proceed with the work. He provided a schedule that called for 100% local funds for operation and maintenance of recreational facilities, 50% cost-share for development of recreational facilities, 100% local funds for prevention of erosion on private lands, and varying proportions for fish and wildlife enhancement and operation and maintenance of bank stabilization. Dawson concluded by stating that cost-sharing "was not envisioned in the 1980 memorandum of agreement [Cooperative Agreement] between your predecessor and the Corps of Engineers," but he saw no reason why the Cooperative Agreement should be renegotiated.[271] In a reply drafted by Warren Hill, then Acting Regional Director of MWRO, Horn acknowledged the revised cost-sharing provisions, and expressed his hope "that progress might now be made in implementing the management plan for the area."[272]

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[270] Rep. Tom Daschle to Russell Dickenson, NPS, October 29, 1985. Files of Missouri NRR, Box MNRR, Series II.
[271] Robert K. Dawson, USACE to William P. Horn, DOI, March 17, 1986. Lenexa, KS, FRC Accession No. 079-94-0001, Box 15, File No. L6015.
[272] Horn to Dawson, April 9, 1986. Lenexa, KS, FRC Accession No. 079-94-0001, Box 15, File No. L6015.

Despite this gesture of good-will from NPS, there was little flexibility in the position of either agency. The new cost-sharing requirements were a point of discussion at the next Missouri NRR Advisory Group meeting on May 15, 1986. With a number of local constituents serving on the Advisory Group, it seems likely that the new provisions caused some degree of consternation. Although no minutes from the meeting have been identified in the research for this Administrative History, Senator Larry Pressler (R-SD) sent a letter to NPS Director William Penn Mott, Jr., on June 3, 1986, regarding cost-sharing, no doubt in response to requests from Advisory Group members. MWRO drafted a response on behalf of the Secretary of the Interior to Pressler with greater stridency than their response to USACE. NPS, the letter stated, had objected to any form of cost-sharing on the Missouri NRR as early as August, 1985, when the appropriation was first announced. Following the exchange between Dawson and Horn, USACE's position appears to have hardened, the letter suggested, as cost-sharing provisions "now apply to all aspects of the planning development of the project. In fact, the Omaha District of the Corps of Engineers has been instructed not to pursue further studies related to the project unless cost sharing is provided and unless prior approval is received from its headquarters Office in Washington."[273]

In the summer of 1986, Senator Edward Zorinsky (D-NE) sought to change the cost-sharing policy with a bill which he introduced calling for work on the Missouri NRR to be exempt from USACE's cost-sharing provisions (S.2778, 99th Congress, 2nd Session). Unfortunately, it died a quick death and never moved past the Senate Energy and Natural Resources Committee. According to one news report, the Chairman of the Senate Environment and Public Works Committee was adamant that there would be no exemption from USACE's cost-sharing requirements for the Missouri NRR: "If that's their intent, it's not in the cards."[274] Available records provided no further discussions regarding USACE programs on the Missouri NRR.

Missouri NRR Operations, 1985-1991

From the time of the delegation of NPS as administrator of the Missouri NRR in 1981, through the mid-1980s, the Missouri NRR remained largely somnolent. Relations between NPS and USACE appeared collegial at the regional/district level in Omaha, with occasional gestures of meeting to sort out issues, but, administratively, the two agencies were at a stalemate over budget priorities and cost-sharing. FWS continued in its role of coordinating permit reviews, though there are very few records of permit applications during this time. According to USACE records, only eight applications were made under the General Permit, which was in place from 1983 to 1988; of these, five permits were issued and three were withdrawn.[275] NPS had still not established a separate

[273] Draft letter from Secretary Donald F. Hodel, DOI to Sen. Larry Pressler, attached to a Memorandum from Associate Regional Director, NPS/MWRO to Associate Director, NPS/WASO, July 10, 1986.
[274] "Zorinsky Pushes Missouri River Project," *Omaha World Herald*, August 20, 1986, 56; clipping in Files of Missouri NRR, Box MNRR Series II.
[275] Meeting minutes, February 9, 1990, among USACE, NPS, FWS. Lenexa, KS, FRC Accession No. 079-99-0002, Box 8.

administrative entity for the Missouri NRR. Instead, it coordinated all activities, such as they were, from the MWRO in Omaha. This was entirely appropriate through the mid and late 1980s, when there was a decided dearth of activity on the 59-mile Missouri NRR.

In the last half of the 1980s, however, a number of issues and challenges emerged that began to suggest the need for a distinct administrative structure for the Missouri NRR. This renewed activity had several sources, including all three agencies that were most directly involved with the Missouri NRR: NPS, FWS, and USACE. On the eve of the 1991 legislation that added new river segments to the Missouri NRR, the three agencies were conducting much more involved and frequent discussions.

The earliest moves to reinvigorate the Missouri NRR were taken by USACE. Nine erosion control structures had been built within what came to be the Missouri NRR under the Section 32 demonstration program by the time of the program's completion and final report in 1981.[276] The structures were funded and built entirely by USACE, but the intent was that they would be turned over to local government bodies for maintenance. By 1985, however, it had become clear that local governments were not inclined to undertake the costs of maintaining these structures, and USACE assumed responsibility for them. More active work began the following year, with funds appropriated to USACE for FY86 for several projects, including the Missouri NRR. Using the cost-sharing formulas previously described, USACE coordinated with the South Dakota Game, Fish, and Parks Department to develop a public boat landing site at Myron Grove, and with the City of Yankton, South Dakota, to develop Riverside Park.[277]

While most of the administrative discussions between USACE and DOI during the 1980s involved NPS, FWS remained active on the river through its review of permits and monitoring the effects of USACE activities on fish and wildlife resources. In the late summer of 1983, for example, FWS commented on a proposal by USACE to raise the level of Lewis and Clark Lake, the impoundment behind Gavins Point Dam. Most comments pertained to the section of the Missouri River upstream of Gavins Point Dam toward Fort Randall Dam, what is now the 39-mile segment of the Missouri NRR. FWS urged USACE to evaluate that segment for the NWSR System since it had been listed in NPS's inventory of "Significant Free Flowing Rivers." FWS also was concerned for the potential impact on water releases downstream of Gavins Point Dam into the then-existing Missouri NRR, and requested that USACE study any potential changes resulting from lower downstream releases as well as any opportunities to enhance the Missouri NRR.[278]

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[276] These nine sites included Cedar County Park (two parts), Brooky Bottom Road, Mulberry Bend, Ryan Bend, and Ionia Bend in Nebraska; and Goat Island, Vermillion Boat Club, Vermillion River Chute, and Elk Point (two parts) in South Dakota. *Final Report to Congress, The Streambank Erosion Control Evaluation and Demonstration Act of 1974, Section 32, Public Law 93-251: Main Report* (U.S. Army Corps of Engineers, 1981), X-1.

[277] Meeting minutes, February 9, 1990, among USACE, NPS, FWS. Lenexa, KS, FRC Accession No. 079-99-0002, Box 8.

[278] Kent Keenlyne, FWS to William R. Andrews, Jr., USACE, September 12, 1983. Lenexa, KS, FRC Accession No. 079-90-0003, Box 3, File No. L5815.

FWS brought new activity to the Missouri NRR in the mid-1980s in addition to permit review. As the principal federal agency responsible for administering the Endangered Species Act, FWS regularly identified species eligible for listing as either rare, threatened, or endangered and took the steps necessary to protect and enhance their populations. In 1985, FWS identified the least tern as an endangered species and the piping plover as a threatened species. Habitats for both of these birds were known to occur in the Missouri NRR.

As a result, FWS indicated the need to prepare a biological assessment of the impact of the management of the Missouri NRR on the birds and their habitats, since they were listed after completion of the Missouri NRR's Management Plan and EIS. Responsibility for this study fell to NPS under the terms of the Cooperative Agreement but, as NPS revealed in a letter to USACE, they had neither the money nor the staff to prepare it within the required time frame. As a result, NPS requested that USACE draw from funds it received in the FY86 appropriation to prepare the study and coordinate it with FWS.[279] USACE agreed to take on the biological assessment, which was divided into two studies. One study was conducted by the Missouri River Division to determine the impacts on the terns, plovers, and bald eagles resulting from overall main stem operations of the Missouri River. The Omaha District Office, meanwhile, began work on a study of the impact on terns, plovers, and bald eagles resulting from bank stabilization, recreation, and other Missouri NRR-related developments. The Omaha District Office continued work on this biological assessment into the early 1990s.[280]

The presence of the least tern and piping plover within the Missouri NRR led to additional management challenges, beginning in the late 1980s, which continue to the present. In FY88, USACE received an appropriation to create a demonstration project in the Missouri NRR, with no cost-sharing responsibilities. The goal of the project was to clear five islands in order to improve the habitats of these two bird species. Two islands were cleared in 1989 using conventional methods including mowing, tilling, disking, and bulldozing, combined with application of herbicides. The three other islands were similarly cleared in 1991. Development of habitats for the terns and plovers has continued to provide management challenges for the Missouri NRR, particularly with respect to use of herbicides and later plans to create new sandbar habitats in the river.[281] These issues came to the fore in the 1990s and afterwards, and will be treated later.[282]

Events outside the three federal agencies on the Missouri NRR also brought new attention to its management. In the mid and late 1980s, for example, there were increasing calls to designate the Niobrara River in Nebraska as a National Scenic River. In early 1989, as previously discussed, Representative Douglas Bereuter (R-NE) initiated

[279] David H. Shonk NPS-MWRO to Richard D. Gorton, USACE, April 2, 1986. Lenexa, KS, FRC Accession No. 079-94-0001, Box 15, File No. L6015/L5815.
[280] Meeting minutes, February 9, 1990, among USACE, NPS, FWS. Lenexa, KS, FRC Accession No. 079-99-0002, Box 8.
[281] Meeting minutes, February 9, 1990, among USACE, NPS, FWS. Lenexa, KS, FRC Accession No. 079-99-0002, Box 8.
[282] See Chapter 9 for a discussion of subsequent Biological Opinions and the process of creating emergent sandbar habitats.

a request to study the 39-mile segment of the Missouri River between the Fort Randall Dam and the upstream end of Lewis and Clark Lake for inclusion in the NWSR System. In addition, there were more requests for permits to carry out private bank stabilization projects on the 59-mile segment, including sixteen permit applications on the South Dakota side of the river alone from 1989 to 1990, and nine permit applications on the Nebraska side.[283] The City of Vermillion, South Dakota, meanwhile, was beginning to discuss plans for a project that included both sludge disposal and a recreational site along the river, and the City of Yankton, South Dakota, had begun discussions of installing a boat landing.

NPS was slow to respond to the increase in activity in the mid-1980s. Later in the decade, however, MWRO began paying closer attention to administration of the Missouri NRR, with new staff taking a more active role in coordinating with USACE and FWS. Several reports and meeting summaries in the summer of 1989 provide a useful snapshot of activity on the original Missouri NRR on the eve of creation of the modern Missouri NRR. In late June 1989, for example, Rick Clark, a member of the Planning and Environmental Quality division of MWRO, who had recently been appointed as the first NPS Coordinator for the Missouri NRR, took part in a four-day meeting with various local officials and USACE staff.[284] The meeting included a boat tour of the then-existing 59-mile Missouri NRR and the proposed 39-mile additional segment. Among other things, discussions during the extended tour pointed out differences in understanding of the Missouri NRR's management responsibilities that existed between USACE and NPS. USACE, Clark reported, was concerned almost exclusively with bank stabilization, viewing that "as the primary reason for designating the river." USACE's contention was that, because the 59-mile segment was designated as a Recreational River, the river's visual integrity was only a minor consideration. As a result, USACE put little stock in NPS' concerns about permit conditions. Clark pointed out that DOI, through NPS, had a great deal of authority under both the WSR Act and the Cooperative Agreement to protect the free-flowing condition and aesthetic values of the river. During the course of the meeting, USACE and NPS staff came to an agreement that the parameters for acceptable actions on the river needed to be better defined, perhaps with an update to the Management Plan and an elaboration of the Cooperative Agreement.[285]

During his tour of both segments of the river, Clark noted the relatively low level of development along the banks. He also had a chance to view the islands in the 59-mile segment that had been set aside for least tern and piping plover habitat, hosting approximately ten percent of the nation's population of these species. He also viewed the Section 32 demonstration projects, finding them surprisingly impressive in their construction and relative unobtrusiveness. In contrast to the do-it-yourself bank stabilization structures, many of which used aged, abandoned cars, USACE projects used

[283] Ibid.
[284] For notice of Clark's appointment, see Don H. Castleberry, NPS-MWRO to Donald E. Hazen, USACE, May 3, 1989. Lenexa, KS, FRC Accession No. 079-96-0003, Box 11. Clark is currently serving as the Superintendent of the Missouri NRR.
[285] Memorandum, Rick Clark, MWRO to Associate Regional Director, MWRO, July 25, 1989. Lenexa, KS, FRC Accession No. 079-96-0003, Box 11.

quarry-run stone and rock, and the windrow revetments had been appropriately revegetated.[286]

A follow-up meeting between USACE and NPS took place on August 14-16, 1989. Discussions included the least tern and piping plover and potential methods to enhance the habitat for these species, as well as a proposal by the City of Yankton, South Dakota, to donate approximately twenty-five acres on either side of the Highway 81 bridge on the Nebraska side of the river that belonged to Yankton to NPS. However, the principal topic of the meeting was overall management of the Missouri NRR. Both agencies recognized the need to prepare a new management plan to replace the "outdated and inadequate plan prepared by the former Heritage Conservation and Recreation Service." Participants in the meeting recommended a range of possible management options, including exclusive management by either USACE or NPS or a more clearly defined management role for each agency. Should all of these fail, the option for de-authorization as a Recreational River should be considered, "considering the intent of the NWSRS [National Wild and Scenic Rivers System] and the main purpose (bank stabilization) for which the MNRR was designated into that system. The approach and rationale used by the various interests who originally spearheaded the effort to include the MNRR in the NWSRS could be construed to have failed."[287] Since funding remained an issue, NPS participants also suggested requesting Operation of National Park Service (OPNS) funds for the area. This would include funding a full-time coordinator, with a Project Office, for the Missouri NRR. While doubtful of the success of this approach, NPS felt that it would help to refute claims made by MRBSA that NPS was not seeking funding.

Permits continued to prove a point of contention between USACE and NPS. With an increased number of applications submitted in the late 1980s, opportunities for disagreements were magnified. In one instance, for example, a landowner requested a permit in early 1989 to place a barbed-wire fence in the river to allow his cattle to have access to the water. In response, Midwest Regional Director Don H. Castleberry determined that the proposed fence would have an adverse effect on the Missouri NRR and recommended that the landowner contain his cattle above the ordinary high water mark. Castleberry observed, also, that other unauthorized barbed wire fences had been placed in the river within the Missouri NRR boundary and requested that FWS bring this matter to the attention of USACE for investigation and enforcement.[288] In late November 1989, however, USACE announced its intent to issue the permit despite the NPS-recommended denial.[289] NPS had previously urged USACE to adopt a policy of "grandfathering" the use of such fences. Existing fences would remain, but future fence installations would not be allowed. In another response to FWS in December 1989, Castleberry noted that the USACE did not adopt the grandfathering approach for this

[286] Ibid.
[287] Both quotes from memorandum, Rick Clark, NPS-MWRO to Associate Regional Director, NPS-MWRO, September 11, 1989. Lenexa, KS, FRC Accession No. 079-96-0003, Box 11, File No. L6015.
[288] Memorandum, Don H. Castleberry, NPS-MWRO to Field Supervisor FWS, May 2, 1989. Lenexa, KS, FRC Accession No. 079-96-0003, Box 11.
[289] Donald E. Hazen, USACE to Bill Schenk, NPS-MWRO, November 28, 1989. Lenexa, KS, FRC Accession No. 079-96-0003, Box 11, File No. L6015.

permit, but, instead, intended to issue the permit without limits or prejudice. As a result, Castleberry informed FWS of intent to invoke Section 7(a) of the WSR Act, on behalf of the Secretary of the Interior, declaring that the fence would have a direct and adverse effect; Section 7(a), he said, stated that "no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration."[290]

This permit was among several general and specific topics discussed in a wide-ranging meeting among staff from USACE, NPS, and FWS in early 1990. Discussion centered on whether use of these "tagline fences" that extended into the river could be grandfathered, which USACE argued was possible. If they could not, USACE staff recommended development of a General Permit, such as was in place from 1983 to 1988, to define how they could be used. One of the USACE staff, Jim Sudekamp, was charged with developing a position paper for how to handle tagline fences in the future.[291]

The three agencies held additional meetings in the spring and summer of 1990 to continue discussion of how to reinvigorate management of the Missouri NRR. After more than a decade of little activity, many of the participants, by the late 1980s and early 1990s, were not familiar with earlier discussions and negotiations attendant on the founding of the Missouri NRR. A discussion of Section 32 erosion control structures in May, for example, led to a new discussion of land acquisition, which was addressed in the original 1978 legislation and defined in both the General Management Plan and USACE's General Design Memorandum. The acquisition of land and interests in land, such as with easements, was designed to support both bank stabilization and natural resource protection. A staff member from USACE, Don Brecker, noted that all acquisition funds to that point had been used for bank stabilization. Staff from FWS and USACE then argued that land acquisition was the responsibility of NPS, but NPS staff, including Jill Medland, a planner with MWRO who was tasked to coordinate on the Missouri NRR, observed that "the cooperative agreement actually gives that responsibility to the Department of the Army." USACE coordinator for the Missouri NRR, Jean Nauss, had acknowledged that earlier, but, although conceding it might be true, USACE staff who were present admitted that, "funds are not available for that purpose."[292]

The differences between NPS and USACE regarding interpretation of how the Missouri NRR was to be managed were becoming more clearly defined by the end of the 1980s and the early 1990s. In the absence of forward movement on comprehensive bank stabilization and recreational developments envisioned in early attempts to implement the Missouri NRR, discussions between USACE and NPS had a tendency to deteriorate into

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[290] Memorandum, Don H. Castleberry, NPS-MWRO to State Supervisor, FWS, December 12, 1989. Lenexa, KS, FRC Accession No. 079-96-0003, Box 11, File No. L6015.
[291] Meeting minutes, February 9, 1990, among USACE, NPS, FWS. Lenexa, KS, FRC Accession No. 079-99-0002, Box 8.
[292] Memorandum, Jill Medland, NPS-MWRO to Associate Regional Director, MWRO, June 22, 1990. Lenexa, KS, FRC Accession No. 079-99-0002, Box 8.

disputes over permit applications. Forward movement of the type that was part of the original planning was forestalled by USACE's inability to secure appropriations for the work and by NPS' approach to administering the Missouri NRR from MWRO without a dedicated full time staff. Warren Hill, an Associate Regional Director at MWRO in the late 1980s and the first Superintendent of the Missouri NRR in the early 1990s, remembered that NPS also was reluctant to include the Missouri NRR in budget planning despite regular requests from Assistant Regional Director for Cooperative Activities David Schonk. As Hill noted, "it never rose high enough in our priorities."[293]

The Missouri NRR also did not rate high on a list of NPS priorities for General Management Plan revisions. While nearly all participants in these discussions in the late 1980s and early 1990s recognized the need to update management of the Missouri NRR, it was deemed not likely to happen in the near future. Replying to a query from FWS regarding a potential endangered species in the Missouri NRR, Acting Midwest Regional Director Fred L. Meyer noted that the Missouri NRR was ranked 39th on the list of nationwide planning priorities for General Management Plans (GMP). At a rate of approximately six per year, "the GMP for this park is at least 6 years away from start up."[294]

Profound changes were soon to come to the Missouri NRR in the early 1990s, however, as the scope of this unit of the National Park System was expanded dramatically with the addition of the 39-mile segment and portions of the Niobrara River and Verdigre Creek. As Warren Hill observed, the passage of the act to designate the Niobrara River and the 39-mile segment of the Missouri in 1991 inspired MWRO to take action, and acknowledge that "we really do have responsibilities up here, and maybe we ought to be paying more attention to it." After a largely disengaged start through the 1980s, NPS began to play a much more active role on the Missouri River in the 1990s.

[293] Warren Hill, interview, June 3, 2015.
[294] Fred L. Meyer, NPS-MWRO to Kent D. Keenlyne, FWS, October 20, 1989. Lenexa, KS, FRC Accession No. 079-96-0003, Box 11, File No. N1621. See also David N. Given, NPS-MWRO to Stan Zschomler, FWS, July 12, 1990. Lenexa, KS, FRC Accession No. 079-99-0002, Box 8.

Chapter 6: Initial Implementation of the Missouri NRR, 1991-1997

In the wake of the 1991 legislation described in Chapter 3 (P.L. 102-50), the various sections of the Niobrara and Missouri Rivers that became new components of the NWSR system were linked administratively with the earlier NRR on the Missouri River. However, there was no overt connection between the earlier Missouri NRR and discussions of the proposed Niobrara National Scenic River (NSR). As recounted in Chapter 3, designation of the Niobrara River as a component of the NWSR System drew from its own historical and political dynamic. Discussions regarding its designation never included the Missouri River until very nearly the end of the process, when Rep. Douglas Bereuter (R-NE) included the 39-mile segment of the Missouri in the bill. No attempt was made during the discussion of the bill that passed in 1991 to draw lessons from management of the initial Missouri NRR that could be applied to the proposed new segment. The Niobrara River, the clear, nearly sole, focus of the 1991 legislation, was an entity unto its own with its own needs and challenges. The Missouri River portions of this new addition to the NWSR System were something of an afterthought.

With passage of the legislation, however, MWRO in Omaha was quickly faced with planning for all of these disparate sections of rivers: Niobrara, Missouri, and Verdigre Creek, and both new and long-standing components of the NWSR System. The bill called for NPS to complete feasibility studies for a National Recreation Area along the Niobrara River in Knox and Boyd Counties, Nebraska, a Niobrara-Buffalo Prairie National Park in Nebraska, and a six-mile segment of the Niobrara River between the upper seventy-mile component of the National Scenic River and the lower twenty-five-mile component of the National Recreational River. All these planning studies were to be completed within eighteen months of the signing of the 1991 act. This daunting requirement was made more challenging by the fact that, in accordance with the WSR Act, NPS had three years to prepare a separate General Management Plan (GMP) for the 39-mile segment of the Missouri and the lower Niobrara River and Verdigre Creek, for the original 59-mile segment of the Missouri, and for the upper, Scenic portion of the Niobrara River.

With a planning process of this complexity, including six documents (three studies and three GMPs) within three years, it is important to recall several factors, discussed in previous chapters, which added even more to the challenges. First, MWRO had no discrete administrative structure for the existing Missouri NRR established in 1981. Staff from MWRO's Planning and Environmental Quality section were initially appointed to serve as the Missouri NRR Coordinator only in 1989: first, Rick Clark, followed by Jill Medland. There was no Missouri NRR headquarters, however. All functions continued to be coordinated out of MWRO in Omaha, which is a substantial drive from the original Missouri NRR. The new river segments were even further away. In addition, the 1991 legislation called for no specific administrative structure, and it was not a given that the new river segments would be managed jointly with the existing Missouri NRR. Although MWRO had been in the role of administrator of the Missouri

NRR since 1981, the 1991 legislation that added new segments of three different rivers to the NWSR system created the need to start administration anew.



Figure 5: Midwest Regional Office Building from 1960 to 2004. Photo provided by MWRO.

As with initial designation, it was unclear, as the bill was making its way through Congress, whether FWS or NPS would have administrative responsibilities for the new segments. In early internal meetings, late in April 1991, MWRO staff thought that FWS remained the more logical choice, given the presence of so many endangered species in the several river segments.[295] By the time of a meeting with Rep. Bereuter on April 26, however, when passage of the bill seemed increasingly likely, it was clear that the new river segments were to be NPS' responsibility. Bereuter clearly was actively involved in influencing management of the new river segments, suggesting that the three recreational river segments (the existing 59-mile segment of the Missouri River, the proposed new 39-mile segment of the Missouri River, and the lower sections of the Niobrara River and Verdigre Creek) should be included in one GMP separate from the proposed NSR segment of the Niobrara. [296]

While Rep. Bereuter played an important role in designation of the Niobrara NSR, he was one among many participants in that multi-faceted political campaign. Clearly,

[295] Handwritten meeting notes, Files of Missouri NRR, Box NIMI V-2.
[296] Meeting minutes, April 26, 1991. Files of Missouri NRR, Box NIMI V-2.

however, he is central to the story of the modern Missouri NRR that consists of the two Missouri River segments and the lower portions of the Niobrara River and Verdigre Creek. Although the 39-mile segment of the Missouri River between Lewis and Clark Lake and Fort Randall Dam had been identified as a potential component of the NWSR System for many years, none had pursued an evaluation before Bereuter, whose Congressional district at the time included the segment of river, requested it of NPS in 1989. Moreover, it was Bereuter's idea to include it, along with the lower portions of the Niobrara and Verdigre, into the 1991 Niobrara NSR legislation. As Bereuter said in a recent interview, "I saw the imminent passage of this legislation to be an opportunity to protect the thirty-nine-mile stretch of the Missouri, as well as the part of the Niobrara that was within my District, which was Knox County. That, at the time, was in my District. So, without active lobbying by anyone, I took it upon myself to add that thirty-nine mile stretch, plus the Knox County portion of the Niobrara, plus the Verdigre Creek, which fed into the Niobrara, which, in turn, fed into the Missouri."[297]

With the burden of developing all the studies and planning documents for both the Scenic and Recreational components, two issues were crucial. First, MWRO needed adequate staffing. The collateral duty NRR Coordinator position, as created in 1989, would not be sufficient to manage the diverse planning projects required. Second, the new units of the National Park System would need their own headquarters space, one closer to the assorted components than is Omaha, Nebraska. Both of these needs were met by the end of 1991. Once this administrative structure was in place, the work of developing planning documents and implementing the new units of the National Park System could begin. This work included undertaking the studies necessary to make recommendations for the proposed Niobrara-Buffalo Prairie National Park and National Recreation Area, establishing the Niobrara Scenic River Advisory Commission for the Niobrara NSR and a recreational river advisory group for the new 39-mile segment of the Missouri River, determining the boundaries of all of the segments, and preparing the GMPs for the Niobrara NSR and both components of the Missouri NRR.

Because of the way that the 1991 legislation was created, the Niobrara NSR was joined with the Missouri NRR, though specifics of how each was to be administered, whether separately or jointly, were not defined. Because all of the river segments were brought under the administration of NPS at the same time, MWRO coordinated all of the planning documents and GMPs jointly under one administrative entity, the Niobrara-Missouri National Scenic River. Once the planning documents and GMPs had been created by the late-1990s, however, the Niobrara NSR was separated from the Missouri NRR (which was defined to include the lower Niobrara River and Verdigre Creek) as an administrative unit with its own Superintendent, who reports to the Superintendent of the Missouri NRR.

The Niobrara and Missouri planning documents were prepared simultaneously by the same staff, but the focus of this project is on the Missouri NRR. The Niobrara NSR has its own fascinating and complex story, and, together with the additional feasibility

[297] Rep. Doug Bereuter, interview, June 15, 2015.

studies undertaken for it, will be treated in a separate study.[298] This chapter discusses the initial implementation of what was, through much of the 1990s, identified as the Niobrara-Missouri National Scenic Riverways, including the administrative structure, boundary determinations, establishment of Advisory Commissions, and division of the Niobrara NSR from the Missouri NRR. The development of two separate GMPs for the Missouri NRR, which was an involved process that set the course for ongoing management of the river, will be discussed in the following chapter.

1991 Designation: Initial Implementation Measures

Representative Bereuter was vital in including the 39-mile segment of the Missouri River and the lower Niobrara River and Verdigre Creek portions in the 1991 legislation, but Warren Hill was pivotal in establishing and implementing the newly-designated stretches of river. As the first Superintendent of the Niobrara-Missouri National Scenic Riverways, his role was to shepherd the multifaceted implementation process involving MWRO and the Denver Service Center (DSC) of NPS, extensive public involvement, a frequently and vociferously skeptical set of landowners, politicians, and a new and complex mapping technology, GIS. In addition, his brief was to establish an office and develop the staff needed to carry out the work. It was a large order indeed.

Hill was a career NPS employee, who started in 1960 as a ranger at Death Valley National Monument in California. He had been Superintendent at the Roosevelt-Vanderbilt National Historic Site in New York, where he oversaw the addition of two new historic sites to the National Park System. Hill had worked for MWRO since the late 1970s, and had been the Associate Regional Director for Operations since 1980.[299] As the 1991 legislation came closer to passage and the need for staff became clear, Hill began taking personal trips to the Niobrara River region to begin to understand its issues and setting. As Hill recounted, he returned to MWRO "and mulled it over for a while, and then I went to my boss and said 'You're going to need some leadership up there, and I've been reading the newspapers about the animosity toward the National Park Service, and the Scenic River idea. . . .Because of that, why—yeah, I think it's a tough job, but I'd like to take that on."[300] Hill was appointed to the position in June 1991, though his first official day was August 25, 1991.[301]

As planning efforts began in the summer of 1991, one of Hill's first tasks was to secure an office within the Niobrara River region that would still allow ready access to

[298] An excellent summary of the planning activities associated with the Niobrara NSR can be found in "Narrative Description of the Planning Process for the Niobrara National Scenic River from 1991 through 1996." Photocopy from private files of Warren H. Hill.
[299] "O'Neill Site for Park Service Scenic Riverways Headquarters," *Holt County Independent*, August 29, 1991. Photocopy in files of Missouri NRR.
[300] Warren Hill interview, June 3, 2015.
[301] Ibid; see also "Narrative Description of the Planning Process for the Niobrara National Scenic River from 1991 through 1996."

the two Missouri River segments. With more than two hundred miles of prairie and state highways between Valentine, Nebraska, near the western end of the Scenic River portion of the Niobrara River, and Ponca State Park, which formed the eastern terminus of the Recreational River portion of the Missouri River, distance clearly was an important consideration. MWRO's initial plan was to establish three offices along the Niobrara River, a central one at O'Neill and one each at the eastern and western ends of the NSR, perhaps at Ainsworth and Verdigre. As described by Regional Chief Planning Officer Al Hutchings, who initially took the lead in the Niobrara planning efforts, this three-office proposal was dependent on funding.[302]

Such expansive plans were shelved, however, and Hill quickly settled on the small city of O'Neill, Nebraska, for an office. O'Neill is located at the junction of U.S. Routes 20 and 281 in Holt County, approximately halfway between Valentine and Ponca, Nebraska, the western and eastern ends of the joint Niobrara-Missouri Scenic Riverways. With a population of just over 3,000, it is among the larger communities in the area. As Hill observed, "It was mid-way, and there was a large enough town that it had some amenities where people, the employees, would be comfortable. But, principally. . .it was mid-way in that whole corridor across northern Nebraska."[303] In August 1991, Hill identified an office building at 114 North 6th Street, at its intersection with U.S. Route 20, the principal east-west thoroughfare in downtown O'Neill. MWRO then coordinated with the General Services Administration (GSA) in Kansas City to expedite the leasing process "by October 1 to comply with the resource protection mandate of the legislation establishing this new area."[304] The lease was completed on a short-term basis in October 1991, and made a longer-term lease in the spring of 1992. The office officially opened on November 1, 1991.[305]

Now, with an office within the Niobrara River area, staffing became crucial to carry out planning work. As with the Missouri NRR through the 1980s and early 1990s, much of the early planning work for the Niobrara-Missouri National Scenic River was conducted by staff from MWRO, with significant input from DSC, which continues to be the central project office for planning, design, and construction management for NPS. DSC staff took the lead on planning efforts that included conducting public meetings, preparing documents and visual materials, providing GIS support, and drafting reports and summaries. DSC also was tasked with preparing GMPs for the new and existing components of the Missouri NRR, and the feasibility study of the proposed National Recreation Area. Their charge was to prepare the Niobrara NSR GMP and the feasibility studies for the six-mile section of the Niobrara River and the Niobrara-Buffalo Prairie

[302] Memorandum to File, Thomas Pesek, Nebraska Natural Resources Commission, July 19, 1991. Files of Missouri NRR, Box NIMI V-1, Folder No. 21.
[303] Warren Hill interview, June 3, 2015.
[304] Don. H. Castleberry, NPS-MWRO to Dale Mutchler, GSA, August 15, 1991. Lenexa, KS, FRC Accession No. 079-99-0001, Box 2, File No. A8027.
[305] "Narrative Description."



Figure 6: Location of O'Neill Headquarters Office from 1991 to 2009, 112 North 6th Street, O'Neill, Nebraska. Photo by author, 2015.

National Park.[306] Early on, Hill recalled , he had three key staff members, though the staff ultimately grew to a maximum of six employees.[307]

With an office and staff in place, the planning process for the new Niobrara-Missouri National Scenic Riverways began in earnest in the late fall and winter of 1991-1992. Much of the initial efforts were directed at the upper Niobrara River, including the GMP for the NSR portion of the Niobrara and feasibility studies for the proposed National Recreational Area and Niobrara-Buffalo Prairie National Park. While a thorough discussion of these planning efforts would go beyond the scope of this study, several features of these earlier planning efforts helped to shape the experience and expectations of the work on the NRR portions of the Missouri, Niobrara, and Verdigre.

Public Participation

A key component of the Niobrara planning work was extensive public involvement. The legislation that designated the upper portion of the Niobrara as a NSR

[306] Correspondence History of Niobrara/Missouri/Missouri as of 1/22/92; typescript MS in NIMI 7-3. See also Memorandum, Lynn Peterson, NPS-DSC to Chief, Branch of Planning, DSC, December 2, 1991. Files of Missouri NRR, Box MNRR, file 10-A.
[307] Warren Hill interview, June 3, 2015.

was hotly contested, with many of the affected landowners profoundly opposed. There was strong distrust of the federal government generally, and a concern in particular with federal acquisition of private lands. The belief of many of the landowners, both before and after the legislation was passed and signed, was that private landowners who bordered the river were better able to manage the river than NPS, FWS, or any other government agency. While the proponents of the Niobrara NSR designation clearly were able to make a strong case that the federal government was best able to protect the remarkable scenic beauty of the Niobrara River from future developments, whether public or private, profound distrust of federal intervention remained.[308]

This general distrust of federal interference in private lands was more intense along the NRR-designated sections, especially the 39-mile section of the Missouri River. As previously explained, the NRR portions of the Missouri River in the 1991 designation were not included in public discussion surrounding the legislation. It caught many landowners by surprise and may have exacerbated their distrust. Hill, in a conference paper in the mid-1990s, cited lack of public discussion as well as feasibility and pre-authorization studies that would have given local residents time to prepare, and to feel that they were involved in the process. "Residents in the vicinity of the Recreational Rivers," Hill wrote, "were largely surprised by the designation and had no knowledge of the effort to designate the rivers."[309]

While not intended to be secret, in an attempt to avoid unnecessary controversy, the process by which the NRR portions of the Niobrara, Verdigre, and Missouri were designated was not open and transparent. In a region where distrust of the federal government was a strong undercurrent, however, this lack of openness established a confrontational relationship between the local community and NPS from the beginning. As Hill recounted, the initial scoping meetings in 1991 "were not pleasant.. . .You could cut the air with a knife. We were not one of them. They did not need us."[310]

Development of management plans was a federal action that required an Environmental Impact Statement prepared in accordance with the National Environmental Policy Act (NEPA). NEPA requires public input and comments on proposed actions, though the means of soliciting this input is not defined. This input can be in the form of comments on various iterations of draft reports, but Hill and the planning team for the Niobrara NSR opted to expand the public input portion of NEPA by bringing members of the public onto the planning team, "so that we had the local people sitting at the table participating in our decision-making." Hill contacted the counties in Nebraska that bordered on the Niobrara River, and asked them to nominate members of the public to serve on the planning team. Given the depth of local opposition

[308] A July, 1991, article profiled the Niobrara Basin Joint Management Board, for example, which was deeply suspicious of the federal designation of the Niobrara River and was pondering seeking a court injunction against implementation of the Act. The County Board of Keya Paha County was likewise considering filing for an injunction. Dave Howe, "Next Local Step Along Niobrara," *Nebraska Farmer*, July 1991. Photocopy in files of Missouri NRR, Box NIMI V-2.
[309] Warren H. Hill, "River Planning in a Private Lands Environment—The Sequel," undated conference paper, c. 1995, 1. Photocopy from private files of Warren H. Hill.
[310] Ibid., 2.

to the federal designation of the rivers, however, it was an approach that had the potential for problems. It was, Hill noted, the "smartest decision we ever made," but also "the most difficult decision we ever made."[311]

The first set of public meetings took place in April 1992. Over the course of a week, NPS hosted afternoon and evening meetings related to the Niobrara NSR in Valentine, Bassett, Niobrara, and Omaha, Nebraska. At the same time, meetings regarding the Missouri NRR were held in Newcastle, Nebraska, and Wagner, Yankton, and Vermillion, South Dakota. More than 500 people attended these meetings between April 7 and 15.[312]

In response to a request for information from Rep. Bereuter, Acting Regional Director William W. Schenk replied in July 1992, that the O'Neill office had already begun its public involvement efforts. In addition to the series of public meetings in April 1992, Hill and his staff met individually with representatives of the American Indian tribes whose lands lay along the Missouri River in the vicinity of the new NRR (Yankton Sioux Tribe of South Dakota; Santee Sioux Nation, Nebraska; and Ponca Tribe of Nebraska), as well as with other public and private interests in both Nebraska and South Dakota.[313]

The planning process, whether led by DSC or by Hill and his staff, offered other opportunities for public participation. As Schenk noted in July 1992, the early data-gathering phase involved identifying ways to include the many entities that could be affected by the Missouri NRR management plan. "We know people fear we are doing the plan," Schenk explained, "and will surprise them with a plan with which they had no input." Rather than simply offering a completed draft plan for comment, Hill and his staff hoped to include local input for "the actual brainstorming activity that results in alternatives."[314]

One of the principal ways to get this input was through activation of the planning teams. Planning team meetings, which took place several times per year, were held in the Niobrara River region and were open to the public. While few people attended, perhaps three or four at any meeting, the meetings always were open. In April 1993, for example, NPS held the first planning team meeting for both the Niobrara River and the proposed Niobrara-Buffalo Prairie National Park. Convened in Valentine, Nebraska, the meeting included federal agency representatives and staff from the Nebraska Game and Parks Commission, together with representatives from Cherry, Rock, Brown, and Keya Paha Counties and the Nature Conservancy. In addition, some members of the new Niobrara Scenic River Advisory Commission attended, as did members of the public who observed the meetings. Later that month, the planning team for the assorted studies on the Missouri NRR met, with attendees also from county, state, and federal agencies, and selected both

[311] Warren Hill interview, June 3, 2015
[312] "Narrative Description," 3.
[313] William W. Schenk, NPS-MWRO to Rep. Doug Bereuter, July 7, 1992. Files of Missouri NRR, Box NIMI I-2.
[314] Ibid.

county and American Indian representatives. As Warren Hill reported later, "the feedback and participation of the local planners was predominantly positive."[315]

Advisory Groups

The work of the planning process for both the Niobrara NSR and the Missouri NRR in the early and mid-1990s was performed principally by NPS staff, in the new O'Neill headquarters office of the Niobrara-Missouri National Scenic Riverways, as well as MWRO, and DSC. The 1991 legislation, however, mandated creation of a Niobrara Scenic River Advisory Commission for the Niobrara NSR (Section 5) and a recreational river advisory group for the Missouri NRR (Section 6(a)). The purpose of the Niobrara Commission was to "advise the Secretary of the Interior. . . .on matters pertaining to the development of a management plan" and the management and operation of the Niobrara NSR. The recreational river advisory group, meanwhile, whose membership was less precisely defined than that of the Niobrara Commission, was to consult on the administration of the Missouri NRR. Despite the different charges for each group, the intent in both was to insure that local voices were heard. The two advisory groups had no management responsibilities and were not parts of the planning teams. They were, however, consulted on all drafts of studies and components of management plans and were involved in the contentious discussions over boundaries.

NPS was slow in creating the Recreational River Advisory Group for the original 59-mile reach of the Missouri NRR. Mandated in the 1978 legislation, the advisory group's charter was not established until 1982. The initial meeting was held in the summer of that year, nearly four years after the river was designated. Part of the delay was due to the time that it took to create a charter, identify potential members of the advisory group, draft and send out letters of invitation, have the members approved by the Secretary of the Interior, and set up and arrange the initial meetings. This lengthy process, however, began only after nearly two years had passed since the initial legislation was signed into law. By contrast, steps toward forming the advisory groups for the new NSR and NRR were among the first steps which NPS took following the 1991 legislation.

At the beginning of July, shortly after the legislation was signed, NPS Director James M. Ridenour defined the responsibilities for the newly designated sections of rivers in a memorandum to Midwest Regional Director William Schenk. Among other things, Secretary Manuel Lujan, Jr., requested a draft charter, and draft letters of invitation to participate, for both the Niobrara NSR and the Missouri NRR advisory groups by the end of August 1991.[316] Two weeks later, Chief Regional Planning Officer Al Hutchings attended a meeting hosted by the Nebraska Game and Parks Commission to

[315] Memorandum, Superintendent, Niobrara/Missouri to Regional Director, NPS-MWRO, Monthly Report, April, 1993, May 3, 1993. Files of Missouri NRR, Box NIMI I-3. See also "Narrative Description," 4.
[316] Memorandum, Acting Director, NPS to Regional Director, MWRO, July 1, 1991. Files of Missouri NRR, Box NIMI I-1.

discuss the newly-designated reaches of the Niobrara and Missouri Rivers. The first question for Hutchings pertained to the advisory groups, particularly the Niobrara NSR Advisory Commission, and when it would be created. Hutchings responded that it was up to the Secretary of the Interior to invite participants as directed in the legislation, and that MWRO had already drafted a letter for the Secretary's signature. Representatives from the Game and Parks Commission urged all haste, stating that "it is critical that the Advisory Commission be in place before any other substantive work is done."[317] Clearly, the pressure was on MWRO to move the Advisory Commissions forward.

Composition of the Niobrara NSR Advisory Commission was detailed with great precision in the 1991 legislation. The eleven members of the commission were to include a strong contingent of local landowners along with representatives of affected counties. Composition of the Missouri NRR advisory group was not defined as clearly, and was to "include in its membership representatives of the affected States and political subdivisions thereof, affected Federal agencies, organized private groups, and such individuals as the Secretary [of the Interior] deems desirable." Given the sensitivity of the Niobrara NSR, as a result of the intense scrutiny that it received during the years leading up to its designation, its Advisory Commission was the first to be created. The process for drafting a charter, identifying members, issuing invitations, and finalizing the Commission went relatively quickly. Interior Secretary Lujan appointed the Niobrara NSR Advisory Commission in May 1992, less than a year after designation. The first meeting was held in October 1992.[318]

The advisory group for the 39-mile segment of the Missouri River took longer to arrange. This portion of the legislation was, on the surface, less politically challenging and thus lower in priority. In addition, because the composition of the advisory group for the 39-mile segment was less well defined, it took NPS longer to identify potential members. The O'Neill headquarters office staff and MWRO developed the charter for the 39-mile Advisory Commission in 1992, and Interior Secretary Lujan appointed the members of the commission in January 1993. The members included representatives from Knox County, Nebraska; Boyd County, Nebraska; Bon Homme County, South Dakota; Charles Mix County, South Dakota; Planning District III in South Dakota; the Lower Niobrara Natural Resources District in Nebraska; the Yankton Indian Tribe; the Santee Sioux Tribe; one representative each for the Governors of Nebraska and South Dakota; and one representative each from the USACE and FWS. John Thomas, an attorney from Knox County, Nebraska, was appointed to serve as the Chair. [319]

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[317] Memorandum, Thomas F. Pesek to File, Nebraska Natural Resources Commission, July 19, 1991. Files of Missouri NRR, Box NIMI V-1, No. 21.

[318] Advisory Committees: Niobrara/Missouri National Scenic Riverways; files of Missouri NRR, Box NIMI I-1.

[319] The members of the Missouri NRR advisory group included Paul J. Butler (Sioux Falls, SD), Jan Grimm (Lynch, NE), Ardin Uhlir (Verdigre, NE), John E. Shaufelberger (USACE, Omaha), Arthur L. Denny, Jr. (Niobrara, NE), Richard A. Hermanek (Springfield, SD), Bennett Van Osdel (Mission Hill, SD), Douglas E. Hofer (SD Division of Parks and Recreation, Pierre), Kenard Kreycik (Niobrara, NE), Lyle A. Laberee (Lake Andes, SD), Rayder Swanson (Niobrara, NE), and Joseph J. Webster (FWS, Lakewood, CO), with John Thomas (Center, NE) serving as Chair. Memorandum, Superintendent, NPS-Niobrara/Missouri to Regional Director, Monthly Report, February 3, 1993. Files of Missouri NRR, Box NIMI I-3. See also Ibid.

Following his role in crafting the legislation that included the new additions to the Missouri NRR, Rep. Bereuter was actively involved during development of the recreational river advisory group's charter. In June 1992, as the charter was being revised, Bereuter wrote to the Interior Secretary Lujan. Bereuter's concern was that all of the attention was on the 39-mile segment of the Missouri River. His primary purpose in providing for the recreational river advisory group, he asserted, was to assist DOI in preparation of a management plan not just for the 39-mile segment of the Missouri, but also for the lower Niobrara River and Verdigre Creek. He was concerned that his intent to include the lower Niobrara and Verdigre in Section 6 of the act, which provided for the recreational river advisory group, "may not have been made clear in the legislation. I would hope that you might be agreeable to administratively provide for this inclusion, and that you would choose to include appropriate representation for those areas in selecting the membership for this Recreation River Advisory Board [sic]." He also suggested expanding the interests that would be represented on the advisory group, beyond the thirteen representatives included in the draft charter.[320]

In response, Assistant Secretary for Fish and Wildlife and Parks Mike Hayden agreed that the lower Niobrara and Verdigre would be considered in all of the recreational river advisory group's meetings. However, DOI was reluctant to expand the membership of the advisory group as Bereuter had suggested. He offered, therefore, to review the work of the advisory group after one year and to revise its charter to include more representatives if the review indicated that need.[321]

The Missouri NRR advisory group was constituted with thirteen members previously named, and the first meeting was held on March 17, 1993, at Leona's Café in Lake Andes, South Dakota. The meeting, which was open to the public, was primarily an introductory one with discussions on developing by-laws for the advisory group, procedural requirements, future meeting times, and agenda items for subsequent meetings. Superintendent Warren Hill closed the meeting with an overview of the various projects being coordinated from the O'Neill Headquarters office, including updates on the planning process from Lynn Peterson, Team Captain from DSC, and Outdoor Recreation Planner Gary Howe from the O'Neill office.[322] This meeting led to development of by-laws for the recreational river advisory group, approved in June 1993. Rep. Bereuter's concern was addressed early in the document. Section 1 of Article II of the by-laws stated that the group was to advise the Secretary of the Interior on development of a management plan for the 39-mile segment of the Missouri. This section then noted that NPS Assistant Secretary for Fish and Wildlife and Parks, in a letter to the group on September 3, 1992, instructed them to address issues pertaining to the lower Niobrara River and Verdigre Creek. The impress of the earlier, 59-mile Missouri NRR was clear as well, as the recreational river advisory group was charged to consult with the Secretary "on conditions for the use of erosion control techniques along the Missouri

[320] Rep. Doug Bereuter to Manuel Lujan, Jr., NPS, June 18, 1992. Files of Missouri NRR, Box NIMI I-2.
[321] Mike Hayden, DOI to Rep. Doug Bereuter, September 3, 1992. Files of Missouri NRR, Box NIMI I-3.
[322] Missouri National Recreational River Advisory Group, Expanded Agency as of March 11, 1993. Files of Missouri NRR, Box NIMI I-1.

Recreational River to include the use of rocks from the area for streambank stabilization purposes to protect the resource values for which the Missouri Recreational River was designated."[323]

The new Missouri NRR advisory group met in August 1993 for a tour of the Missouri River, and again for a formal meeting on September 15. By this point, NPS had developed draft Mandates, Purpose, and Significance, and Desired Future statements for the Missouri NRR, which formed the basis of the advisory group's meeting.[324] The advisory group then continued to meet periodically through the mid-1990s, and reviewed drafts of the GMP and Environmental Impact Statement (EIS). 1996 was a particularly active year with the release of the 39-mile draft GMP and EIS, and the advisory group met several times during the summer and fall to discuss public comments. In the fall of 1996, prior to its November 20 meeting, the advisory group issued a report to MWRO. The report included recommendations on recreational use and boundaries for the 39-mile segment, and paid particular attention to problems of siltation, recreation, environmental habitats, ground water levels, and roads and bridges. The advisory group took issue with a 1994 USACE report that indicated a disinclination on the part of USACE to take any steps to relieve the problem of siltation in the river above Lewis and Clark Lake, and suggested that USACE and NPS investigate the possibility of dredging to relieve the sedimentation issue. In addition, the advisory group recommended that bank stabilization be allowed on all lands within the 39-mile Missouri NRR, and that USACE, NPS, and FWS cooperate on assisting landowners with stabilization projects.

Boundary Discussions

Determination of the boundaries for both the Niobrara NSR and the Missouri NRR was the most hotly-contested component of the GMP process. For those private landowners who were concerned about an unnecessary extension of federal authority, the question of exactly what lands and how far off the river NPS could exert control was where the rubber hit the road. In addition, the surrounding landowners expressed a great deal of concern, not just about federal management of the designated sections of river, but also about the degree to which the NPS could condemn land and seize it.

Planning for the Niobrara NSR and the Missouri NRR in the early and mid-1990s became caught up along the fringes of what had become known as the Sagebrush Rebellion. Emerging from the mid-1970s with roots going back to the early twentieth century, this movement sought to remove vast quantities of lands, particularly in the West, from federal control and place it, instead, under local and state authority. It was part of a broader distrust of the centralization of authority under the federal government that lingered from the mid-twentieth century. The movement played out largely in states

[323] Missouri Recreational River Advisory Group By-Laws, approved 6/16/93. Files of Missouri NRR, File 7.A.2. Permanent.
[324] Memorandum, Superintendent, Niobrara/Missouri National Scenic Riverways to Regional Director, NPS-MWRO, September 30, 1993. Files of Missouri NRR, Box NIMI I-3.

where the U.S. Forest Service (USFS) and BLM continued to hold huge parcels of land, remnants of the earlier homesteading movements of the nineteenth century. While the intent of the original homesteading laws was to move public lands into private hands, the Federal Land Policy and Management Act (FLPMA) of 1976 (P.L. 94-579) declared that the remaining public lands would continue in federal control. These lands, moreover, were to be managed so as to balance multiple uses in a way that was oriented toward preservation of natural resources. An offshoot of FPLMA was institution of the National Wilderness Preservation System, which presently includes nearly nine million acres. The Sagebrush Rebellion, based in western lands that often contained large expanses of sagebrush steppe, rose in response to the perceived threat to liberty posed by the degree of lands held by the federal government.

The Sagebrush Rebellion lost much of its steam during the 1980s, when the administration of President Ronald Reagan supported many of the goals of the movement. It never faded entirely, however, given the presence of so much federal and wilderness lands throughout the West. Opposition to the Niobrara NSR, in particular, drew from the sentiment that underlay the Sagebrush Rebellion, and the discussion over boundaries served as the flash point. As Hill recalled later, "some of the people along the rivers tapped into that sentiment and contacted some of those groups and got involved, then, in the argument against federal government takeover."[325] In addition, NPS's own activities since the 1960s with regard to land acquisition, including the attempt to condemn and purchase private property within the community of Wawona in Yosemite National Park, spurred distrust of NPS's motives, which inspired additional opposition along the new National Scenic and Recreational Rivers.

In the WSR Act, Section 6 limits the government's ability to acquire land surrounding designated rivers in fee title to an average of 100 acres per mile on both sides of the river. It places additional limitations on acquisition of land from State, municipal, and Tribal governments. The 1991 act that designated the Niobrara and Missouri River segments placed even more restrictions on federal acquisition of land. DOI was given the ability to acquire land and interests in land without consent of the owner, but to a limit of no more than five percent of the land within the boundaries, of which no more than two percent can be fee ownership. This limitation could be exceeded only if the State or local governments were "not, through statute, regulation, ordinance, or otherwise, adequately protecting the values for which the segment concerned is designated as a component of the national wild and scenic rivers system."

It was this possibility for exceptions to limits on the federal government's ability to condemn land and take it without a willing seller that had many local residents concerned. In early 1992, as planning efforts for the 39-mile segment were getting under way and as local residents were becoming more aware of the process, a number of residents began to raise questions regarding possible federal land acquisition along the river. In March 1992, Rep. Bereuter wrote to NPS Director James Ridenour regarding concerns among local residents about federal land acquisition and asked that Ridenour convey, through the local and regional NPS staff, the true intents of the act. His goals

[325] Warren Hill interview, June 3, 2015

were to protect the river from "future land use changes that could damage the integrity of the resource," and to stimulate potential recreational development of the region. "Since most of the concerns of the local citizens related to the fear that a large amount of land all along the river will be condemned and acquired by the Federal Government, including their homes; that they will no longer be able to farm their land, graze or water their animals; and lose a large amount of tax base; I think that it would be appropriate to do something soon to alleviate those concerns."[326]

Bereuter encouraged Ridenour to stress that NPS contemplated no use of condemnation power to acquire land, would require no changes in existing land uses without full compensation on a willing-seller basis, would assure that normal recreation, farming, grazing, and livestock watering practices could be continued, and that NPS would work with local citizens and governments to develop the recreational potential of the region.[327] In his response, Ridenour did not acknowledge these specific issues but asserted that NPS would hold strictly to the land acquisition limitations as identified in the legislation, and that the planning team members at DSC, MWRO, and the O'Neill office were aware of the sensitivity of the issue. These NPS staff members, he assured Bereuter, "will continue to emphasize that these river bills are not intended to be traditional national parks and land acquisition by the Government is not a primary objective. They will also continue to correct, to the best of their ability, the misinformation being spread by those unfamiliar with the legislation or who opposed it and have yet to accept the fact that it has been enacted."[328]

Fortunately, the NPS staff was not alone in confronting these issues in the development of boundaries for the Niobrara NSR and Missouri NRR. As previously explained, NPS planned for a great deal of public input, and the respective planning teams and advisory groups allowed for both input from local citizens and outlets to the broader community. According to the WSR Act, NPS was obligated to publish the boundaries within one year of passage of the Niobrara legislation. Early public meetings, however, indicated the depth of concern for property rights of landowners while protecting the river and providing for recreation. Recognizing the strength of local sentiment, NPS decided not to try to set the boundaries within the one-year period, but, instead, "to incorporate boundary studies for the rivers into their respective GMP's [sic]."[329] Hill recalled later that "the boundary was not the first decision. It was a part of the planning process that resulted in the designation of the boundaries."[330]

Work on the Missouri NRR boundaries began in late 1993. The first task was to define the general concepts for management of the rivers, which would, in turn, drive the nature of the boundaries. It should be noted that establishment of the boundaries of the

[326] Rep. Doug Bereuter to James M. Ridenour, NPS, March 13, 1992. Files of Missouri NRR, Box NIMI I-2.
[327] Ibid.
[328] James M. Ridenour, NPS to Rep. Doug Bereuter, draft letter, March 19, 1992. Files of Missouri NRR, Box NIMI I-2.
[329] "Narrative Description of the Planning Process for the Niobrara National Scenic River from 1991 through 1996.," 3. Photocopy from private files of Warren H. Hill.
[330] Warren Hill interview June 3, 2015

designated stretches of river, whether the Niobrara, Missouri, or Verdigre, did not imply that federal ownership would extend to them. Instead, they were the areas that included significant resources of various types within which NPS would attempt to manage the rivers using a range of planning tools in order to protect the values for which the rivers were designated. The amount of land within the boundaries was an indication of what kind of protection would be needed to meet the particular goals. Initial planning and discussion in public meetings identified several possibilities for management goals, including riverine preservation, landscape integrity and character, and visitor emphasis. In addition, since the boundaries were being determined within the context of a GMP and EIS, NPS included a "No-Action" option which maintained the legislatively-mandated quarter-mile boundary on each side of the Ordinary High Water (OHW) mark of the river. Each of these options included different amounts of land and extended in different ways inland from the banks of the rivers.[331]

Following a meeting of the overall planning team in November, actual development of boundary proposals for the Missouri NRR was delegated to a technical boundary team consisting of technical experts and local representatives.[332] The brief of this small team was to develop preliminary boundaries based on three management alternatives that the larger planning team developed. The technical boundary team first met in Denver at DSC in early January 1994, with the goal of presenting the draft boundary alternatives to the planning team the next month.[333] The January 1994, meeting was attended by thirteen members, including representatives from NPS; Boyd County, Nebraska; Nebraska Game and Parks Commission; the Bureau of Indian Affairs (BIA); the Yankton Sioux Tribe of South Dakota; the Ponca Tribe of Nebraska; and the South Dakota State Historic Preservation Office. The boundary team discussed potential boundaries for three management goals: landscape integrity, riverine resources, and visitor use. In addition, the team defined the "No-Action" alternative as simply a line one-quarter of a mile from the OHW on each side of the river, without regard to any other resources.

With regard to the first management goal of landscape preservation, the boundary team recognized the need to have a "bluff to bluff" boundary; that is, everything visible from the river. All recognized, however, that this could not realistically be achieved

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[331] Niobrara/Missouri National Scenic Riverways, Missouri River Projects: Concepts for Boundary Alternatives. Draft, November 18, 1993. Files of Missouri NRR, Box NIMI I-5.

[332] These two teams are referred to generally in the planning documents and correspondence regarding boundary discussions in late 1993 and early 1994, but their members were never specified. However, the following people regularly took part in the boundary planning meetings during this time: Pat Lineback, Beth Ward, Gary Howe, Lynn Peterson, Diane Rhodes (DSC); Casey Kruse, Don Becker, Larry Cieslick, Mike Knofczynski Jean Nauss, Randy Behm, Ralph Perrigo, John Remus (USACE); Bruce Trindle, Larry Hess (Nebraska Game and Parks); Eileen Dowd-Stukel, James Stukel, Doug Backlund (South Dakota Game and Parks); Bruce Jacobsen (South Dakota Department of Agriculture); Dean Alexander (MWRO), Rick Inglis (WASO); Dave Reinschmidt (Charles Mix County, South Dakota); Ken Brion (Boyd County, Nebraska); John Sully (Yankton Sioux Tribe of South Dakota); Lawrence Kiyukan (BIA, Yankton Sioux Tribe of South Dakota); Duange Bonge (Ponca Tribe of Nebraska); Fred Peabody (University of South Dakota), Gerry Steinauer (University of Nebraska, Lincoln);

[333] Lynn E. Peterson, NPS-DSC to Boundary Team Members, December 22, 1993. Files of Missouri NRR, Box NIMI I-8.

without the cooperation of landowners beyond the boundary. A boundary extending sixty meters from the OHW on each side of the Missouri River was a valuable starting point, but would rely on local regulation, including zoning, to extend protection to the surrounding bluffs on each side. For the lower Niobrara River and Verdigre Creek portions of the NRR, the boundary team also recommended a sixty-meter boundary out to the toe of the slope or to the bluff top. Questions that remained included where to extend this basic boundary for specific resources, whether natural or cultural.

The boundary team also recommended a sixty-meter floodplain boundary as sufficient for the management goal of riverine preservation on the Missouri River, though it would be extended at the Niobrara River delta based on flood-prone areas. Discussions on this topic also included bank stabilization and sedimentation, two of the important concerns for those who lived along the river. For the Niobrara and Verdigre portions of the Missouri NRR, the boundary for the goal of riverine preservation would need to recognize erosion zones rather than a specified linear distance. This could include anything from sixty meters out to the nearest major road or toe of slope.

The third management goal that the boundary team addressed was visitor use. As with the other two goals, the boundary recommended was a sixty-meter boundary, but it included extensions to encompass existing river access locations for boats. Many of these locations would need to be determined, and the meeting ended with assignments to prepare maps that would show existing boat access points. For the Niobrara and Verdigre portions of the Missouri NRR, the boundary team reverted to the erosion zone as the default boundary for visitor use, with extensions based on a potential park at the confluence of the Niobrara and Missouri Rivers, as well as bridges and railroad rights of way. The team agreed to include the existing Karl Mundt National Wildlife Refuge, administered by FWS and located primarily on the South Dakota side of the Missouri River, in all boundaries for all three of the management alternatives.[334]

Warren Hill led the O'Neill headquarters office staff in field investigations to identify potential boundaries and to identify particular resources that needed to be included within the boundaries for their protection. They spent time on the river, identifying both "line of sight" areas, to determine what was visible from the river, and important natural and cultural resources. As he described later with regard to the Missouri River, "some of the importance there was the nesting habitat for terns and plovers. . . .they occupy sand bars in the Missouri River and the Niobrara and Verdigre Creek, and so we tried to include as much of the bottom land. . . .resources that would be flooded periodically and other times not, and wetlands." Also on the Missouri, the presence of native cottonwood trees impacted the areas of bottomlands that were visible from the river: "it wasn't necessary to protect those bottomlands because they weren't visible from the river because of the trees, and therefore, we didn't need as large a boundary to protect in that area."[335]

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[334] Boundary Team Meeting—1991 Missouri National Recreational River (Including 39-Mile Missouri River, 20-Mile Niobrara River, 8-Mile Verdigre Creek Segments), Working Draft: Meeting Notes on Boundary Development, January 466, 1994. Files of Missouri NRR, File NIMI I-8.
[335] Warren Hill interview, June 3, 2015

In their visits to the river, Hill and his staff used Geographic Positioning System (GPS) technology, which was new at the time, along with Geographic Information System (GIS) computer software to assist in the mapping process. GIS is a way of joining maps and geographical information with data sets, using digital means. Through these digital means, in which the various maps and the data are in digital form, GIS allows for the analysis of vast amounts of data in spatial terms. First developed in Canada in the 1960s, it was further expanded by several key academic centers through the 1970s and 1980s. The Harvard Laboratory for Computer Graphics and Spatial Analysis at Harvard University, and the Environmental Systems Research Institute, Inc. (ESRI) in California, developed new means and approaches to tying digital data to ever more complex maps. ESRI soon developed GIS for wider governmental and, later, commercial uses. USACE was among the early users of GIS in the 1970s. By the late 1980s, GIS was becoming more widely used throughout federal, state, and municipal governments once desk-top software became available.

The need of NPS to develop boundaries along the Missouri, Niobrara, and Verdigre that included a variety of resource types and river flow conditions presented an ideal opportunity to use GIS, which was then still relatively new. NPS had developed its first Standard Operating Procedures for GIS in 1989, and, in 1991, when initial planning efforts for the Niobrara and Missouri were beginning, digital data sets were incomplete. DSC contacted NPS' Geographic Data Technologies Branch in Washington, D.C., regarding planning efforts for the newly-designated river sections. USACE had some digital mapping data for wetlands, public lands, endangered species, and others, and a limited amount of county base maps, soil maps, and National Wetlands Inventory data was available, as well. Much else that DSC and MWRO would need to develop useable boundary data, however, had yet to be digitized. The recommendation from the Geographic Data Technologies Branch was to partner with other agencies to share the cost of digitizing the necessary data sets, including USGS quadrangle maps, soil maps, and vegetation and land cover maps.[336] Clearly, MWRO was using pioneering GIS data to develop boundaries for the Niobrara NSR and Missouri NRR. Work to create more complete data sets of GIS mapping continued through the mid-1990s.[337]

As these field studies and draft comments were refined, the boundary team incorporated a statement that all of the management goals, with the exception of the "No-Action" alternative, would include all areas prone to flooding. As the team described in a draft report on boundaries after the initial meeting, the base boundary "must be a boundary which would allow restoration of natural river processes to the river segments and include areas prone to flooding under higher river flows." Such a requirement naturally involved the flows of the Missouri River, which were controlled by USACE in accordance with the *Master Manual*. The boundary team hoped to coordinate with USACE on the timing of flow releases that would mimic as closely as possible the

[336] Maurice O. Nyquist, Geographic Data Technologies Branch, WASO to Chief, Branch of Planning, DSC, August 29, 1991.Files of Missouri NRR, File 9.C: NPS Information Systems.
[337] Additional, occasional correspondence pertaining to the use and sharing of GIS data can be found in files of Missouri NRR, File 9.C: NPS Information Systems.

historical, pre-dam annual flow cycle. This would help with the appearance of the river, with erosion of the banks, and with habitats for fish and wildlife. The *Master Manual* was then in the process of being revised, and the team hoped to encourage an environmental alternative to the revisions. "A *Master Manual* environmental alternative and the 1991 Missouri National Recreational Rivers general management plan alternatives," the report concluded, "should work synergistically to protect and enhance the significant natural resources of the Missouri River ecosystem."[338]

Using traditional maps, field investigations, and GIS, subsequent planning efforts for the boundary team included identifying the significant upland and terrestrial areas that are not subject to regular flooding. In doing so, they identified differences between the behavior of the Missouri, the Niobrara, and the Verdigre and how those differences impact the boundaries. The team also defined additional criteria for resources that need to be protected through inclusion in the boundary.

Given the expansion from a sixty-meter boundary to one determined by areas prone to flooding, conversations with USACE continued into the spring of 1994 regarding revisions to the *Master Manual*. For the first time, an EIS was being developed in association with the *Master Manual* revisions, which brought an environmental awareness to the process. According to USACE staff who attended the boundary planning meetings, there was great pressure from Congressional delegations in the lower Missouri Valley to maintain flows for navigation purposes. The status of the *Master Manual* revisions remained unclear, given the complexity of the task, but, as was asserted in the minutes from an interagency boundary planning meeting in March, 1994, "This reach is not going to drive *Master Manual* process." Instead, the boundary planning team continued working with maps showing the areas prone to flooding as a general guide and continued to identify significant resources in need of protection. The meeting in early March 1994 also was the first in which potential boundaries for the 59-mile reach of the Missouri that was designated in 1978 were discussed, though no conclusions were drawn for this segment.[339]

An early conflict arose when the Santee Sioux Nation, Nebraska, the Ponca Tribe of Nebraska, and the Yankton Sioux Tribe declared that the trust responsibility of the federal government toward them was not being met. As outlined in a letter from BIA, federal law required the United States of America to consult with the American Indian tribes on a government-to-government basis, in recognition of the status of the tribes as separate nations, not simply as one among several stakeholders. The federal government, the tribal representatives claimed, was not meeting this responsibility. According to BIA, the possibility of federal taking of land, moreover, was in direct violation of the trust responsibility of the United States toward the American Indian tribes.[340] Superintendent

[338] Draft 1991 Missouri National Recreational Rivers Description of Boundary Alternatives" January 27, 1994. Files of Missouri NRR, File NIMI I-8.
[339] Missouri National Recreational Rivers—1991 and 1978 Designated Segments. Interagency Meeting: Omaha, Nebraska, March 9, 1994. Files of Missouri NRR.
[340] Nolan Solomon, Winnebago Agency, BIA to Richard Kitto, Santee Sioux Tribe of Nebraska March 7, 1994. Files of Missouri NRR.

Hill reported that the Yankton Sioux Tribe were "preparing a land use plan for their reservation lands that will include a Recreational River boundary. We need to incorporate their planning in our work."[341]

In response, MWRO requested input from DOI's Regional Solicitor for the Rocky Mountain Region. The situation was more complicated than a simple sovereignty issue, given the mix of land ownership on the reservation, including tribal trust land, individual trust land, and lands owned as private property by non-tribal members. Regional Director Schenk requested an opinion on whether NPS had authority to place a NWSR system boundary on an American Indian reservation, whether NPS could include tribal trust or individual trust lands in the boundary, and whether the boundary could be established without consent of the tribe, following consultation with the tribe.[342]

Because of the presence of reservation lands along the Missouri NRR, tribal issues continued to be a concern, though tribal representatives remained on the planning team. In 1995, however, DOI Regional Solicitor released an opinion as to whether NPS had any authority to establish boundaries on reservations. The response was that NPS did not have that authority. "At that," Hill reported, "the Yankton Sioux quit coming to any meetings and will not return phone calls." At the time, the O'Neill office was plagued by staff turnover and was regularly understaffed; by 1995, however, Hill had a full staff, and felt that "we need to reopen communications with them although it may be best to wait for a new council to be seated after their September elections."[343]

As the tribal issue remained unsolved into the spring of 1994, another consideration came to the fore: the possibility of a "bank to bank" boundary. This concept would limit the Missouri NRR only to the water column itself, within the OHW. It is unclear who first raised this possibility, though it likely was circulated by those who sought to limit strictly the potential for federal condemnation of private lands. As Hill noted in a report at the time, some of the local participants at a planning meeting asked to add the concept as an alternative.[344] The concept was in discussion as early as late April 1994, but was dismissed by the boundary team as not in compliance with the intent of either the WSR Act or the 1991 legislation. Instead, the concept was to be included in the GMP under the heading of "Alternatives Considered, but Rejected," with an extensive rationale for the decision.[345] In late July 1994, Associate Director for Planning and Development Denis Galvin prepared a statement explaining the inadequacy of this "bank to bank" approach, and stating that it would not be acceptable in the GMP. He

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[341] Memorandum, Superintendent, Niobrara/Missouri National Scenic Riverways to Regional Director, MWRO, Monthly Report, March 1, 1994. Files of Missouri NRR, Box NIMI I-3.
[342] Memorandum, William Schenk, NPS-MWRO to Regional Solicitor, NPS-Rocky Mountain Region, March 17, 1994. Files of Missouri NRR
[343] Warren H. Hill, Superintendent, Performance comments and goal accomplishments in FY 95, through September 10, 1995. Photocopy from private files of Warren H. Hill.
[344] Memorandum, Superintendent, Niobrara/Missouri National Scenic Riverways to Regional Director, MWRO, Monthly Report, March 1, 1994. Files of Missouri NRR, Box NIMI I-3.
[345] Telephone meeting report, April 26, 1994. Files of Missouri NRR. The team had the support of Senator James Exon (D-NE) in rejecting the "bank-to-bank" alternative; see "Narrative Description of the Planning Process," 10.

acknowledged the concern that landowners had regarding the boundary, "in part due to fear of government land acquisition." He explained that, while the WSR Act does allow for fee and less-than-fee acquisition, it is not required "if river values can be protected by other means and the public has sufficient access to enjoy the river." The focus of the planning team and the advisory group should, instead, he said, be on means of protection for the river, rather than "haggling over what to a large extent is a non-choice."[346]

The late spring and summer of 1994 were taken up with field studies focused on hydrological issues, including flooding, erosion areas, and OHW delineations. The purpose of these studies was to verify the boundaries in the field as best as surveyors could, document the recommendations of the boundary team, and provide empirical data to speculations. This process was made more complicated by the still-uncertain status of the *Master Manual* revisions, since the amount of water that USACE released from Fort Randall Dam would have an impact on the areas that would be periodically flooded. As a result of its studies and discussions, however, the boundary team issued five draft boundary alternatives in July 1994, prior to an August 1994 meeting. The alternatives included riverine protection that encompassed areas prone to flooding, and the balance of visitor use and resource protection. The boundary team also sought to identify the minimum amount of important resources and land acreages to be included within the boundary, along with the "No-Action" alternative of one-quarter mile from the bank on each side, and the "bank-to-bank" alternative.[347]

During this period, the inadequacy of the phrase "areas prone to flooding" came to the fore, as the near-impossibility of defining specific areas under that heading became clear. Instead, the planning team, under the guidance of Lynn Peterson at DSC, returned to the establishment of a base boundary of sixty meters from the OHW with provisions for expansion based on the particular management goals, whether riverine, visitor use, or landscape integrity. In all of the management goals, the Karl Mundt National Wildlife Refuge at the upper end of the 39-mile segment was included as a base component. The concept of areas prone to flooding would continue to play a part in the riverine management goal as a general guideline but was too imprecise to use with other goals.[348]

The boundary team completed its studies late in the summer of 1994 and brought its recommendations for boundary alternatives to the public planning meetings in the fall. The planning team met on October 27-29, 1994 in Wagner, South Dakota, to review feedback from the public and from a recent landowners' meeting, and to review the management alternatives. The discussions of boundaries took a step forward when a group of landowners who were taking part in the process announced that they would accept "that the boundary must include lands above the bank and the team accepted that a

[346] Memorandum, Denis P. Galvin, NPS-WASO to Regional Director, MWRO, July 29, 1994. Files of Missouri NRR, Box NIMI I-3.
[347] Draft Boundary Alternatives, July 21, 1994. Files of Missouri NRR, Box NIMI I-8.
[348] Lynn Peterson, NPS-DSC to Planning Team Members, June 14, 1994. Files of Missouri NRR.

landowner association with appropriate agreements could be a significant player in managing the lands within the boundary."[349]

While the focus was primarily on the sections of the Missouri NRR that were added in 1991, a separate planning team was working on the boundaries for the original 59-mile segment of the Missouri NRR. The boundary team for this portion of the Missouri River met in early April 1994 to develop goals and methods for boundaries that would accommodate four management alternatives: natural river processes that would emphasize natural resources management and the maintenance of pre-dam native fish and wildlife habitat; primitive river experience that would emphasize scenic values from the river with a focus on visitor experiences; recreation with an emphasis on enhancing recreational opportunities; and an emphasis on the history and culture of the river and its environs. The "No-Action" alternative would simply protect the free-flowing condition of the river while including bank stabilization structures, with minimal NPS involvement. Active and predicted erosion areas were to be included as a base for all alternatives, as was an emphasis on the reestablishment of natural river processes that would restore and enhance riparian habitats. The river continued to change, and the 1991 OHW already was outside the boundary that was delineated in 1985, making the determination of a boundary even more challenging.[350]

As it was finally constituted, the boundary formed a sinuous line around both the 39-mile and the 59-mile segments. The boundaries were drawn to reflect the preferred alternatives of the GMPs. These emphasized the maintenance or enhancement of natural and cultural resources and scenic qualities and streambank protection in the 59-mile segment and the rural landscape while protecting and enhancing significant natural and cultural resources in the 39-mile segment. The boundaries also took into account the restrictions placed on the acquisition of land and interests in land in the WSR Act and the 1991 legislation, which limited the government's ability to acquire land surrounding designated rivers in fee title to an average of 100 acres per mile on both sides of the river, and limited the acquisition of land from State, municipal, and Tribal governments. The boundaries include the river and its islands, and areas of active erosion sections and four archeological and cultural sites in the 59-mile segment. In the 39-mile segment, the boundary includes the Karl Mundt National Wildlife Refuge and other state and federal fee land within 0.25 miles of the river, and other land that could be periodically flooded by high releases from the Fort Randall Dam. The boundary for the 39-mile segment includes 33,324 acres, while the 59-mile segment comprises 35,800 acres.

[349] Memorandum, Superintendent, Niobrara/Missouri National Scenic Riverways to Regional Director, MWRO, Monthly Report, November 3, 1994. Files of Missouri NRR, Box NIMI I-3.
[350] Richard Inglis and Pat Lineback, Recommended Boundary Revisions: 1978 Missouri National Recreational River, August 1, 1994. Files of Missouri NRR, Box NIMI I-9.

Chapter 7: General Management Plans: 39-mile and 59-mile Segments

As described in Chapter 6, NPS had a daunting series of planning tasks in the 1990s: completing General Management Plans (GMPs) for three segments of river, evaluating whether a six-mile stretch of the Niobrara would be included in the Niobrara NSR pending the outcome of an irrigation project that had been proposed for that segment, and developing Special Resource Studies for a proposed National Park and a proposed National Recreation Area. All five planning documents, together with evaluation of the six-mile Niobrara River segment, were completed simultaneously by staff from MWRO, DSC, and the new Niobrara-Missouri National Scenic Riverways headquarters office in O'Neill, Nebraska. Adding to the challenges were lingering local resentment from the tumultuous origins of the 1991 legislation, which still faced substantial opposition, and ongoing complications of attempting to manage the original 59-mile segment of the Missouri NRR jointly with USACE.

Chapter 6 described the general approach and major topics in development of these planning documents, including development of boundaries and provisions for public input. Drawing on that general scope, this chapter looks more closely at the process of creating the GMPs for what is now the Missouri NRR through the 1990s, one for the original 59-mile segment and another for the new 39-mile segment, which included the lower portions of the Niobrara River and Verdigre Creek. Near the end of the decade, management of the Niobrara NSR was separated from that of the Missouri NRR, and a detailed discussion of its GMP will be found in its own Administrative History.

Planning Background and Interagency Cooperation: 39-mile and 59-mile segments

The 1991 legislation that designated portions of the Niobrara and Missouri Rivers and Verdigre Creek as either National Recreational Rivers or National Scenic Rivers passed in the face of significant opposition, particularly regarding the upper portion of the Niobrara River. However, the depth of local opposition to management of the Missouri River by NPS was far less, at least at the outset of planning and implementation. Two factors, in particular, contributed to this initially less-confrontational approach from landowners. The first was the long legacy of federal involvement in the river. USACE, under authority of the Flood Control Act of 1944 and the Pick-Sloan Plan, had profoundly altered the nature of the Missouri River, and landowners had become accustomed to working with, or complaining to, USACE. Another federal agency was something that they could take in stride.

Second, inclusion of the upper, 39-mile segment of the Missouri River in the 1991 legislation was done with very little notice. It was not included in early drafts of the bill that Congressional committees considered: it was added only for the final, compromise bill as developed by Rep. Douglas Bereuter. As a result, surrounding landowners had less time to develop a strategy of opposition. Indeed, Rep. Bereuter explicitly did not consult

with his South Dakota colleagues. In a letter to the Director of NPS in the summer of 1992, six months after passage of the act, Bereuter acknowledged that "the South Dakota congressional delegation was given no notice that any portion of its State would be included. It was not an oversight that I didn't include the South Dakota side in the legislation; it was one more potential source of controversy that I didn't wish to create."[351]

Bereuter's concern over stirring a hornet's nest of controversy proved prescient. It was true enough that residents along the section of the Missouri River between Lewis and Clark Lake and Fort Randall Dam, now the 39-mile portion of the Missouri NRR, were accustomed to coordinating with the federal government in the form of USACE. The difference, however, was that USACE's concern was for the water column only. In the 59-mile reach, loss of land to erosion as exacerbated by operation of Gavins Point dam was a concern, but, in the 39-mile reach, the concern was siltation, the accumulation of sediment in the impoundment behind Gavins Point dam. Both of these sets of problems were primarily within, or immediately adjacent to, the ordinary high water mark of the river. The new Missouri NRR planning process, however, involved a broader swath of land surrounding the river that included longer sight lines, more clearly-defined boundaries, and potential restrictions on private land.

Developing the GMPs for both the 39-mile and the 59-mile segments involved significant complications, but for different reasons. Because the 39-mile segment of the Missouri, along with the lower portions of the Niobrara and Verdigre, were new sections of the Missouri NRR that had been implemented without prior public involvement, landowner issues were a significant concern. Landowners there had experienced limited involvement from the federal government, aside from occasional forays in permitting with USACE. The type of land-use planning that was envisioned in the GMP process, however, was new to residents there and threatening to many. The appointment of a recreational river advisory group to help guide the planning helped to form a bridge between local residents and NPS, but tensions lingered.

The 59-mile segment of the Missouri, by contrast, had seen extensive federal involvement for nearly fifteen years by the time that GMP planning began. Rather than fears of too much federal involvement, landowners along the 59-mile segment were frustrated by lack of progress by the two federal agencies that held responsibility for the Missouri NRR: NPS and USACE. Recreational planning and bank stabilization were both parts of the original 1978 legislation, but bureaucratic challenges severely limited progress on those fronts throughout the 1980s and early 1990s. Challenges in development of the GMP on the 59-mile segment drew from a continued and intensifying difference in understanding the purpose of the Missouri NRR between NPS and USACE.

The NPS planning process, which was led primarily by the Denver Service Center (DSC) with support and coordination by MWRO and the new field planning office in O'Neill, Nebraska, relied extensively on interagency cooperation. The original Missouri NRR, of course, was, from the beginning, an interagency program with NPS and USACE

[351] Rep. Doug Bereuter to James M. Ridenour, NPS, June 18, 1992. Files of Missouri NRR, Box NIMI I-2.

that required cooperation between unlikely partners. As a result of threatened and endangered species identified in the 59-mile segment of the Missouri River, FWS had been extensively involved in management and administration of the Missouri NRR. With proposed revisions to USACE's *Master Manual* that regulated flows in the Missouri River, FWS intended to be deeply involved in the river throughout the 1990s. These key agencies had been working, if not cooperatively, at least contemporaneously, for nearly fifteen years when NPS began developing the GMPs for the two segments of the Missouri NRR following the 1991 designation.

In addition to these resource-specific, coordinated efforts, MWRO had been taking part in sporadic interagency meetings pertaining to the Missouri River, within and adjacent to the existing 59-mile Missouri NRR, through the late 1980s and early 1990s. Most of these meetings centered on the lakes created by USACE's Gavins Point and Fort Randall Dams. Attendees at these meetings included staff from NPS, USACE, FWS, and the affected state and local counties, municipalities, and agencies. The Lake Francis Case Interagency Council, for example, which met quarterly to discuss impacts on the lake behind Fort Randall Dam, was meeting regularly through 1992 and 1993, and provided opportunities for both formal and informal discussions regarding the new recreational rivers and their implementation.[352]

Relations with USACE were more complicated. While much about the original 59-mile segment of the Missouri NRR broke with tradition regarding the NWSR System, designation of the 39-mile segment of the Missouri River added yet another wrinkle. As discussed extensively in previous chapters, a river whose flows are tightly regulated by USACE is an outlier in the NWSR System, yet was made to work in the original Missouri NRR because both the Department of the Interior and the Department of the Army were identified as responsible for the reach in the 1978 legislation. The 1991 legislation that designated the 39-mile segment of the Missouri River, the flows of which also were tightly regulated by USACE, did not include the Department of the Army as a responsible party.

In late 1992, as initial plans were being developed for the two GMPs, NPS sent letters to several agencies inviting participation in the process as cooperating agencies. USACE replied in November 1992, that its agency should act as a co-lead agency for the 59-mile segment. "Being a co-lead in this reach," the Missouri River Division Engineer suggested, "may well be a legal requirement, since Congress gave us co-management responsibilities in the legislation designating the Recreational River." In addition, he noted, USACE developed the existing Environmental Impact Statement (EIS) for the 59-mile segment. The Division Engineer also suggested, but did not recommend, that USACE could be a co-lead agency for the new 39-mile segment "since both Fort Randall Dam and Lewis and Clark Lake are adjacent to the designated reach. Being co-lead in this reach is particularly significant to the Corps, since our regulation of releases from Fort Randall Dam directly, as well as indirectly, influences local riverine and terrestrial

[352] See, for example, "Minutes of the Spring Meeting, Lake Francis Case Interagency Council, April 15, 1992," attached to memorandum from Kenneth A. Swanda, USACE, September 15, 1992. Files of Missouri NRR, File 10A—Inter Agency.

resources."[353] NPS agreed to work with USACE as a co-lead for the 59-mile segment, but USACE served as only a cooperating agency for the 39-mile segment.

In addition to working with USACE, NPS reached out to other federal agencies and tribes. In particular, NPS cooperated with its sister DOI agencies, BLM and FWS, to assist in the GMP process as cooperating agencies. FWS first contacted NPS in December 1991, offering its expertise with wetland restoration, threatened and endangered species, fisheries, and instream flow issues, and its overall experience with restoration and management of the Missouri River.[354] NPS and FWS continued regular consultation during development of the two recreational river GMPs through the 1990s, subject to fluctuating federal budgets. In 1994, also, Superintendent Warren Hill contacted the Bureau of Indian Affairs (BIA), suggesting an Interagency Agreement between NPS, BIA, and American Indian tribes with lands along the Missouri and Niobrara Rivers: the Yankton Sioux Tribe, the Santee Sioux Tribe, Nebraska, and the Ponca Tribe of Nebraska.[355]

It is tempting to see the modern era of the Missouri NRR, which commenced in 1991, as a clean break with the past. Coordination among NPS, FWS, and USACE continued as before, however, along the original 59-mile reach of the Missouri NRR. Efforts to develop a new GMP for both components of the Missouri NRR, which began in late 1991 and continued through the late 1990s, took place along with ongoing, regular correspondence and debates over particular permit actions and potential river developments that extended back to the mid- and late 1980s. While much was new following the 1991 designation, the program of managing the river continued. The remainder of this chapter describes the process of developing the GMPs for the two separate components of the Missouri NRR following the 1991 designation. Subsequent chapters will address ongoing management issues that continued through the 1990s and into the new millennium.

GMP/EIS: 39-mile Segment of Missouri River, Lower Niobrara River and Verdigre Creek

Initial planning for the GMP for the new segment of the Missouri NRR added in 1991 began in the fall of 1992, after NPS filed a Notice of Intent on July 16, 1992. By October 1992, letters of invitation had gone out to all potential cooperating agencies, including the various counties in Nebraska and South Dakota that bordered the rivers, and the Yankton Sioux Tribe, the Santee Sioux Tribe, Nebraska, and the Ponca Tribe of Nebraska. NPS planned that these representatives would be public members of the planning group who would take part in scoping and providing additional input. With

[353] John E. Shaufelberger, Division Engineer, USACE to Don H. Castleberry, Regional Director, MWRO, November 20, 1992. Files of Missouri NRR, Box NIMI I-1.
[354] Memorandum, Deputy Regional Director, FWS to Regional Director, MWRO, December 3, 1991. Files of Missouri NRR, Box NIMI I-2.
[355] Warren Hill, Superintendent to Tim Lake, Superintendent, BIA, August 17, 1994. Files of Missouri NRR, File 10A—MOAs.

these initial invitations in place, NPS held an extensive internal planning team meeting at DSC offices in November 1992. The purpose of this multi-day meeting was to identify themes, ideas, and strategies that would be developed in the GMP for each of the two segments.

The result of this meeting was statements regarding the mandate, purpose, significance, and interpretive themes for each segment. Mandates for the 39-mile segment, including the lower Niobrara and Verdigre, were slightly more extensive than those for the original 59-mile segment, likely as a result of it being a newer section. As with the older 59-mile segment, mandates for the new segment included allowing compatible streambank erosion control measures that would protect the resources and aesthetics for which the river was designated, adding no additional requirements for bridge replacement, forming an advisory group, maintaining existing patterns of land use that are consistent with the purposes of the WSR Act, consulting and cooperating with all levels of government and the public in developing the boundaries and the GMP, and limiting government purchases of land, assuming effective local protection of resources. The purposes for the 39-mile segment, meanwhile, like the original segment, included preserving the river in a free-flowing condition, preserving a range of natural and cultural resources in the river corridor, providing for recreation that does not result in adverse impact, and creating a climate in which the local communities could benefit economically.[356]

While the mandates and purposes were derived principally from the legislation that designated each section and the tenets of the WSR Act, the statements of significance were more original and tailored to the Missouri River. The key point of significance for both segments was that they are the last remaining segments of the central Missouri River that had not been dammed or channelized and remained in their free-flowing state. All other components of the statements of significance drew from this central point: the boating experience that is different and more challenging than on other parts of the river, the wider range of habitats that allowed for hunting and fishing opportunities, and the relatively undeveloped segments of river that provide excellent examples of rural historic landscapes with scenic vistas and traditional land uses. In addition, the statements of significance highlighted the role of American Indians in the region, including the meetings between American Indians and the Lewis and Clark Expedition, and the return of Ponca Chief Maⁿchú-Naⁿzhíⁿ (Standing Bear) from the Ponca Reservation in Oklahoma to the Ponca Niobrara River homeland which led to a landmark Supreme Court case that affirmed the personhood of American Indians under the Constitution. Finally, the statements of significance also referred to the role of the two river segments in providing essential habitats for federally listed threatened and endangered species, including the piping plover, least tern, and pallid sturgeon.[357]

[356] Revised purpose and significance statements, Niobrara/Missouri National Scenic Riverways, attached to memorandum from Team Captain, DSC to Missouri River Planning Team, December 22, 1992. Files of Missouri NRR, Box NIMI I-1

[357] Ibid.

The interpretive themes, meanwhile, were primarily historical in nature. Emphasis was on the role of the Missouri as a highway between east and west, from the early explorers through Lewis and Clark to the nineteenth and early twentieth centuries. The interpretive themes also included the American Indian history of the river and its environs, both in prehistory and in the nineteenth and twentieth centuries, and the relations among the tribes in the region and between American Indians and the new Euro-American settlers.[358]

With the basic concepts and approaches for the two segments established, DSC took the lead on developing the GMPs for the Missouri NRR, while the O'Neill office took the lead on the Niobrara NSR and the special studies. The Midwest Archeological Center (MWAC), meanwhile, began taking part in the GMP development in early 1993 and helped to push the planning team to do better at recognizing the role of American Indians and their importance, both in the planning process and in the history of the region. As discussed in Chapter 6, relations with the American Indian tribes were challenging at times during discussions of boundaries and resulted in a lawsuit to establish the authority of NPS to determine boundaries on reservations.

DSC released its Final Task Directive in May 1993 with strategies and approaches for developing the GMPs. One of the key components of the Task Directive was public involvement.[359] During the winter of 1992-1993, NPS staff held public input meetings to gauge public interest and gather data.[360] The general approaches and purposes of public involvement in the overall planning process through the 1990s have been discussed in Chapter 6. One of the essential tools specifically for the GMP process was an occasional series of newsletters. These newsletters, which were distributed to approximately 1,300 local residents and other interested parties, allowed NPS staff to provide updates on the planning process and, significantly, to request input from the public. The first newsletter, in August 1992, focused primarily on the Niobrara NSR, but subsequent issues provided information and solicited input on both the 39-mile and the 59-mile Missouri NRR segments.

The DSC team continued to work through 1993 on refining the significance statements and desired futures for the 39-mile reach of the Missouri and the lower Niobrara River and Verdigre Creek, which would allow NPS to meet the mandates and purposes identified in the initial planning meetings. The results of this initial planning provided content for the first newsletter to address the Missouri NRR, which was released in November 1993. The goal of the newsletter was to present these draft statements to the public and to solicit comments on them. The newsletter acknowledged concerns that NPS had heard from local constituents regarding large-scale recreational development but sought to reassure local residents that the plan "is not to bring wholesale recreational

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[358] Ibid.

[359] Final Task Directive, General Management Plans'/Environmental Impact Statements and Special Resource Studies/Environmental Assessments, Package No. 100, Niobrara/Missouri National Scenic Riverways, May 1993. Files of Missouri NRR, Box NIMI I-3.

[360] Meeting notes, Lewis and Clark Interagency Meeting, March 18, 1993, including comments from Warren Hill regarding Niobrara-Missouri National Scenic Riverways planning efforts. Files of Missouri NRR, File 1-A-2, Natural Resource Management.

development to the area. Components of the national wild and scenic rivers [sic] system, whether classified as wild, scenic, or recreational, are all managed to protect and enhance their significant resources."[361]

The first newsletter generated a great deal of response, which the DSC-led planning team used to develop draft management alternatives. By May 1994, the team had developed three management alternatives, together with a fourth, "no-action" alternative. A requirement of the EIS process, "no-action" alternatives provide a baseline against which the action alternatives can be evaluated. Alternative 1 emphasized managing the river for its biological diversity, with the goal of improving "the quantity, quality, and diversity of native wildlife habitat." Alternative 2 emphasized opportunities for visitor recreational use, though balancing increased recreational use with protections for significant natural resources. Alternative 3 sought to emphasize the rural agrarian landscapes that frame the designated segments, while preserving significant natural resources and allowing only limited recreational facilities. Alternative 4 was the "no-action" alternative, which would preserve the conditions after the 1991 designation and protect the free-flowing condition of the river segments and the significant resources of the immediate environs, but would involve only minor NPS activities. The newsletter included a reference to a fifth, "minimalist" alternative that was also being developed "by a select local team who are also members of the planning team."[362]

DSC, with the input of the NPS planning team, local cooperating groups, and the 39-mile advisory group, continued to develop the planning alternatives through the summer of 1994. At the same time, as described in Chapter 6, the boundary alternatives that reflected these management goals were being refined. In September of that year, the second newsletter was released. This newsletter provided an outline of the management alternatives and the corresponding boundary, and requested public input on them.

The September 1994, newsletter addressed other concerns as well. Significantly, this was the first public discussion of the role that proposed revisions to USACE's *Master Manual*, which controls the flow of water in the Missouri River, would have. The newsletter informed its readers that changes to the *Master Manual* were still being evaluated, a process that would assess effects of alternative water flows on "economic uses, flood control, navigation, hydropower, water supply, recreation, and habitat for native fish and wildlife species." The principal change being proposed to the *Master Manual*, according to the newsletter, was to provide a 20,000 cubic foot per second (cfs) increase during the spring above the present releases, which "would more closely mimic the natural flow pattern of the river that existed before the construction of the mainstem [sic] dam system." These revisions, the newsletter was careful to note, were "occurring independent of the recreation river study."[363]

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[361] "Fort Randall Dam to Lewis and Clark Lake, Lower Niobrara River, And Verdigre Creek," Planning Newsletter, November 1993.
[362] "Missouri National Recreation River—May 1994 Update." Files of Missouri NRR, Box NIMI I-2.
[363] "Fort Randall Dam to Lewis and Clark Lake, Lower Niobrara River, And Verdigre Creek," Planning Newsletter, September 1994.

By this time, opposition to any federal involvement on the 39-mile segment of the Missouri River was beginning to solidify. As NPS was developing the different management alternatives in the summer and fall of 1994, they also began working with surrounding counties on ways to encourage local control of the river to protect the designated section's values. In NPS lexicon, 'values' are the features of a place that make it special to the people of the United States, such as an outstanding view, a rare recreational opportunity, or the site of some important event in American history. Within the context of the WSR Act, moreover, river segments are designed in order to protect "Outstandingly Remarkable Values" that may include natural resources such as valuable habitats, particular species of plants or animals, water quality, scenic vistas, or historic and cultural resources, together with the river's free-flowing nature.[364]

In developing the GMPs for both the Niobrara NSR and the Missouri NRR, NPS sought to emphasize local control to the extent possible. The goal was to minimize the degree of federal impact on the river and on those who lived along it. The relative openness of the planning team meetings, along with the newsletters, was a way of allowing for local participation. With regard to management of the river, however, local control was vital to preserving and protecting the values for which the assorted river sections were designated.

Over the course of the GMP development process, NPS sought to identify various means to encourage local control that would still allow for protection of the Missouri NRR's outstandingly remarkable values. The first, most obvious tool was zoning. The rivers, especially the components of the Missouri NRR, flow through primarily private lands. Because the 1991 legislation placed strict limitations on the ability of NPS to acquire lands or interests in lands along the rivers, NPS is able to exert very little direct control. NPS's ability to condemn land or interests in land for acquisition is strictly conditioned by the need to protect the river's scenic or recreational values. This can be an expensive process and a heavy-handed approach that can generate ill-will among residents who live on or near the river. Instead, NPS's goal was to encourage the counties that bordered on the designated stretches of river to enact zoning laws that, unlike federal guidelines, would be enforceable. The goal would be to limit development of shores of the rivers in order to maintain as natural-looking a river as possible.

The idea of meaningful zoning laws as a way to forestall the need for federal designation of the Niobrara River under the WSR Act was tried in the mid-1980s, and did not succeed.[365] The counties along the Missouri NRR portions of the Niobrara, Verdigre, and Missouri were reluctant to enact comprehensive zoning ordinances for the entire counties "to accomplish river protection in a narrow corridor." One approach, which NPS encouraged, was development of "partial county zoning," allowing counties to manage land uses for those sections that adjoined rivers and lakes. NPS also explored the possibility of using "greenbelt" laws that would give local entities the ability to manage development along the river corridors. Both actions would require state intervention, and,

[364] A more detailed discussion of the Missouri River's Outstandingly Remarkable Values can be found in Chapter 8.
[365] See Chapter 3 for a discussion of options to protect the Niobrara River through local means.

during the GMP process, NPS worked, especially with the State of Nebraska, to allow them.[366]

The search for options for local control continued throughout the GMP planning. In July 1994, for example, the O'Neill headquarters office staff reviewed a draft zoning ordinance from Charles Mix County, South Dakota, which borders much of the north side of the 39-mile segment of the Missouri River. In a letter to the County Commissioners, Superintendent Warren Hill applauded the county for looking into zoning for the river, predicting that, not only the new Missouri NRR, but also the growing recreational development of Francis Case Lake and the proposed casino development on the Yankton Sioux Reservation would bring changes that need to be addressed. Hill pointed out that "We have included effective county zoning, and provided to you an example of such, as one of the methods that could be used to protect the values for which the Missouri River was designated as a recreational river."[367]

Later that year, in December 1994, NPS hosted a workshop on local protection methods. Zoning was the principal method discussed, but topics also included voluntary land protection techniques, less-than-fee acquisitions, and land trusts.[368] In early 1995, Hill was in discussions with local and state officials in Nebraska regarding use of Sanitary and Improvement Districts to effect a degree of local control, an approach that was allowed under Nebraska state law but which was normally created by associations of local governments and developers. NPS, he concluded in a letter to a local official, needed "to open up a discussion of the possibilities for use of this authority to retain local management and meet the requirements of the Wild and Scenic Rivers Act."[369]

Refinement of the management alternatives, with the goal of maximizing local control, and definition of boundaries that reflected the different alternatives continued through the spring of 1995. Public comments resulting from the November 1994, newsletter were summarized by March, 1995, and development of the GMP proceeded through 1995, including development of a preferred management alternative. On December 18, 1995, NPS submitted a draft GMP to the Missouri NRR advisory group for review. In his transmittal letter to the advisory group, Hill pointed out the no-action alternative "would not implement the act as congress directed." Aware that this was an important consideration for members of the group, he also highlighted the section of the Act regarding "assurances regarding no condemnation and existing land rights." Hill noted that, since the last advisory group meeting, several landowners had contacted the O'Neill office about voluntary agreements for land protection and that an agreement with one landowner was in the works. "From this experience," Hill concluded, "we know that

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[366] Testimony of Warren H. Hill before the Natural Resources Committee, Legislature of Nebraska, December 14, 1996. Photocopy from private collection of Warren H. Hill.
[367] Warren H. Hill, NPS to County Commissioners, Charles Mix County, July 19, 1994. Files of Missouri NRR, File 1.A.2., Natural Resource Management.
[368] Managing Land along Protected Rivers, Workshop Schedule, December 7, 1994. Files of Missouri NRR.
[369] Warren Hill, NPS to Robert Courtney, January 11, 1995. Files of Missouri NRR, Box NIMI I-2. Emphasis in original.

the plan shown in alternative five will work when people sit down and reason together."[370]

Of the five management alternatives presented in the draft GMP, the preferred alternative was one that emphasized the rural landscape, maintaining patterns of land use, level of development, and visitor use, and relied on local property owners and officials to protect the values of the river. After a lengthy internal review by the advisory group and NPS, the draft GMP was released to the public for review. During the ensuing review period, as the broader public outside of the cooperating local officials and individuals had their first look at the proposals, opposition to both the specific components of the plan and to the entire concept of NRR designation of the 39-Mile stretch of the Missouri bubbled to the surface.

NPS held public meetings to discuss the plans in nine locations on both the Nebraska and South Dakota sides of the river in mid-August 1996. This series of nine meetings drew a total of only eighty-three people, some of them attending multiple sessions. Although only a minority of landowners attended, the mood of the meetings was frequently confrontational, with "a consistent, relentless attack by some of the landowners on the validity of the plan, the need for the river designation, and urging that the NPS adopt no plan." Those who accepted the validity of the plan, meanwhile, wanted details of specific impacts to their properties. At the same time, Senator Larry Pressler (R-SD) responded to complaints from his constituents by challenging the validity of the Missouri NRR. A member of his South Dakota office staff called the O'Neill office and WASO, urging greater accommodation with local landowners' views. In one call to the O'Neill office, "she became very agitated over our refusals to recommend de-authorization of the river or inclusion in the plan of capitulation of all management action in South Dakota." The Missouri NRR advisory group, meanwhile, faced the same challenges. An August 22, 1996 meeting of the advisory group was held to discuss the draft GMP for the 39-mile section and included a long conservation about the problem of sedimentation at the mouth of the Niobrara River. According to a report of the meeting, "Audience members, mostly South Dakota land owners, continued their harsh questioning from the public meetings, with similar tone and intent." [371]

An advisory group meeting during the public comment period, in August 1996, brought to light two concerns in particular. First, the group felt that the problem of siltation at the mouth of the Niobrara River, where it entered the Missouri, needed to be addressed. Second, most felt that the draft GMP was too vague, leaving open too many possibilities for change; "this might allow for future changes to the plan or misinterpretations by future managers of the recreational rivers."[372]

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[370] Memorandum, Superintendent, Niobrara/Missouri National Scenic Riverways to Missouri National Recreation [sic] River Advisory Group, December 18, 1995. Files of Missouri NRR.
[371] All quotes in this paragraph from Monthly Report, Superintendent, Niobrara/Missouri National Scenic Riverways to State Coordinators, Nebraska and South Dakota, August 1996, September 9, 1996. Files of Missouri NRR, Box NIMI I-3.
[372] Press Release, "Comment Period Extended for Recreational River Plan," August 23, 1996. Files of Missouri NRR, Box NIMI I-3.

The complaint of vagueness was repeated often in public comments on the draft GMP, which the NPS received in the late summer and fall of 1996. Both the proponents of NRR designation and those who opposed it were concerned that lack of specificity in management recommendations would allow others to misinterpret the plan and move management of the Missouri NRR in unanticipated directions. In rejecting all five management alternatives, for example, the South Dakota Cattlemen's Association concluded that "Many of the proposals set forth in the EIS Draft are vague at best and not in the best interests of the present private landowners."[373] The National Parks and Conservation Association, meanwhile, criticized the plan for not being clear enough on enforcement of measures to protect the values of the river. "The language used in the plan creates the impression that the NPS and its partners will establish mandatory guidelines that must be considered for resource protection, visitor use and management protection of cultural resources and land use within park boundaries, but that it is discretionary for the park partners to follow these guidelines."[374]

In contrast to the local organizations and individuals who complained that NPS was exerting too much control, both the National Parks and Conservation Association and the National Audubon Society expressed grave concern that the draft GMP relied too much on cooperative methods and allowance for local control and not enough on enforcement by NPS of measures designed to protect the river's natural values.[375] Both proponents and opponents, however, expressed concern over the potential for problems with increased visitor use. Those who opposed the NRR designation were concerned that an increase in visitors would adversely impact their properties and the peace of the natural river setting, while those who supported the NRR and its vigorous enforcement were concerned about potential impacts from visitors on natural resources, particularly threatened and endangered species. According to comments from FWS, "One of our specific concerns in future years may be the potential cumulative impact of increased visitor use resulting from a number of activities on least tern and piping plover nesting success on the lower Niobrara and Missouri River."[376]

While the public comment period on the draft GMP ended on September 14, 1996, other comments, including from other federal agencies, continued to come in through the fall and early winter of 1996. An important change within NPS took place in early 1997, when Warren Hill announced his retirement from NPS. Paul Hedren, Superintendent of Fort Union Trading Post National Historic Site, North Dakota, was chosen to take Hill's place as Superintendent of the Missouri NRR, and kicked off his new position by attending a natural resources conference on the Missouri River on January 13, 1997. He began work at the O'Neill headquarters office later that month and was responsible for guiding the GMP for the 39-mile segment to its final version. After

[373] Michael L. Schmidt, Secretary, SD Cattlemen's Association to Superintendent, Niobrara/Missouri National Scenic Riverways, August 24, 1996. Files of Missouri NRR, Box NIMI I-4.
[374] Lori M. Nelson, National Parks and Conservation Association, to Superintendent Warren Hill, NPS, September 1, 1996. Files of Missouri NRR, Box NIMI I-4.
[375] Ibid., Ron Klataske, National Audubon Society, to Warren Hill, NPS, September 11, 1996. Files of Missouri NRR, Box NIMI I-4.
[376] Field Supervisor, FWS to Warren H. Hill, NPS, September 6, 1996. Files of Missouri NRR, Box NIMI I-4.

extensive revisions resulting from comments submitted in late 1996, NPS released the final GMP in July 1997. The final GMP retained its preferred alternative, identified as alternative five in the plan, with an emphasis on rural landscape preservation while protecting biologically significant bottom lands. The recommended boundary associated with this management alternative was a minimum 200-foot setback from the ordinary high water flow of the river, plus federal and state fee lands within one-quarter mile of the rivers, together with several significant fish and wildlife habitat areas. The boundary also included riparian areas that were flooded by USACE releases from Fort Randall Dam up to 60,000 cfs. For the lower Niobrara and Verdigre portions of the Missouri NRR, the boundary included a minimum setback of 200 feet from the ordinary high water mark, and significant natural areas as identified by the Nebraska Game and Parks Commission.



Figure 7: Superintendent Paul Hedren, undated. Photo provided by Missouri NRR.

Despite concerns voiced by conservation organizations following the draft GMP, the final GMP maintained its emphasis on local control and traditional land uses, including farming and ranching within the Missouri NRR boundary. "Because of congressional direction, budgetary restrictions, and the desire of local residents for local control, the preferred alternative relies heavily on the use of cooperative methods to protect significant river-related resources. Under this alternative, local officials and residents would be encouraged to pass zoning ordinances and other land use measures that incorporate provisions to protect river-related resources. In addition property owners along the river would have a responsibility for the upkeep of their properties and for minimizing any impact their property might have on the recreational rivers."[377]

[377] *Final General Environmental Plan/Environmental Impact Statement, Missouri/Niobrara/Verdigre Creek, National Recreational Rivers, Nebraska, South Dakota*,1997, 81.

Monitoring of resources on private lands would be with owner consent only, while acquisition of land through purchase in fee, or interests in land through purchase of easements, would be from willing sellers only.

The final GMP did not actively encourage visitor use. The plan allowed for only existing recreational sites, with restrictions on facility capacity that would limit visitor use, and no new federal, state, or county facilities were proposed. Improvement of existing facilities was allowed, but not expansion. Boat ramps lost to siltation could be replaced at other locations within the Missouri NRR, so long as it was feasible and environmentally suitable.[378]

After a final review and comment period, the Record of Decision (ROD) for the final GMP/EIS was released on October 24, 1997. The ROD provides an excellent summary and analysis of the final GMP and its provisions. With regard to the provision for local control, the ROD explains that none of the counties currently had zoning restrictions, but that "cooperative land owner agreements, voluntary easements, and deed restrictions could be used to control development." Should these not prove effective at controlling development that could threaten river resources, "the plan states that the current policy of no-condemnation will have to be revisited." The ROD also notes that the Yankton Sioux Tribe had challenged in court the Missouri NRR boundary across its land, and the issue had not yet been settled. When it is settled, the ROD affirms, the NPS will abide by the final court decision. The ROD concludes its analysis with the opinion that the preferred alternative "is considered the most effective alternative for meeting the legislative intent of protecting river values and maintaining the existing economic uses along the river."

General Management Plan/Environmental Impact Statement, 59-mile Segment

NPS staff began planning for a GMP for the original 59-mile segment of the Missouri NRR at the same time as for a GMP on the new 39-mile segment. In November 1992, the planning team assembled at DSC offices to develop the mandates, purposes, and statements of significance for the original segment. These statements would then guide strategies for creating the GMP, including management alternatives. An added twist for this original portion of the Missouri NRR, designated in 1978 and managed minimally since then by NPS and USACE, involved not just how the river segment would be managed but the more fundamental question of who would manage it.

Mandates for the original 59-mile reach were developed at the initial planning team meeting in late 1992. These mandates included permitting access for water supply for adjacent uses, providing for construction of recreational river features and streambank stabilization structures that the Secretary of the Army deemed necessary, maintaining existing patterns of land use and ownership (consistent with the purposes of the WSR Act), managing the segment cooperatively with USACE, consulting with all levels of

[378] Ibid., 83.

government and the interested public on development of the GMP and boundaries, and permitting hunting and fishing access. The purposes for the 59-mile segment, meanwhile, included preserving the river in a free-flowing condition, preserving a range of natural and cultural resources in the river corridor, providing for recreation that would not result in adverse impact, and creating a climate in which local communities could benefit economically.[379]

Components of the statement of significance for the 59-mile segment were similar to that of the new 39-mile segment and revolved around their being the last representative parts of the undammed middle Missouri River, the section that extends from Fort Randall Dam downriver to Kansas City. Retaining much of their original appearance, unlike the majority of other Missouri River reaches influenced by development and human intervention (e.g. channelization and impoundments), the 59-mile segment and the new 39-mile segment serve as a reminder of the historic role of the Missouri as a vital transportation route to the frontier West in the nineteenth century. The rivers allow visitors to experience both traditional historic rural landscapes and "a primitive large river recreation environment that is scarce in the midwest." In addition, as relatively natural rivers, despite control of flow conditions by USACE, this stretch contains habitat for many federally listed threatened and endangered species, including pallid sturgeon, interior least tern, and bald eagle.[380]

As previously detailed, the planning team developed joint interpretive themes for both segments of the Missouri NRR. These themes were primarily historical in nature. Emphasis was on the role of the Missouri as a highway between east and west, from the early explorers through Lewis and Clark to the nineteenth and early twentieth centuries. Interpretive themes also included the American Indian history of the river and its environs, both in prehistory and in the nineteenth and twentieth centuries, and the relations among the tribes in the region and between American Indians and the new Euro-American settlers.[381]

The Task Directive for NPS planning documents, released in 1993 and described previously, guided the work of the GMP for the 59-mile segment. Like the 39-mile segment, the Directive included extensive public input. While initial planning for both segments began at the same time, in early 1993, NPS delayed for a year before soliciting input on the original 59-mile segment in order to get the new, 39-mile segment under way. As with the 39-mile segment and the Niobrara NSR, occasional newsletters were one of the key methods for informing the public of progress on the plans and for soliciting public input.

An internal planning team meeting in early January 1994 for the 59-mile segment revolved around two related issues: flows in the river as controlled by USACE and subject to change with revisions to the *Master Manual*; and lingering problems with

[379] Final NPS/Agency Revisions, Niobrara/Missouri National Scenic Riverways, February 19, 1993. Files of Missouri NRR, Box NIMI I-1.
[380] Ibid.
[381] Ibid.

management of the designated river segment based on the original, partially-defined division of labor among NPS, USACE, and FWS. Potential for a new flow regime impacted the Missouri NRR boundaries and where the floodplain would be, the potential habitats for terns and plovers, and bank stabilization. Ongoing uncertain management of the river, however, put into question how the GMP would be implemented and funded, and control over riverine development was, likewise, unclear. Unlike with the 39-mile segment of the Missouri NRR, in which USACE had no role, planning for the 59-mile segment also had to take into account possible new management arrangements, given the growing distance in perceptions of the federal government's role in the Missouri NRR between USACE and NPS, as described in Chapter 5. Along with draft management alternatives for the Missouri NRR as developed for the 39-mile segment, the January 1994, planning meeting also considered more fundamental management arrangements among the involved federal agencies. In the course of the planning meeting in January 1994, four alternate management concepts were developed: designate NPS as the lead federal agency, with the option of designating FWS only if the natural river processes management alternative is chosen as the preferred alternative; designate a cooperative arrangement among state agencies as the lead agency; designate a local or county government as the lead agency with federal oversight; and maintain USACE as the active manager under the existing cooperative agreement.[382]

Preliminary work for the 59-mile segment's GMP continued through 1994. The newsletter released in November 1994, presented results of these initial planning sessions. The newsletter included a brief discussion of the ongoing process of revising the *Master Manual*, the management framework that USACE uses to regulate the flow of water throughout the Missouri River as discussed previously with regard to the development of the 39-mile GMP."[383] The November 1994 newsletter also presented five possible management alternatives for the 59-mile segment, drafts of which were developed through the summer of 1993.[384] Of the five, one was the "no-action" alternative that would continue current management under the original cooperative agreement that had been in place for the past fourteen years. Of the proposed new management scenarios, Alternative A emphasized natural river processes, preserving, enhancing, and restoring natural river functions with the goal of establishing "native fish and wildlife habitat conditions similar to those that existed prior to the construction of the dams along the river." Alternative B emphasized the scenic values of the river, focused on the visitor experience, and would work to limit riverside development, encourage revegetation along the banks, and maintain the river shoreline. Alternative C emphasized recreational opportunities, with land protection strategies to control development but provide for visitor facilities and access. Finally, Alternative D focused on the history and culture of the river and its environs, with land protection objectives of maintaining the

[382] Meeting Notes, 59 Mile General Management Plan Meeting, Vermillion, South Dakota, January 11, 1994. Files of Missouri NRR, Box NIMI I-1.
[383] "Missouri National Recreational River, Gavins Point to Ponca State Park," Planning Newsletter, November 1994.
[384] Warren H. Hill, "59 mile Missouri River description of alternatives," attached to email from Hill to Lynn Peterson, NPS, September 29, 1993. Print-out of email in files of Missouri NRR, Box NIMI I-1. Revisions attached to email from Dean Alexander, NPS to Lynn Peterson, NPS, October 1, 1993. Print-out of email in files of Missouri NRR, Box NIMI I-1.

rural setting, restricting development, and encouraging landscape maintenance outside the Missouri NRR boundaries. As with other newsletters, the November 1994 newsletter specifically solicited input on these management alternatives with a series of questions for respondents to answer.[385]

Revisions to the draft GMP for the 59-mile segment proceeded slowly through 1995 and well into 1996, as attention was diverted to work on the Niobrara NSR. The federal shut-down that resulted from a budget dispute between President Bill Clinton and the Republican-controlled Congress, lasting from November 1995 to early January 1996 created additional delays, as proposed meetings could not be held. In addition, DSC was burdened with coordinating all planning efforts, including the GMPs and the two special studies. In the face of budget constraints and the federal government shutdown, and recognizing the need to complete the concurrent 39-mile segment GMP, DSC turned over responsibility for the 59-mile segment's GMP to the O'Neill office, which handled all coordination on the plan from then on.[386]

Relations with USACE also were complicating the process, and that, along with continued staff changes within the O'Neill office, made for even slower progress. The O'Neill office planner, Kent Schwarzkopf, took the lead on revising the draft GMP, which was scheduled to be delivered to DSC for review at the beginning of November 1996.[387] Internal revisions continued into the spring of 1997, and, by this time, the NPS planning team had reduced the management alternatives to two, with a third being the "no-action" alternative.[388] While the revisions were continuing, Kent Schwarzkopf transferred to the Appalachian National Scenic Trail, Warren Hill retired, and Paul Hedren was named to replace him as Superintendent.[389]

Chuck Cranfield, a Management Assistant at the O'Neill office, was assigned to lead the on-going revisions of the GMP in the summer of 1997, and began working with Becky Latka, USACE's coordinator for the Missouri NRR, on visitor use issues. By the summer of 1997, however, continued coordination with USACE was in jeopardy: "At this time, COE participation in GMP development and cooperative recreational river management is undetermined following a COE regional decision to pull out of the project."[390] At the same time, consolidated internal NPS review comments on the draft GMP were very slow in coming during the summer of 1997, setting up further delays.[391]

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[385] Planning Newsletter, November 1994.
[386] Annual Superintendent's Report for 1996, Niobrara/Missouri National Scenic Riverways, February 14, 1997. Files of Missouri NRR.
[387] Project Report, Niobrara/Missouri NSR, 59-Mile GMP/EIS, October 29, 1996. Files of Missouri NRR, Box NIMI I-3. See also memorandum, Superintendent, Niobrara/Missouri National Scenic Riverways to State Coordinators, Nebraska and South Dakota, monthly report, September 9, 1996. Print-out of email, Files of Missouri NRR, Box NIMI I-3.
[388] Memorandum, Regional Director, Midwest Region to Field Supervisor, FWS, March 10, 1997. Files of Missouri NRR, File 1A.2, T/E Species.
[389] Memorandum, Acting Coordinator, Homestead to Regional Director, MWRO, State Coordinator's Report, June, 1997. Files of Missouri NRR, File L7019 (HOME).
[390] Ibid.
[391] Email, John Holbrook, DSC to Al Hutchings, NPS, et al., August 7, 1997. Print-out of email in files of Missouri NRR, Box NIMI I-4.

Finally, in late November 1997, DSC released an in-house draft GMP for a final review by MWRO, USACE, and the O'Neill office before releasing it to the public.[392] This revised draft retained the two management alternatives and the third "no-action" alternative. The preferred alternative was later summarized concisely as "managing the natural land and water scape on an equal basis with the legislative mandates of providing recreational opportunities and bank stabilization."[393]

USACE took nearly six months to review the draft GMP and sent its comments to MWRO in early May 1998. While USACE conceded that the draft GMP was improved from earlier drafts, there were still extensive and substantive comments. The most fundamental comment involved the preferred management alternative itself, which established protecting and restoring the Missouri River as a relatively natural ecosystem as a primary goal. This approach, according to USACE, had two flaws. First, it was in contradiction to the intent of the original 1978 legislation which, USACE claimed, included the 59-mile reach "because of outstanding recreational, fish and wildlife, historic and cultural attributes," but did not include biological diversity. Restoration of biological diversity, USACE argued, had become a surrogate for protection and enhancement of fish and wildlife values and was a much broader interpretation than the original legislation intended. Second, the draft GMP identified protection and restoration of the Missouri River's ecosystem as a goal; as USACE noted, the 59-mile segment is an extremely small component of the overall Missouri River. USACE also cited differences in policy regarding threatened and endangered species between NPS and USACE, disputed NPS's description of cost-sharing for land protection, habitat restoration, and fish and wildlife enhancement, and requested that references to proposed changes to the *Master Manual* be removed from the GMP.[394]

DSC took the lead on revising the draft GMP in May and June 1998 with the goal of releasing it for public comment in August,1998. Copies of the revised draft GMP were sent to the MWRO, the O'Neill Office, the NPS Washington office, and USACE, with a request for a very fast turnaround.[395] USACE complied and returned another extensive list of comments in early July, noting that only a portion of its earlier comments had been incorporated. Among the many comments which USACE made, the key objection remained on the preferred management alternative that included "'minimizing the effects of the mainstream dams'" which, USACE argued "is not an appropriate goal. The designation of this stretch of river was deemed compatible with the mainstream dams. If that is no longer the case, perhaps an alternative that should be considered is deauthorizing its National Recreational River status." Likewise, the revised draft GMP's emphasis on the Missouri River watershed "appears to go beyond the current authority, as

[392] Memorandum, Superintendent, Homestead National Monument of America to Regional Director, MWRO, State Coordinator's Report for November, 1997, December 18, 1997. Files of Missouri NRR, File L7019 (HOME).
[393] Memorandum, Superintendent, Missouri National Recreational River to GMP/EIS Planning Team, Missouri National Recreational River, June 11, 1988. Files of Missouri NRR, Box NIMI I-4.
[394] Michael S. Mueleners, USACE to William W. Schenk, NPS-MWRO, May 5, 1998. Files of Missouri NRR, Box NIMI I-4.
[395] Memorandum, Jon H. Holbrook, DSC to Regional Director, MWRO, June 16, 1998. Files of Missouri NRR, File 1.A.1., Environmental Impact/Policy.

does the focus on 'restoration' instead of protection and preservation." Finally, USACE complained that, in its discussion of Fish and Wildlife, the revised draft GMP sought to identify "blame" for the effects of the mainstream dams including the blockage of migrating fish and changes to the natural flow of the river. "The environment is the one in existence," USACE argued, "and we are not trying to mitigate for the construction of the main stem dams. Eliminate this entire discussion."[396]

In its reply to USACE, NPS held fast to its positions and changes, making only modest revisions. In regard to USACE's concern over minimizing the effects of the dams, NPS replied that "such is clearly Congressional policy as expressed in 1(b) of the Wild and Scenic Rivers Act (WSRA)," though it did adjust some of the language as suggested by USACE. Restoration and enhancement, moreover, "are NPS prerogatives consistent with mandates, regulations, and policies governing the National Park System." Finally, NPS contended that it did not assign blame for the effects of the dams, and referenced the WSR Act, which spoke of balancing the nation's policy of dam construction with the preservation of free-flowing rivers.[397]

The draft GMP for the 59-mile segment was finally released for public comment at the beginning of October 1998. This draft plan retained the two management alternatives with the third "no-action" alternative. The preferred alternative called for NPS and USACE to manage the river segment cooperatively, with USACE focusing its efforts on water-related resources and NPS on land-related resources. In this preferred alternative, "natural resource protection, habitat restoration, and recreational development are weighted equally in management decision-making. Continuation of rural lifeways and agriculture along the river are important features of each alternative."[398]

NPS held a series of public meetings regarding the draft GMP in Nebraska and South Dakota in November and December 1988. As a result of the meetings and distribution of the draft GMP, more than 800 comment letters were submitted, though over 700 of them were identical cards submitted by the Sierra Club. NPS and USACE planning teams met in May to review and address these responses.[399] Discussions to resolve ongoing management issues with USACE, however, continued into the spring of 1999. According to Park Planner Lynn Peterson at DSC, relations between NPS and USACE had been collegial through much of the GMP process beginning in 1992 and included regular meetings. Beginning in early 1998, however, the Omaha District office

[396] Michael S. Meuleners, USACE to William W. Schenk, NPS, July 7, 1998. Files of Missouri NRR, Box NIMI I-4.
[397] David Given, NPS to Michael S. Meuleners, USACE, July 29, 1998. Files of Missouri NRR, Box NIMI I-4.
[398] Press Release, "Missouri Rec River Management Plan Released for Public Review," October 18, 1998. Files of Missouri NRR, Box NIMI I-4.
[399] Memorandum, Deputy Superintendent, Homestead National Monument of America to Regional Director, MWRO, State Coordinator's Report for May, 1999, June 23, 1999. Files of Missouri NRR, File L7019 (HOME).

of USACE, "primarily their legal counsel, has been totally obstinate and questioning on basic issues, that ultimately have caused continuous gradual project delays."[400]

Despite these challenges, the issues were resolved by late May, but revisions and discussions to the GMP continued throughout the summer of 1999. A final GMP and EIS were completed early in the fall, and the Final GMP and EIS was distributed in October 1999. A Record of Decision was issued effective April 10, 2000.

In the Final GMP/EIS, Alternative 2 is the preferred alternative. Under it, emphasis would be on "maintenance or enhancement of natural and cultural resources, streambank protection, maintenance of scenic qualities as seen from the river, low levels of visitor use and public understanding of the area through interest group involvement." The preferred alternative also emphasized the rural character of the river, placed restrictions on intrusive development, and emphasized "maintenance of the landscape through local government and private means" including easements, zoning, and tax incentives. The preferred alternative included a few new visitor facilities, such as two new boat ramps on the South Dakota side, and a bike trail on the Nebraska side.[401]

The topic that led to designation of the river in 1978, streambank erosion control, was allowed in the GMP on a case-by-case basis, and purchase of rapidly-eroding banks from willing sellers was identified as an option. The GMP also made provisions for restoration of wildlife, of instream habitat, and of the natural functions of the river, anticipating that federal, state, and local agencies, and private owners "would work together for the protection and enhancement of biologic values. A primary emphasis would be on protection of species of special concern." As for visitor experiences, the focus would remain on wildlife and boating, along with interpretation of the history and culture of the river.[402]

One of the most important points of discussion between USACE and NPS in the process of revising the draft GMP was the goal of environmental restoration. The GMP put this goal in the context of new, though unnamed, laws enacted following the 1978 designation. "Maintenance and restoration of biologic values in the Missouri River ecosystem," the GMP stated, "are part of these new responsibilities." It added that there had been "a change in public perception of the need for different levels of government to work together in partnership to increase the efficiency of all levels of government." This was a none-too-subtle reference to the near-complete lack of cooperation between NPS and USACE through much of the 1980s and early 1990s. The GMP reinforced the need for cooperative efforts between the two agencies and allowed for a new cooperative agreement "if needed." USACE, according to the GMP, would have primary responsibility for construction of bank protection structures, recreation facilities, and

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[400] Email, Lynn Peterson, DSC to Howie Thompson, March 1, 1999. Print-out of email in in files of Missouri NRR, Box NIMI I-4. See also Project Reports for 59-Mile GMP/EIS, February 26, 1999, and May 21, 1999, Files of Missouri NRR, Box NIMI I-4. The specific issues for discussion with USACE were not identified.

[401] *Final General Management Plan/Environmental Impact Statement: Missouri National Recreational River, Nebraska and South Dakota*, 1999, iv.

[402] Ibid.

other features as necessary, and would continue to manage river flows in accordance with the *Master Manual*. NPS, in turn, while still administrator of the Missouri NRR, "would be more involved in day-to-day management activities." This would include working with counties, landowners, and others on land development and protection issues.[403]

Although local landowners along the 59-mile segment were not as concerned about the threat of federal ownership of land as were those along the 39-mile segment, land acquisition remained a crucial topic. The GMP observed that USACE's General Design Memorandum in 1980 provided for extensive land acquisition. The primary purpose of land acquisition was protection of the river's significant values, and, under the new GMP, NPS hoped to achieve this goal through local partnerships and cooperative agreements. Both NPS and USACE would be able to accept donations of land and interest in land, but USACE would not maintain management of the land. Instead, USACE would turn the land over to another entity such as NPS, FWS, or local or state organizations. [404]

The final GMP specifically authorized and encouraged streambank protection for cropland and wildlife habitat. The GMP expressed hope that streambank erosion control for agricultural land could also be designed to incorporate new fish and wildlife habitat and that erosion control structures "would be designed to give the appearance of a natural bank under normal flow conditions," with softer, more environmentally-friendly methods and materials having a natural appearance. Harkening back to issues over permits in the 1980s, the GMP noted that section 10/404 permits for streambank protection structures "would include conditions to ensure the protection of threatened and endangered species and significant biological resources."[405]

The final GMP included an extensive discussion of management of biologic resources, emphasizing management "for conserving, protecting, and enhancing riverine biologic values on public land," with incentives for private landowners to enhance habitats. Pre-dam characteristics, including meanders, eroding banks, sandbars, backwater areas, cottonwood forests, and instream snag habitats, would be maintained where feasible "to compensate for the effects of the mainstem [sic] dams."[406] Interpretive programming, meanwhile, would focus on changes to the river and efforts to mitigate adverse effects, combined with the natural and cultural history of the river, and would include traditional signage and displays close to the river as well as classroom and neighborhood programs. The GMP recommended against, however, extensive development of new visitor facilities along the river, including river access, and emphasized, instead, land-based visitor services and facilities outside the Missouri NRR's boundaries. [407]

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[403] Igid., 47.
[404] Ibid., 47-48.
[405] Ibid., 50.
[406] Ibid, 51,
[407] Ibid,. 53-54.

Unlike the earlier GMP for the 39-mile segment, the final GMP for the 59-mile segment did not describe the boundaries in terms of setback from the river. Instead, it focused on the length of the river segment. Lateral extensions of the original 1980 boundary included areas of active erosion and four large, archeological and cultural sites. Instead of a written description of the boundary, maps showing the boundaries of the Missouri NRR were available at the O'Neill office and published in the *Federal Register*.[408]

Division of Niobrara NSR and Missouri NRR

The relationship between the original Missouri NRR as designated in 1978 and the new segments of river designated in 1991 was not made clear in the new legislation or in subsequent correspondence. The 1991 legislation included no references to an administrative structure that would manage the different segments other than that it was the responsibility of the Secretary of the Interior through the National Park Service. Significantly, also, the new legislation did not include USACE, even for the 39-mile segment of the Missouri River where USACE had been active for many decades. Through much of the 1990s, responsibility for all of the river segments remained with MWRO, assisted by the new field planning office staff in O'Neill, Nebraska. This office, under the direction and with the assistance of the Denver Service Center and MWRO, was primarily responsible for coordinating the planning efforts that were mandated in the 1991 legislation as discrete entities.

By the mid-1990s, however, it was becoming clear that the upper portion of the Niobrara River was very distinct from the other river segments designated in the 1991 legislation, including the Missouri River, the lower Niobrara River, and the lower part of Verdigre Creek. This distinction was due in part to geography, with the Missouri, lower Niobrara, and lower Verdigre portions closer to one another than to the upper portion of the Niobrara. Administrative and management requirements for the Niobrara NSR also were different from what was required for the Missouri NRR segments. Finally, the upper Niobrara River's designation as a NSR arose from particular political circumstances that had little to do with the NRR portions.

Recognizing these distinctions, Superintendent Paul Hedren recommended, in 1997, a division of the Niobrara and the Missouri units that were administered jointly at the time. As Hedren recalled later, the differences between the two rivers was stark. The Niobrara was "a scenic river with enormous charm and enormous challenges to keep it before you lose it," while the Missouri was "a river that's grossly compromised, and gangly, and also with completely different issues." In his view, the Niobrara and the Missouri were two entirely different parks that needed to be managed differently.[409]

[408] Ibid., 43-44.
[409] Paul Hedren interview, April 17, 2015.

The first step was to give the Niobrara NSR its own administrative code, separate from the Missouri NRR. This left the 39-mile segment of the Missouri River and the lower Niobrara River and Verdigre Creek in limbo, since these new stream segments had never been officially linked to the original 59-mile Missouri NRR. The plan, however, included an eventual administrative linkage between the original 59-mile segment of the Missouri River and the new segments designated in 1991, with both of the Missouri River segments and the lower Niobrara and Verdigre operated under a central administration.[410] In the plan that Hedren outlined, the Niobrara NSR and the Missouri NRR would continue to be administered by a central co-located office in O'Neill, with separate field staffs for each.[411] In 1998, NPS officially paired both of the Missouri River reaches, along with the lower Niobrara and Verdigre, "as functional districts of the Missouri NRR," with administrative headquarters, for the time being, remaining in O'Neill, Nebraska.[412]

The interagency challenges that were described earlier in this chapter, particularly between NPS and USACE, created a potential further challenge to this administrative rearrangement. As noted, while USACE was required under the 1978 legislation to have a management role in the 59-mile segment of the Missouri, given its role in managing flows of the river, USACE was not included in the 1991 legislation that designated the 39-mile segment of the river, despite those flows, too, being under the control of USACE. This distinction played out in development of the respective GMPs, as USACE was only one among several cooperating agencies for the 39-mile segment but was co-lead agency with NPS for the 59-mile segment and had a much greater impact on resulting management recommendations. When NPS linked the two river segments administratively, however, with a unitary management, first, from the O'Neill Headquarters Office and, later, from a separate Headquarters Office in Yankton, South Dakota, potential problems arose. Becky Latka, Missouri NRR coordinator for USACE from the 1990s into the 2000s, recalled the skepticism of USACE that such a linkage was even possible, given USACE's legislated administrative role in one segment but not the other: "We had no comparable legislation for the 39-mile. And then they administratively joined those! And we couldn't believe that they did!. . . Those are two separate authorizations. They don't even say the same thing. We're in half of it, not in the other half. Our lawyers would have had a fit! They would have said, 'There's no way—you-can't—you can't administratively combine those.'"[413]

As Latka said, however, the two segments had different concerns with regard to the river. Although both the 39-mile segment and the 59-mile segment lay downstream of large, main stem USACE dams, the impacts of those dams on the respective river segments, and on the property of those who lived along them, differed greatly. The nature

[410] Memorandum, Superintendent, Homestead National Monument of America to Regional Director, Midwest Region, State Coordinator's Report for September 1997, October 17, 1997. Files of Missouri NRR, File L7019 (HOME).
[411] Annual Superintendent's Report for 1997, Niobrara/Missouri National Scenic Riverways, January 20, 1998. Files of Missouri NRR.
[412] Briefing Statement for Midwest Regional Director, July 29, 1999. Files of Missouri NRR, File 10A—Situations.
[413] Becky Latka interview, April 17, 2015.

of the river in these different segments, and the environments of which they are parts, are considered in the following chapter.

Chapter 8: Environmental Characterization and Management of the Missouri River Main Stem

Introduction: The Missouri River and NRR Management Issues

Unlike many National Park units that are centered on fixed features, whether natural or man-made, the Missouri NRR comprises an infinitely variable resource: the Missouri River. While it is a cliché to say that a river is a living thing, it is nonetheless true that change is constant on a river, even one as tightly managed as the Missouri. In addition to periodic floods and droughts, rivers tend to wander across a floodplain, seeking the path of least resistance and deflecting in one way or another as the water column moves forward, cutting away at some banks and depositing sediments on another. All rivers exhibit this wandering tendency to some degree or another, but the Missouri River is legendary in its meanders, with a floodplain that, originally, was measured, in some places, in miles. As described in Chapter 1, the Missouri River also is famous for the enormous load of sediment that it carried as it moved through silty and sandy soils in the upper and central reaches. It has been aptly named the Big Muddy, with its quantity of sediment load occasionally proving violent and dangerous.

These natural forces, the constant lateral movement across a floodplain and alternating erosion and deposition of soils, did not cease with creation of the massive main stem dams of the Pick-Sloan Plan. They were, however, transformed, and studies of the river between and below the dams over the past sixty years show that the Missouri is continuing to adjust to the new conditions. Soil erosion and deposition continue, but in different, often unwelcomed, places. The river continues to attempt to wander across the floodplain, but is constrained in various areas, forcing movement in other areas. Despite heroic efforts to control the Missouri River during the twentieth century to make it more predictable and reliable, the river continues to surprise.

Forces of nature such as rivers tend to be the province of hydrologists and engineers rather than park planners. The role of NPS, however, is to manage this resource that is constantly in flux. Acting under directives of the WSR Act, NPS is tasked with administering the Missouri NRR with the goal of protecting and enhancing the values that led it to be designated. This means, in part, preserving the river in its free-flowing state with a minimum of structures or other intrusions that would detract from its free-flowing character. While NPS's charge to protect this free-flowing river passing through private lands is challenging enough, given the peculiarities of the Missouri River, it is made more challenging by the ongoing managerial responsibility of USACE, which always has responsibility for permits to work within the nation's rivers, whether by public agencies or private individuals. The agency has an added responsibility on this section of the Missouri given its role in managing flows of the river by means of targeted releases from the main stem dams.

As previously mentioned, the two segments of the Missouri River that are parts of the Missouri NRR, the 39-mile segment below Fort Randall Dam and the 59-mile

segment below Gavins Point Dam, are among the last remaining stretches of free-flowing river in the central and lower Missouri River Valley. The lower, 59-mile segment typically flows through a wider floodplain with gently sloping banks, while the upper, 39-mile segment typically passes through a slightly narrower valley characterized by steeper bluffs. Both sections feature a meandering channel with sandbars, islands, backwaters, and changing shorelines. The river bottom generally is sandy, though some areas, particularly in the sharp bends, have clay bottoms.

The river historically featured high flows in spring and early summer, as mountain snow packs melted, and lower flows in the later summer through winter in this largely arid region. This produced a pattern of wetlands along the banks that were periodically flooded and then left dry. These wetland transition zones provided seasonal habitat for fish to spawn and find food. With variable flows in the river, historically, the river also formed sand dunes and sandbars that, while providing habitat for a variety of species, tended to shift regularly in location. Banks of the river, meanwhile, historically were lined with cottonwood trees, which are relatively resistant to frequent flooding and which provided added habitat, particularly for birds.[414]

After construction of large dams on the Missouri from the late 1940s to early 1960s under the Pick-Sloan Plan, these conditions changed. With the free-flowing sections of river subject to releases from the main stem dams, velocity of the water column increased, leading to a much greater depth of channel, with correspondingly less wetland transitional areas along banks.[415] Moreover, the process of erosion and deposition of sediments remained, but changed its nature with construction of the dams. As the flow of water enters the broad, impounded lakes, velocity lowers, reducing the ability of the water to carry its sediment load, which, therefore, drops out in the impoundments. The water released from the dams is then relieved of much of its sediment load and has little to deposit in the stretches of river below the dams. With increased velocity in the river segments below the dam, the water column of the river still meanders and, thus, erodes banks, but has no sediment to deposit in place of what it takes.

This clearly creates a problem for those who live and own property along the river downstream of the dams. The new erosion process of the river removes acreage that is both monetarily valuable and potentially productive for agricultural and livestock uses, but does little to add new deposits of land as the river shifts. Landowners along the Missouri River downstream of Gavins Point Dam were the most vocal in voicing their concerns during the first decades after the dam's completion in the 1960s and 1970s, especially once they were organized as MRBSA. Their activism in search of a solution through armoring their banks against the river's erosive power was chronicled in some detail in Chapter 2, leading to the creation of the Missouri NRR in 1978.

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[414] U.S. Army Corps of Engineers, *Biological Assessment for Maintenance of Bank Stabilization Structures, Missouri National Recreational River, Gavins Point Dam to Ponca State Park, Nebraska*. Omaha District, Paper No. 25, 1994, 5.
[415] Ibid., 6.

Private farm lands were not the only areas impacted by the new patterns of erosion, and armoring the banks using stable materials such as rock, concrete, or abandoned automobiles, is not the only solution. Particularly after such threatened and endangered species as the least tern, piping plover, and pallid sturgeon were identified in the area encompassed by the Missouri NRR in the 1980s, FWS began reporting the impact of the new flow regimes on habitats for these species, including loss of wetland, or riparian, areas along the shores; reduction of shallower, slower-moving sections of water along the edges of the river; loss of historic groves of cottonwood trees that could no longer survive in the new shoreline conditions; and loss of sandbars within the river that no longer could withstand the higher velocities of the river. The variety of plant and animal species in and adjacent to the river, and the visual appeal of the unmanaged shoreline edged by native trees and farmland, were among the key values that NPS sought to protect and enhance in accordance with the WSR Act.

Erosion of banks was not the only result of the several main stem dams on the Missouri that threatened the Missouri NRR. The corresponding reaction to erosion was sedimentation, the accumulation of sediment resulting when the relatively fast flow of sediment-rich water encounters the relatively still impoundment of a dam. Gavins Point Dam was the key factor in this process of sediment accumulation as it led to the shorelines around Lewis and Clark Lake to fill. This process of sediment accumulation impacts recreational use of the lake, the temperature of the lake's water, the extension of the shoreline into the lake, and the water table of the lands surrounding the lake. Even upstream of the lake, however, sedimentation has taken a toll. The Niobrara River, the lower twenty miles of which is within the Missouri NRR, passes through primarily sandy soil and, though relatively slow moving, carries a large amount of sediment in its flow. When it intersects the Missouri River, approximately fifteen river miles above the headwaters of Lewis and Clark Lake, it encounters slower water and drops much of its sediment load, forming a delta in the Missouri River. While not as visible and widespread a problem as bank erosion on both segments of the Missouri River, it, likewise, causes concern for management.

Outstandingly Remarkable Values

Thematic features which NPS seeks to protect in the Missouri NRR are identified in the WSR Act as Outstandingly Remarkable Values (ORV). The ORV for the original Missouri NRR were defined largely through the earlier Umbrella Study which USACE compiled during the early and mid-1970s. These values are recreational, fish and wildlife, historical, and cultural. The WSR Act, meanwhile, includes by definition the river in its free-flowing state as a foundational feature which supports all other values. In addition, the Umbrella Study recommended specific areas that had outstandingly remarkable natural values. In the 59-mile segment, these included the river setting at Goat Island, the river chutes that parallel Goat Island, the entrance of the James River, high bank shoreline forests, sandbar clusters, and the Nebraska wooded forests at river miles (RM) 763, 776, and 787.[416]

[416] *General Management Plan, Missouri National Recreational River* (2000), 10.

The ORV for the 39-mile segment of the Missouri, along with the lower Niobrara River and Verdigre Creek sections, are similar to the original portion of the Missouri NRR and were, likewise, identified in the Umbrella Study. Principal categories for ORV in this segment are natural resources, cultural resources, and recreational resources. The natural resources component of the ORV includes riverine and riparian habitat that supports recreational hunting, fishing, trapping, and bird watching, and habitats for federally and state-listed threatened and endangered species such as pallid sturgeon, least tern, piping plover, bald eagle, and paddlefish. The cultural resources component of the ORV incudes the river's role as the principal historical highway to the northern plains from prehistoric times into the nineteenth century, with a landscape that continues to convey that traditional use, and including the rich American Indian history of the region. The Lewis and Clark National Historic Trail is also aligned with the Missouri River, and passes through the Missouri NRR. The recreational resources component of the ORV includes the relatively primitive experience of the Great Plains' largest river with scenic vistas including bottomlands, wooded draws, prairie hills, and chalkrock bluffs.[417]

Between 2010 and 2012, the Missouri NRR staff led development of a new definition of the park's ORV. As defined through a public planning process, NPS defined the ORV categories as cultural, ecological, fish and wildlife, geological, recreational, and scenic. Moreover, the new definition identifies specific portions of the various reaches of river as having particular ORVs. The cultural values allow visitors to understand the role of the Missouri River Valley as a transportation corridor from prehistory through the twentieth century and to appreciate the people who have called it home for millennia. The ecological values refers to the complex ecosystem found within the Missouri NRR, including landforms and stream channels formed by movement of the river over time, native plant and animal communities, and habitats for both river-based and shore-based plants and animals. Fish and wildlife values, meanwhile, refer primarily to threatened and endangered species and their habitats within and adjacent to the waters of the Missouri and allow for a discussion of threats to these species and their habitats. Geological values allow visitors to understand the landscape in a greater way through seeing the process of the river valley formation at work through bluffs, hills, channels, and oxbows. Recreational values and features, finally, allow the Missouri NRR to invite visitors to experience the richness of the river and its natural and cultural environment.[418]

It is the task of NPS to protect and enhance these values in accordance with the WSR Act. This task, challenging in its own right in so complex a natural system as the Missouri River, is made more complicated not just by the legislatively-mandated role of USACE in the 1978 designation, but by the specific provision for bank stabilization in both the 1978 and the 1991 legislations. While bank stabilization and protection is not necessarily antithetical to the goals of the WSR Act, it can easily become so by creating visually intrusive elements in the river's landscape and by further damaging habitats for threatened and endangered species. Finding that balance through a multi-faceted series of

[417] *General Management Plan* (1996), 10-12.
[418] *Outstandingly Remarkable Values: Missouri National Recreational River, Nebraska, South Dakota* (National Park Service, 2012).

negotiations among NPS, FWS, USACE, and other federal and state agencies and private citizens has been the most important theme for the Missouri NRR from the mid-1990s to the present.

NPS and USACE: Bank Stabilization, Introduction

NPS and USACE are required legislatively to work together only on the 59-mile segment of the Missouri NRR. The 1978 Act established joint administration by the Department of the Army through USACE and the Department of the Interior, which, in 1981, delegated responsibility to NPS. While the 1991 legislation did not mandate joint management with USACE for the 39-mile segment of the Missouri NRR, the nature of river activities, management of river flows in the segment by USACE, and the requirement for NPS to review USACE permits under Section 7 of the WSR Act, all required the two to work together. While the two agencies have frequently collaborated through reviews of studies and implementation of projects, points of friction in this endeavor have been many and substantive. These points of friction were built into the 1978 designation of the 59-mile segment, and have been assumed by the nature of the agencies' respective operations in the 39-mile segment. In addition to legislative differences, there are differences arising from culture and funding as well. As former Missouri NRR Coordinator for USACE Becky Latka observed, USACE's funding for the Missouri NRR comes to the Omaha District office primarily as construction funds; construction is, therefore, their mandate. As for NPS, she said, "They don't build a lot of things. We build things. And especially if we have construction money, so I think that our approach, maybe, made them nervous."[419]

Clearly, the most significant point of contention between the two agencies regarding the two Missouri River segments of the NRR is the role of bank stabilization. The occurrence of conflicts between USACE and NPS were few through the 1980s, largely because neither agency was active in the 59-mile reach, much to the consternation of residents along the river and members of MRBSA. As recounted in Chapter 4, the conflict, at the time, revolved primarily around funding and cost-sharing requirements, with permits becoming a bigger problem later in the 1980s and early 1990s. As USACE and NPS became more active on both segments of the Missouri, however, the issue of bank stabilization became a nearly constant point of discussion. Apparent agreement from the mid-1990s through 2002 fostered a sense of collaboration between USACE and NPS, but charges and counter-charges over differing interpretations of management of the river exacerbated a division that extended through much of the remaining decade.

Bank stabilization projects in the Missouri NRR have generally been conducted for one of three principal reasons: protection of habitat and other natural resources, protection of private property, and emergency protection for public infrastructure such as bridges, recreation facilities, water intakes, and roads. Protection of private property has most often come under review through the permit process, in which a landowner applies

[419] Becky Latka interview, April 17, 2015.

to USACE for a permit to place material along the river's edge to divert the flow of water away from the bank; USACE then consults with NPS and FWS regarding riverine resources before issuing or denying the permit.

This review process provided one of the few tools at NPS's disposal to slow the rate of bank stabilization. In particular, NPS could require studies before approving the permit request in order to evaluate the potential effect on the Missouri NRR's values and the river's free-flowing nature. Superintendent Hedren recalled that he would request studies that "tell us what that rock means to upland environment, and tell us what that means to the fishery, and to whatever. Well, those are the studies that never came back to us." Those studies rarely, if ever, arrived from USACE, which allowed NPS to reduce the number of approved permits. As Hedren acknowledged, "You knew you were asking for the impossible anyway. But you were imagining—if you buy into the precepts of the Wild and Scenic Rivers Act, and the inherent protection of connected upland environments and riverine environments, and all that, and how it's all connected – you certainly can imagine a degradation of value with something like rock stabilization on the river banks."[420]

The NPS approach to the use of bank stabilization methods for habitat enhancement and infrastructure protection drew from a similar concern for the environment and the ORV, as with the permits described by Superintendent Hedren. The issues, however, were more challenging for their inclusion of profound, cultural differences between the various agencies. In addition, as both NPS and FWS contended, the issue of bank stabilization could not be divorced from the more fundamental role played by the managed flows of the Missouri River. The remainder of this chapter will examine how these cultural differences played out in debates that included bank stabilization, management of flows in the river and with regard to habitat enhancement and, to a lesser degree, protection of infrastructure.

Bank Stabilization: Section 32 and Section 33 Studies

As described in Chapter 2, USACE constructed a series of demonstration bank protection projects in the late 1970s and early 1980s under the authority of Section 32 of the Streambank Erosion Control Evaluation and Demonstration Act of 1974. The purpose of the demonstration projects was to test various means of bank stabilization and protection to determine which worked best, with the expectation that the winning demonstration would then be the standard used for future bank stabilization. USACE built these Section 32 structures, as they were known, along the 59-mile segment with the

[420] Paul Hedren interview, April 17, 2015. See also Hedren to Steve Grube, Coordinator, Missouri River Futures, July 17, 2006: "Most applicants can easily believe that necessary environmental compliance is fully prescribed by the Corps during their portion of the permitting process, and then the Service [NPS] seemingly asks for much the same thing as permit applications pass our office. In reality, these are two different analyses, the Corps focusing on issues pertaining to general bed and bank alterations on the river, and we additionally asking for site specific analyses of impacts to other frontage resources and also to neighbors." Files of Missouri NRR, File 1.A.1, COE 2007.

intent that they would be turned over to local sponsors such as local or state agencies, for long-term maintenance after the close of the demonstration project. During the 1980s, however, when the turnover was designed to take place, the local sponsors, including the local counties in South Dakota and Nebraska, were neither willing to accept this responsibility, nor capable of maintaining them. As a result, USACE performed only minimal maintenance on them through the 1980s and early 1990s due to inability to secure operational and maintenance (O&M) funds as part of the budgetary process.

In the 1990s, however, many studies regarding the effectiveness of bank stabilization in the Missouri NRR and its impacts on the river were authorized by Section 33 of the Water Resources Development Act (WRDA) of 1988, which was in turn modified by the WRDA of 1990. This revision directed USACE to

> undertake such measures, including maintenance and rehabilitation of existing structures, acquisition of real property and associated improvements (from willing sellers), and monetary compensation to affected landowners which the Secretary [of the Army] determines are needed to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River between Fort Peck Dam, Montana, and a point 58 [sic] miles downstream of Gavins Point Dam, South Dakota and Nebraska. . . .In lieu of structural measures, the Secretary may acquire interests in the affected areas, as the Secretary deems appropriate, from willing sellers.[421]

The demonstration projects and studies associated with the Section 33 authorization (not to be confused with the earlier Section 32 authorization) provided the basis for much bank stabilization work carried out in the Missouri NRR in the first decade of the twenty-first century.

During this period in the early 1990s, NPS was occupied primarily with planning efforts, including the GMPs for the two different Missouri NRR segments. Much of the early evaluation of bank stabilization, therefore, was conducted by USACE without significant NPS input. An initial result of the Section 33 program was development of a geomorphological, hydrologic, and sediment transport study of several reaches of the upper Missouri River, including both of the Missouri NRR segments. The purpose of the study was to examine potential impacts of bank stabilization on the river's behavior, particularly in terms of how the river formed sand bars. Results of the study were inconclusive in identifying a one-to-one relationship between bank stabilization structures and sand bar formation, noting no direct correlation. Results for both Missouri NRR segments, however, suggested that the more likely factor that controlled formation

[421] WRDA 1990 (P.L. 101-640), Title I, Section 102 (u), quoted in "Missouri River Between Fort Peck Dam, Montana and Gavins Point Dam, South Dakota and Nebraska (Section 33)," Letter Report for Habitat Protection near Greenwood, South Dakota (Harry Walters Site), May 2000, 1. Files of Missouri NRR, File 1.A.1, COE 2001. Note that USACE initially measured the stretch of the Missouri River between Gavins Point Dam and Ponca State Park as 58 miles, which is referenced frequently in USACE documents.

of sand bars was the width of the channel.[422] It was a result that left many, in NPS and elsewhere, unsatisfied.

Much of the subsequent work carried out by USACE and its consultants under Section 33 authorization was oriented toward habitat protection and enhancement. In the late 1990s, USACE began to take advantage of Section 33 to look into the effects of erosion and bank stabilization, noting that there had been no study that evaluated the impacts of potential bank stabilization efforts along the Missouri River. In 1999, USACE issued a Scope of Work for a Programmatic Environmental Impact Statement (EIS), but it received no funding for Fiscal Year (FY) 2000, and the project stalled temporarily. According to the scope of work, though, four Missouri River sections were to be included in the Section 33 study, including both the 39-mile and 59-mile sections of the Missouri NRR along with the reach downstream of Fort Peck Dam and from Garrison Dam downstream to Lake Oahe. The scope went on to state that the dams and reservoirs on the Missouri River had experienced a number of deleterious effects, including a lowering of the streambed, bank erosion, changes in the annual cycle of erosion and accretion, and a widening of the channel in some locations. The purpose of the EIS, according to the scope, was "to evaluate the potential degree or level of implementation of alternative measures to alleviate the identified problems, and their expected impacts, including cumulative environmental impacts."[423]

Although the EIS was in limbo due to lack of funding, USACE made progress in evaluating the river's dynamics and bank stabilization. In May 2000, USACE released a letter report with a preliminary evaluation of the design of habitat protection at one site in the 39-mile reach. Riparian habitats for woodland species, particularly cottonwoods, was disappearing rapidly as the lack of flooding prevented their regeneration. The loss of cottonwood trees resulted in less habitat for associated wildlife species, particularly the bald eagle. The report also evaluated methods for bank stabilization, including stone-filled revetments, cabled trees combined with stone revetments, and real estate acquisition. On the assumption that federal acquisition of land would be opposed by local landowners, the study identified the use of stone-filled revetments as the least expensive and most effective option.[424]

This was only the opening measure, however, in a long-term process of negotiations and evaluations over the efficacy of different bank protection measures in the Missouri NRR, both structural measures and those that called for acquisition of land or easements of various types. Through 2002 and into 2003, as NPS became more actively engaged in river functions after the release of the GMPs, the three principal agencies—USACE, FWS, and NPS—largely worked collaboratively, if not always collegially, on developing solutions. As an opening step, however, the 2000 letter report

[422] David S. Biedenharn, Rebecca S. Soileau, Lisa C. Hubbard, Peggy H. Hoffman, and Colin R. Thorne, "Missouri River—Fort Peck Dam to Ponca State Park Geomorphological Assessment Related to Bank Stabilization," U.S. Army Corps of Engineers, Omaha District, Paper 74, January 1, 2001.
[423] "Scope of Work, Programmatic Environmental Impact Statement, Section 33 Program," attached to memorandum from Candace Gorton, USACE to Interested Party, September 28, 1999. Files of Missouri NRR, File 6.A.1, Conservation/Preservation.
[424] Ibid., 15.

recommending use of stone revetments within the Missouri NRR for bank stabilization projects did not augur well.

Through 2001 and 2002, USACE identified several properties within the Missouri NRR that could serve as demonstration sites for erosion control projects designed to protect cottonwood habitat under Section 33 of the WRDA. Identified as a "Habitat Erosion Protection Analysis" (HEPA), USACE worked with the Missouri NRR staff, particularly Chief of Resources Management Wayne Werkmeister in the O'Neill Headquarters Office, to contact landowners and develop evaluation methods. According to letters sent to potential participants in the demonstration program, USACE would secure an easement for the riparian land through purchase or donation, depending on the site.[425]



Figure 8: Chief of Resources Management Wayne Werkmeister, 2004. Photo provided by Missouri NRR.

At the same time, in early March 2002, USACE announced plans to rehabilitate the original Section 32 bank stabilization projects constructed in the late 1970s and early 1980s. USACE sent a permit reauthorization notice for the work to FWS and NPS, both of which responded critically. Responses from each set the terms on which their opposition to continued bank stabilization projects would continue.

FWS, in their comments to the proposed rehabilitation of the early Section 32 projects, rested in part on lack of a cumulative impact study of bank stabilization on natural resources in the Missouri River. FWS noted that USACE did not make clear in its permit reauthorization why placement of additional bank armoring materials was necessary. In doing so, FWS stated clearly the environmental concerns regarding bank stabilization using armoring methods such as rock and concrete:

[425] See, for example, Gary D. Blair, USACE to Joe Riffenrath, Hartington, Nebraska, November 29, 2001. Typescript MS in files of MNRR, File 1.A.1, COE 2001.

> Unnatural measures, considered individually or cumulatively, that stabilize river banks adversely affect the natural form and function of the river, thus affecting fish and wildlife and their associated habitats in both the aquatic (riverine) and riparian (floodplain) communities. In general, bank stabilization measures tend to physically stabilize river banks or divert flows away from one bank to another and increase river flow velocities, accelerate downstream bank erosion and lead to river bed degradation and lower river stages. Associated impacts can include changes in river morphology, a reduction of shallow-water riverine habitat, a reduction in floodplain connectivity, a reduction in sediment, additional undesirable nutrients into the system, turbidity, and adverse effects on creation and maintenance of sand and gravel bars.[426]

Replying more succinctly for NPS, Missouri NRR Superintendent Paul Hedren acknowledged that the 1978 legislation supports bank stabilization. Bank stabilization within the Missouri NRR, however, "needs to have a clear purpose and must also protect the values for which the MNRR was designated. Maintenance of old projects simply because they're there may in fact be contrary to the legislation's mandate." As with FWS, Hedren stated that NPS could not support permit reauthorization for repair of Section 32 projects without an evaluation on the projects and what they are intended to protect. Hedren went on to raise an issue that would prove to be contentious in the coming years: he noted that the 1978 legislation provides that the landowner whose land is protected by bank stabilization efforts must make available land for the protection of fish and wildlife.[427]

In reply, the Deputy District Engineer for USACE explained that USACE already had authorization to carry out the work under previous permits and legislation because it is maintenance work on existing structures. He added, however, that a cumulative impact study of the effects of bank stabilization was under contract for completion and should be finalized in 2004. He also noted that the original stabilization structures were constructed of stone, and "it is logical to use the same materials (stone) and basic designs in repairing the structures as were used for the original construction." Future demonstration projects, such as those currently being planned under the Section 33 studies, would be able to evaluate non-traditional, more environmentally-friendly methods. As for the purpose of the project, it was designed only to return the existing projects to operating status: "Since federal funds were expended in the construction of the projects, the Corps has an inherent right to operate and maintain the projects to ensure their stability as long as funds are available, or until directed to do otherwise." They did not need a justification to protect specific river values, he claimed, because the structures were built before those values had been identified. Future new bank stabilization projects would be for protection of the Missouri NRR's ORV. Finally, he disputed the claim that lands must be made available

[426] Steve Anschutz, Nebraska Field Supervisor, FWS to Keith Tillotson, USACE, April 16, 2002. Typescript MS in files of MNRR, File 1.A.1. COE 2002.
[427] Memorandum, Paul L. Hedren, Superintendent, Missouri National Recreational River, to Robert Harms, Jodie Whittier, FWS. Files of MNRR, File 1.A.1. COE 2002.

for the work, since they were not proposing new construction but only repairing the structures that were built using a separate authorization previous to the Missouri NRR.[428]

Becky Latka explained the frustrations of NPS with regard to the Section 32 bank stabilization structures. Even though the structures were meant to be experimental, the project sponsors wanted them maintained, she said, and the 1978 legislation specifically included maintenance provisions for bank stabilization structures built before the 1978 legislation. When NPS staff said that their policy prohibited the repairs to the Section 32 structures, "then the Bank Stabilization group would go up to Congress and lobby Congress to get us money to stabilize these. . .structures so they didn't lose them. . . .And they were very successful. We got money to maintain structures fifteen years in a row."[429] MRBSA, in a note to members in advance of their annual meeting in March 2003, clearly supported maintenance of the existing Section 32 bank control structures. Suggesting that NPS and FWS had "hijacked" the funds that had been appropriated for maintenance, MRBSA had contacted Rep. Bereuter. Thanks to him, it claimed, "that sorry attempt to further endanger landowners' property failed. We applaud his firm prompt action and thank him for it. It is our understanding that most of the work sought to be stopped has now been completed. We must, however, be alert for further efforts to stymie effective bank stabilization."[430]

In the summer of 2002, recognizing the issues facing the three agencies in pursuing bank stabilization projects, USACE held an interagency meeting to discuss alternative measures for habitat protection and bank stabilization. It was a well-attended meeting on August 6 and 7, 2002 with participants from NPS, USACE, the US Geological Service, the South Dakota Department of Game Fish and Parks, FWS, the Nebraska Game and Parks Commission, and USACE's consultant, Tetra Tech. Following the meeting, Regional Directors for FWS and MWRO sent a joint letter to USACE acknowledging the concern of the two agencies "with the ongoing proliferation of rock and concrete rubble riprap" used for protecting the banks of the Missouri River. However, they also acknowledged the value of the 2001 geomorphological assessment carried out by USACE under the Section 33 program, and stated they were encouraged by discussion of alternatives to rock structures. In particular, they were enthusiastic about the possibilities of bioengineered solutions, such as engineered log jams, and encouraged further study of them as alternatives. [431]

The agencies also observed that USACE was including habitat evaluation procedures to evaluate two bank stabilization sites, and that "one of the Corps' objectives for constructing bank stabilization projects under the Recreational River authority will be to protect the natural values of the river, specifically riparian woody habitat"—i.e., cottonwoods. Finally, NPS and FWS encouraged USACE to place more emphasis on use

[428] Kenneth S. Cooper, USACE, to Steve Anschutz, FWS and Paul Hedren, NPS, June 25, 2002. Files of MNRR, File 1.A.1. COE 2002.
[429] Becky Latka interview, April 17, 2015.
[430] Memorandum from Executive Committee to MRBSA Membership, n.d. c.February 1, 2003. Files of Missouri NRR, File 7.B Temp.
[431] Ralph O. Morgenweck, FWS and William W. Schenk, NPS to Kurt F. Ubbelohde, USACE, October 23, 2002. Files of MNRR, File 1.A.1. COE 2003.

of conservation and bank sloughing easements in riparian woody habitats, in the form of acquisitions from landowners, in place of structural responses. Sloughing easements, they explained, "provide landowners compensation for land losses, while allowing trees to fall in the river. . . .Sloughing easements are a cost effective, environmentally sound method that historically received minimal funding support by the Corps and minimal political support by landowners and legislators."[432]

It was, in all, a positive and supportive letter. In reply, USACE announced that it was suspending contracts for design of the Section 33 projects until they received further input from FWS and NPS. In addition, the District Engineer stated that USACE had developed a Real Estate Design Memorandum (REDM) for the Missouri NRR, and that it would contain sloughing easements as one of the management tools. USACE currently had authority to purchase sloughing easements under the Section 33 program, and, with the approval of the REDM, they would have the same authority for the Missouri NRR. Regarding the cottonwood restoration program, USACE had no authority to work in the 39-mile reach, but the Missouri NRR legislation gave them authority to pursue cottonwood protection actions in the 59-mile reach.[433] The exchange of correspondence, from the summer of 2002 to the beginning of 2003, marked a temporary high point in relations between the two agencies.

MRBSA, however, remained concerned about easements. The Executive Committee of MRBSA cautioned its members about granting them and suggested that they be given only on a life-of-the-project basis; for longer easements, "an appropriate price must be paid." The Executive Committee also stated that the Missouri River Basin Association, which represented the Missouri River basin states, was on record urging FWS to coordinate with riparian landowners before "unleashing their experiments on the defenseless landowners."[434]

This antagonism between MRBSA and the combined forces of FWS and NPS was mirrored by growing rifts between NPS and USACE. An early setback between USACE and NPS occurred in the spring of 2003, as maintenance work on the earlier Section 32 demonstration projects was under way. Superintendent Hedren wrote to USACE about the work and, while congratulatory with regard to work on the revetment at Ponca State Park, he was concerned about work at Mulberry Bend, both the bridge and the boat ramp.[435] He argued that work being done there was going beyond maintenance by using different rock material and a different design that appeared to be affecting the Nebraska bank. He also repeated his assertion that the non-federal sponsor of the project needed to convey land or interest in land to protect and enhance the river.[436] USACE's Chief of the Engineering Division replied that, after internal discussions, they "concluded that our

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[432] Ibid.
[433] Kurt F. Ubbelohde, USACE to Ralph O. Morgenweck, FWS and William W. Schenk, NPS, January 15, 2003. Files of MNRR, File 1.A.1. COE 2003.
[434] Memorandum from Executive Committee to MRBSA Membership, n.d. c.February 1, 2003. Files of Missouri NRR, File 7.B Temp.
[435] The development of bank restoration work at Ponca State Park will be discussed later in this chapter.
[436] Paul L. Hedren, NPS to John I. Remus, USACE, April 22, 2003. Files of Missouri NRR, File 1.A.1. COE 2003.

position on some issues is significantly different from that of the Park Service." He rebutted the claim that the work at Mulberry Bend went beyond maintenance and asserted that the use of new material was based on inadequacy of earlier materials, which had deteriorated. He added that USACE had consulted with the Omaha District's Office of Counsel regarding the need to acquire land with regard to the Section 32 work: "In its opinion, Counsel concluded that O&M [operations and maintenance] of the structures was not conditioned upon the acquisition of additional land or interests in land because the requirement for property interests does not apply to these structures."[437]

Despite these setbacks in relations between the two agencies, work on the parallel, newer Section 33 demonstration projects continued with the re-emergence of the Programmatic EIS (PEIS) to analyze the cumulative effects of implementing the new projects in four sections of the Missouri River, including the two Missouri NRR segments.[438] The EIS had been stalled for several years, due largely to funding shortfalls, but USACE held public meetings for the EIS in November 2002. NPS agreed to take part as a cooperating agency. As initially scoped, the EIS contained three alternatives, only one of which included landowner compensation as an option but tied it to bank stabilization. In a response the following spring, Missouri NRR Superintendent Paul Hedren recommended adding a fourth alternative that allowed no new stabilization except for infrastructure protection, with 100% of the eroding bank eligible for landowner compensation in the form of easements or purchase.[439]

The South Dakota Department of Game, Fish and Parks (SDGFP) wrote to its Congressional delegation later in 2003, encouraging their support for use of easements in both segments of the Missouri NRR. "Because they control virtually none of the riparian lands adjacent to the main channel," the state officials argued, "National Park Service (NPS) efforts to protect those scenic and ecosystem values for which the MNRR was designated, is challenging to say the least." The letter went on to explain the ecological value of bank erosion, which provides a variety of natural habitats and nutrients for a range of species. The Secretary of SDGFP urged the Congressional delegation to support an appropriation of $20 million to pursue easements that would allow for bank erosion without economic damage to the landowners.[440]

Hedren used the occasion of the Section 33 PEIS to issue a broadside against bank stabilization. On the findings of an internal NPS working group the previous winter, NPS concluded that bank stabilization "may be a rightful response to an existing problem, at least in some applications on some reaches of the designated unit. At the same time, stabilization may be a horribly destructive response in other reaches." Calling for additional studies of effects of bank stabilization, and pending the completion of the

[437] Robert F. Roumph, USACE to Paul L. Hedren, NPS, June 12, 2003. Files of Missouri NRR, File 1.A.1. COE 2003

[438] William D. Mulligan, USACE to Interested Party, July 9, 2002. Files of Missouri NRR, File 1.A.1. COE 2002.

[439] Paul L. Hedren, NPS to Candace M. Gorton, USACE, May 22, 2003. Files of Missouri NRR, File 1.A.1. COE 2003.

[440] John L. Cooper, SDGFP to Senator Tom Daschle, Senator Tim Johnson, Representative Bill Janklow, November 24, 2003. Files of Missouri NRR, File 7B.

Section 33 PEIS, "we ask that USACE suspend all planning and actual construction action related to bank stabilization on both districts of the MNRR, aside from on-going, legally authorized maintenance and retrofitting of the Section 32 projects." This suspension, Hedren suggested, "is temporary but perhaps lasting several years."[441] In reply, the District Engineer wrote to the Acting Regional Director of MWRO about Hedren's letter, complaining that the NPS working group appears to be "trying to establish a new approach to bank stabilization within the MNRR that is contrary to the historic interpretation by both the Corps and the NPS regarding the proper administration of the MNRR." If the NPS does indeed have a new interpretation, he continued, "I would appreciate the opportunity to share it with my staff to get their comments."[442]

NPS had new reason to be concerned later in 2003, when it reviewed the preliminary draft of chapter 1 describing the Purpose and Need for the Section 33 EIS, now identified as a Cumulative Environmental Impact Statement (CEIS). NPS had assumed that the purpose for the project was to address concerns regarding cumulative impacts that bank stabilization was having on the Missouri River and its ecosystem. As Paul Hedren wrote in his response to USACE, "it appears that no one other than perhaps the U.S. Army Corps of Engineers (USACE) envisioned this being a tool allowing for additional stabilization to occur, yet this is identified in [Section] 1.2 as the sole purpose for the study. The National Park Service," he continued, "strongly encourages USACE to redirect the intent of this CEIS to more forthrightly respond to original concerns about the environmental impacts associated with bank stabilization."[443] In internal NPS emails leading up to Hedren's response letter, Rick Inglis, a hydrologist with NPS's Water Operations Branch in Fort Collins, CO, suggested that "The tone of the document refuses to acknowledge environmental concerns."[444]

Despite obvious antagonisms, including an appearance by Hedren at an annual meeting of MRBSA in which he questioned the legality of USACE's interpretation regarding land acquisition, there were signs of cooperation.[445] In the spring of 2004,

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[441] Paul L. Hedren to Candace Gorton and Robert W Rocheford, USACE, June 10, 2003. In its annual letter to the members, the Executive Committee of MRBSA noted that "the National Park Service has asked for a five-year moratorium on stabilization. Is this the act of the 'Good Neighbor' the Service insists it wants to be?" Memorandum from Executive Committee to MRBSA members, n.d., c. February 1, 2004. Files of Missouri NRR, File 7.B. Temp.

[442] Kurt F. Ubbelohde, USACE to Ernest Quintana, MWRO, July 3, 2003. Files of MNRR, File 1.A.1. COE 2003.

[443] Paul L. Hedren, NPS to Kurt Ubbelohde, USACE, November 7, 2003. Files of MNRR, File 1.A.1. COE 2003. According to Section 1.2, "Proposed Action" from the draft CEIS, "This CEIS is intended to determine the amount of bank stabilization that can be approved from a cumulative effects standpoint. The conditions that must be met for implementing specific actions authorized by Section 33 are set forth in the 'Missouri River Between Fort Peck, Montana, and Gavins Point Dam, South Dakota and Nebraska—Detailed Project Report' published by the USCE—Omaha District in December 1995. The CEIS will not review or reconsider these conditions."

[444] Email, Rick Inglis to Wayne Werkmeister, October 14, 2003. Print-out of email in files of MNRR, File 1.A.1. COE 2003. See also comment letter on Chapter 1 of draft CEIS by Nebraska Game and Parks Commission, Kirk Nelson, NGPC to Randy Sellers, USACE, October 23, 2003. Files of Missouri NRR, File 7B, NE Game & Parks.

[445] "Despite the cooperation envisioned for the joint management of the MNRR, Mr. Hedren has represented both in writing and, most recently at the MRBSA Annual Meeting, that it is the Park Service's

USACE provided NPS with an inventory and update on the existing structures in the 59-mile segment of the Missouri NRR, whether permitted or not. According to the inventory, "There are 62 permitted projects along the 59-stretch of the Rec. River with 43 of these projects dated before the year 1997. As you can see by these numbers, there have not been a lot of property owners requesting permits along this stretch of the river in recent years." The letter additionally noted that another federal agency, the Environmental Protection Agency (EPA), also had a regulatory role in Section 404 permits on the river.[446]

EPA regulators first visited the Missouri NRR in the spring of 2003, and, in a follow-up email to Chief of Resources Management Wayne Werkmeister, one of the EPA staff observed that

> you may have to give up on your dream of 'letting the river dynamics have its' [sic] way' and agree to having the COE protect the bank with stabilization procedures (not necessarily rip rap or pink quartzite). . . .While I know you would rather have the river flow with its own mind and course, reality hits the wall and we may have to accept doing something to get the landowners to remove the unsightly stuff from the high bank; and in return put something less unsightly in its place in order to stabilize. Besides….it would give the COE something to do, AND it would get rid of concrete material falling into the river.[447]

Work on the Section 33 demonstration projects and the CEIS stalled through much of 2004 due to funding limitations, but it began again late in the year. In October 2004, Hedren responded to a USACE letter to the new owner of riverfront land adjacent to one of the demonstration sites, with an offer to discuss acquiring an interest in the property under the program. Hedren, in a fiery letter to the District Engineer, after applauding preservation of cottonwood habitat, excoriated the plan to construct more bank stabilization rather than to allow for erosion through the purchase of easements as recommended by the 2003 Amendment to the FWS' Biological Opinion.[448] As before, the District Engineer replied, instead, to the Regional Director of MWRO, explaining that USACE hoped to use non-traditional methods of stabilization such as the engineered logjams discussed at the 2002 interagency meeting and to evaluate their overall effectiveness at this new demonstration project site.[449]

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position that the Corps is acting illegally by not acquiring land while maintaining Section 32 structures within the 59-mile district of the MNRR." Kurt F. Ubbelohde, USACE to Ernest Quintana, MWRO, February 27, 2004. Files of MNRR, File 1.A.1. COE 2003. At Hedren's request, Acting Midwest Regional Director John Kunz requested an opinion from the DOI Office of the Solicitor in Denver, May 12, 2004. Files of Missouri NRR, File 10B (Decisions) Solicitor.

[446] Kathryn M. Schenk, USACE to Paul Hedren, NPS, April 5, 2004. Files of MNRR, File 1.A.1. COE 2004.

[447] Email, Dewayne L. Knott, EPA to Wayne Werkmeister, NPS, April 24, 2003. Files of Missouri NRR, File 1.A.1, COE 2003.

[448] Paul L. Hedren, NPS to Jeffrey Bedey, USACE, December 7, 2004. Files of MNRR, File 1.A.1. COE 2004.

[449] Jeffrey Bedey, USACE to Ernest Quintana, MWRO, February 4, 2005. Files of MNRR, File 1.A.1. COE 2005.

USACE followed through on this intent, though funds were limited in subsequent budgets. In April 2006, the District Engineer agreed to continue funding the demonstration project at that site, identified as A-3. Work had been completed using the engineered logjam approach, and a draft report was distributed for comment. As Missouri NRR Coordinator for USACE Becky Latka, requested in a letter to the Missouri NRR's Chief of Resources Management Wayne Werkmeister, "Please review this document in light of its objectives to temporarily preserve a declining MNRR resource and to demonstrate a new bank stabilization technology while providing aquatic benefits." USACE's hope was to apply the knowledge of using engineered logjams gained at this site, and at the larger erosion control project at Ponca State Park, for other stabilization projects.[450]

In her letter to Werkmeister, Latka outlined other priorities for USACE on the Missouri NRR. In particular, USACE continued to be interested in pursuing sloughing easements as an alternative, but they had no funds for it. However, USACE was beginning to "lay some groundwork with the landowners who have already shown interest so we are prepared to purchase easements when funding does arrive." USACE also was committed to covering over the early Section 32 structures, recently renovated, with soil and seed to make them less visually obtrusive, though funding was not yet available.[451]

The nature of the relationship between USACE and NPS began to change substantially in the spring of 2005, following arrival of a new District Commander and District Engineer, Col. Jeff Bedey, at USACE's district office in Omaha. In April 2005, Bedey accepted the invitation of Hedren and Werkmeister to join them on a tour of a portion of the 59-mile segment of the Missouri NRR. "The visit," Hedren reported, "was an extraordinary success. Bedey is driven to find common ground between the district and the NPS, and is the first district commander to participate in such an inspection with the NPS."[452] Werkmeister, likewise, identified Bedey's arrival as a turning-point in the relationship. Following the pivotal river tour in April 2005, Werkmeister recalled, "we started talking about some really progressive things. . .trying to do things together instead of butting heads on everything that either of us wanted to do. And it seemed like progress really started happening with manipulating some of the bank stabilization to be a little bit more environmentally friendly."[453]

In reviewing the report from the A-3 demonstration site in 2006, for example, Hedren applauded use of the engineered logjam approach, noting that "the NPS supports, in concept, the demonstration project and encourages the utilization of biological engineered techniques at appropriate locations on the MNRR that are compatible with the NPS missions and management policies, and the Wild and Scenic Rivers Act." His concern, however, remained with the concept of bank stabilization structures entirely.

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[450] Email, Rebecca J. Latka, USACE to Wayne Werkmeister, NPS, April 11, 2006. Files of MNRR, File 1.A.1 COE 2006. The work at Ponca State Park will be discussed separately in Chapter 9.
[451] Ibid.
[452] Annual Superintendent's Report for 2005, April 7, 2006. Files of Missouri NRR.
[453] Wayne Werkmeister interview, May 8, 2015.

Attempts to stabilize the stream banks, he argued, "would interfere with the natural stream processes including lateral channel movement and bank erosion to a far greater degree than is necessary. While a small stand of mature cottonwood trees may be protected, the cumulative effect of this and previous bank stabilization efforts on the hydrologic unit may further degrade the river system."[454] The Nebraska Game and Parks Commission, in its review of the Site A-3 report, also supported evaluation of non-traditional bank stabilization techniques. Like NPS, however, they questioned use of bank stabilization techniques for projects other than protection of infrastructure. Fish and wildlife habitat, they argued, "would be best benefited by allowing natural riverine processes, such as alluvial cut and fill, to occur. Bank stabilization projects with an objective of eliminating bank erosion also reduce or eliminate channel migration, and therefore, reduce or eliminate natural habitat building materials."[455] As MRBSA countered, however, this assumed a river that was indeed allowed to flow naturally, which, as a result of the main stem dams, the Missouri did not.

While the proposed EIS for the Section 33 demonstration project faded away, USACE, in 2007, proposed an Environmental Assessment (EA) for a new cottonwood management plan.[456] This EA took several years to prepare. In the meantime, several things changed rapidly for the Missouri NRR. Superintendent Paul Hedren retired in 2007, and Chief of Resources Management Wayne Werkmeister then served as Acting Superintendent until the arrival of his replacement, Mike Madell in 2008. Madell, remained in the position only until January 2010. His temporary replacement, Chief of Resources Management Gia Wagner (who replaced Wayne Werkmeister in October 2009), who assumed the Acting Superintendent role, provided comments on the draft EA for the cottonwood management plan. By this time, NPS's focus was on working with USACE regarding flows in the river through adjustments in the Annual Operating Plan as part of the management strategy. None of the alternatives, Wagner replied in her comments to the draft EA, considered altering the flow regimes "to better reflect the streamflow of the pre-dam Missouri River" that would be "vital to establishing self-sustaining cottonwood communities, particularly in un-channelized and un-stabilized areas." Without the ability to manipulate flows, she concluded, "the long-term sustainability of cottonwood plant communities along the Missouri River is questionable."[457]

[454] Paul J. Hedren, NPS to Mr. Sellers, USACE, June 21, 2006. Files of MNRR, File 1.A.1. COE 2006.
[455] Carey Grell, NGPC to Rebecca Latka, USACE, June 21, 2006. Files of Missouri NRR, File &.B, NE Game & Parks.
[456] Paul L. Hedren, NPS to Suzanne Boltz, EA Engineering, Science and Technology, September 26, 2007. Files of Missouri NRR, File 1.A.1. COE 2007.
[457] Gia Wagner, NPS to Suzanne Boltz, EA Engineering, Science and Technology, March 12, 2010. Files of Missouri NRR, File 1.A.1, Environmental Impact Policy.



Figure 9: Superintendent Mike Madell, 2009. Photo provided by Missouri NRR.

NPS and USACE: River Flows

Impacts of bank stabilization structures on the river could not be divorced from management of flows in the river. The nature of the river, in both segments, is controlled largely by the amount of water that USACE releases from the dams upstream of the respective segments—Fort Randall Dam above the 39-mile segment, and Gavins Point Dam above the 59-mile segment. USACE's overall approach and strategy for flow releases from the main stem dams on the Missouri River is controlled by the *Master Manual*. This is a massive and complicated document that governs the overall operations of the Missouri River, including hydropower, navigation, recreation, and habitat. With all of the intricacies and multiple stakeholder interests along the Missouri River, the version of the *Master Manual* currently in use took nearly twenty years to complete. Revisions to the *Master Manual* that were under way during development of the GMPs in the 1990s, begun in 1988, were not completed until 2006. By its nature, it is intensely political, involving extensive Congressional input as local representatives seek the best outcomes for their districts.[458] The most powerful interests driving the *Master Manual* are the downstream navigation interests, particularly from Kansas City downstream to St. Louis. The result is that the interests of NPS with regard to the Missouri NRR, while legislatively important, have less political influence on the overall direction of river management.[459]

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[458] For an overview of the revision process, see Tim Garrison, "What Does a Pallid Sturgeon Say when it runs into a Cement Wall? 'Dam!' The Interminable Revision of the Missouri River Master Manual," *Missouri Environmental Law and Policy Review* Vol. 10, Issue 2 (2002-2003), 61-75.

[459] For an engaging, and politically astute, examination of the role of politics in shaping the management of the Missouri River through the Master Manual, see Bill Lambrecht, *Big Muddy Blues: True Tales and*

Rather than frequently revising the overall *Master Manual*, USACE issues an Annual Operating Plan (AOP) with the projected specific means to achieve the goals of the *Master Manual* for that year. This annual process allowed NPS to comment on and make suggestions for the annual flows in the two Missouri NRR segments. These flows then had an impact on bank erosion, habitat formation for threatened and endangered species, recreational opportunities, and more. At least from the early 2000s, the NPS argued consistently in favor of three points in particular: a spring rise, minimum flows, and an end to peaking operations at the hydroelectric station at Fort Randall Dam.

Throughout the summer of 2005, NPS served as a member of the Missouri River Spring Rise Plenary Group, a deliberating body of basin stakeholders including representatives of federal and state agencies, American Indian tribes, and other interest groups. The hope of the group was to develop a proposal that complied with FWS's Biological Opinion, revised in 2003, while minimizing effects on upstream and downstream river users. A spring rise, created by releasing more water from Fort Randall Dam, was intended to recreate a semblance of the river's natural functions, when melting snowpack added water to the river in the spring, which, in turn, shifted sedimentation that created new channels, pools, sandbars, and habitats. Because the Missouri River had been converted into a single system through the Pick-Sloan Plan, with an emphasis on the demands of navigation on the lower river, coordination was challenging. The group was not able to reach consensus in 2005, but the goal of a managed spring rise remained.[460]

The hopes expressed by FWS and NPS for a spring rise was opposed vigorously by MRBSA, which was concerned about the impacts on bank erosion. A letter in late 2002 from FWS to MRBSA outlined plans for the Missouri NRR, but "their letter made absolutely no reference to their planned INTENTIONAL efforts to accelerate streambank erosion by instituting a man-made 'spring rise' ('June rise'). Such would be created by an increase of some 20,000 cubic feet per second over and beyond the normal spring flow. Landowner compensation," the Executive Committee informed the members, "for losses to landowners caused by such an irresponsible action was not mentioned, nor was payment for easements sought."[461] MRBSA continued to charge that an acceleration of streambank erosion would be caused by the proposed spring rise. In a letter to Nebraska Attorney General Jon Bruning later in 2003, the president and vice president of MRBSA argued that the spring rise was intended to clear the sandbars of vegetation and add nutrients to the water. "How are the nutrients to be added? By increasing the erosion of already endangered shorelines! The aim is an INTENTIONAL DESTRUCTION of the

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Twisted Politics Along Lewis and Clark's Missouri River (NY: Thomas Dunne Books, 2005). It is telling that NPS does not appear anywhere in Lambrecht's book which examines the various political forces shaping the modern fate of the Missouri.

[460] See letter Jim Peterson, president, to MRBSA members, February 10, 2006. Files of Missouri NRR, File 7.B. Temp. According to Peterson, the meetings lasted for 16 days with visits to sites along the river and one in Minneapolis. The group overall expressed skepticism to the spring rise proposal, "and my reading of it is that the Corps believed it had to institute some sort of flow and has made an attempt to consider the impacts on the wide array of interests along the river."

[461] Memorandum from Executive Committee to MRBSA Membership, n.d. c.February 1, 2003. Files of Missouri NRR, File 7.B Temp.

riparian owners' lands. . . .the officials with whom we have spoken to [sic], deny the plan to increase flows is an intentional effort to destroy the owners' lands, but they are unable to explain just what it is if it be not intentional."[462]

Chief of Resources Management Wayne Werkmeister, who served as Acting Superintendent between Paul Hedren's retirement and the arrival of Mike Madell, sent comments on the draft 2007-2008 AOP, arguing that the WSR Act "is not subordinate to other laws, including the Endangered Species Act (ESA), and must therefore be given equal consideration when planning for the annual operation of the Missouri River Main Stem Reservoir System." Among his specific goals was to ensure implementation of a spring rise, with an offer to work with downstream farmers who would be affected. Werkmeister also sought an end to power peaking flows from Fort Randall Dam, in which USACE generated hydroelectric power to meet peak loads at particular times of the day by sending more water through the turbines. Werkmeister observed that flows in 2007 varied on a daily basis and ranged from 0 to 41,000 cfs, which "is documented to have detrimental effects on the secondary productivity of aquatic insects within the benthic communities of the 39-mile District of the MNRR." Recognizing that there would be some form of peaking power production, NPS requested that USACE at least maintain a 9,000 cfs minimum flow from Fort Randall Dam "to maintain a wetted perimeter for fish populations, supporting benthic community populations, and supplying invertebrates for the endangered Piping Plover."[463]

USACE released its revised *Master Manual* in 2006. In a Memorandum of Decision attached to the revised document, Division Engineer Gregg Martin made clear that the current revisions to the *Master Manual* were driven principally by the 2003 Biological Opinion, and the need to reduce impacts on habitat for endangered species, specifically the pallid sturgeon. He acknowledged that a Record of Decision for the *Master Manual* that was issued in 2004 did not include any flow changes. Following the Record of Decision, however, USACE entered into negotiations with FWS through mediation of the United States Institute for Environmental Conflict Resolution and in coordination with American Indian tribal representatives, state governments, and other stakeholders "in an attempt to develop a basin consensus for bimodal spring pulse release criteria" that would be in compliance with a revised Biological Opinion in 2006. Following this meeting USACE developed additional technical criteria that would allow for spring releases with safeguards for both upstream and downstream river users. USACE then prepared an Environmental Assessment (EA) to analyze impacts of the spring rise. The EA concluded that the spring rise was necessary in order for USACE to comply with the Endangered Species Act, and that impacts from the new technical criteria were acceptable given proposed safeguards. FWS then reviewed the spring rise

[462] J.M. Peterson and Darrel G. Curry, MRBSA to Honorable Jon Bruning, August 26, 2003 Files of Missouri NRR, File 7.B. Temp. See also J.M. Peterson, MRBSA to Steve Anschutz, FWS, July 26, 2003. Files of Missouri NRR, File 7.B. Temp.
[463] Wayne Werkmeister, NPS to Steven R. Miles, USACE, November 16, 2007. Files of MNRR, File 1.A.1, COE 2007.

criteria, and found that they were sufficient to meet requirements of the Biological Opinion.[464]

While specifics of the pulses of water from Fort Randall Dam that would create the spring rise were still being worked out, the *Master Manual* revisions created hope for both FWS and NPS. In particular, NPS was encouraged that a spring rise in both March and May 2009, finally seemed possible. Again recognizing potential adverse effect to farmers downstream of the Missouri NRR, NPS suggested acquisition of sloughing or saturation easements as a possible solution.[465] As the spring rise became a more accepted practice, NPS in subsequent years requested an even larger release in the spring, but the concerns remained similar. As Werkmeister recalled in a later interview, "the key issue was the fact that, if they [the USACE] opened Gavins Point up to the point where they needed to open it up to create habitat, it was going to put some of the farm fields down in Kansas under water."[466]

Emergent Sandbar Habitats: The 2003 Biological Opinion and its Responses

Accelerated bank erosion, though the most prominent, is not the only deleterious effect of the Missouri's altered flows below the main stem dams. In natural river processes, sandbars and islands tended to form in various locations within a river. Higher spring flows, moreover, washed away much of the vegetation on these transitory islands, creating valuable habitat for what are now endangered species, the least terns and piping plovers, small birds that nest on sandbars. Both birds were listed as endangered species by FWS in 1985 and were identified as having nesting grounds in the Missouri NRR. While FWS had only a tangential role in the Missouri NRR before then, primarily in coordinating NPS review of USACE permits, the determination that the least tern and piping plover were endangered species brought FWS into a more active role in the Missouri NRR.

The Missouri NRR, located downstream of USACE main stem dams, provided the setting for restoration of tern and plover habitat. The bulk of negotiations over methods and monitoring for achieving this goal took place primarily between USACE, as the federal agency whose actions were potentially jeopardizing their habitat, and FWS, the agency responsible for protecting threatened and endangered species. As a result, much of the story of the tern and plover habitat work lies outside of the scope of this study. Given their regulatory role under Section 7(a) of the WSR Act, however, to protect and enhance the values for which the river was designated, NPS had a role in commenting on proposed actions, which clearly had an effect on the Missouri NRR. As previously discussed, the Outstandingly Remarkable Values for the Missouri NRR

[464] Memorandum of Decision, appended to *Missouri River Mainstem Reservoir System Master Water Control Manual, Missouri River Basin*, U.S. Army Corps of Engineers, Northwestern Division, Revised March 2006.
[465] Ernest Quintana, NPS to William E. Rapp, USACE, December 11, 2008. Files of MNRR, File 1.A.1, COE 2008.
[466] Wayne Werkmeister interview, May 8, 2015.

included endangered species. History, however, has demonstrated that methods for protecting and enhancing tern and plover habitat are, at times, in partial conflict with NPS goals, objectives, and management policies.

The least tern and piping plover, which were listed as endangered species in 1985, were identified in the 59-mile reach of the Missouri NRR along with the bald eagle, also listed as an endangered species at the time. The pallid sturgeon was subsequently listed as endangered in 1990. In 1985, USACE prepared a Biological Assessment that concluded that proposed maintenance on existing Section 32 bank stabilization structures, involving placing stone in and along a series of existing dikes and revetments in the river bed, would have no effect on the terns and plovers; a similar Biological Opinion in 1994 reached the same conclusion.[467] In 1989, meanwhile, USACE initiated consultation with FWS under the Endangered Species Act regarding operation of the overall Missouri River system, including the main stem dams and their impacts on endangered species. As the GMP for the 59-mile segment noted, USACE had developed an implementation plan designed to increase the number of birds, manage flows so as to avoid impacting the birds' nests, increase public awareness, and increase the number of acres of suitable nesting habitats.[468]

Beginning in 1996, USACE began planning for revisions to the *Master Manual* that outlined how flows in the Missouri River would be managed. Because this was the first revision since the 1985 listing of the tern and plover as endangered species, USACE was obligated to take into account impacts on terns and plovers that could result from regulation of flows in the river. Therefore, USACE requested again to consult with FWS under the Endangered Species Act in 2000, on both overall main stem operations and continued maintenance of the bank stabilization program. Following the consultation, FWS issued a Biological Opinion in 2000 that suggested the likelihood of further jeopardy to the terns, plovers, and sturgeon in the Missouri NRR as a result of the alteration of flows on the river. FWS recommended a series of five actions that USACE should take to mitigate this situation, including initiating flow releases from the dams that more closely recreate the natural river; acquiring, creating, and restoring habitat for both birds and fish; coordinating releases of the upper three dams in the system to support natural habitat creation; adopting an adaptive management and monitoring process that would allow USACE to adjust its river management in response to new information; and working with FWS to increase the propagation and augmentation of pallid sturgeon populations.[469]

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[467] "Least Tern and Piping Plover Biological Assessment, Missouri River Bank Stabilization O&M," U.S. Army Corps of Engineers, Omaha District, Paper 27, 1985; "Biological Assessment for Maintenance of Bank Stabilization Structures, Missouri National Recreational River, Gavins Point Dam to Ponca State Park, Nebraska," U.S. Army Corps of Engineers, Omaha District, paper 25, 1994.

[468] *General Management Plan, Missouri National Recreational River: Nebraska, South Dakota*, 1999, 77.

[469] "U.S. Fish and Wildlife Service Biological Opinion on the Operation of the Missouri River Main Stem Reservoir System, Operation and Maintenance of the Missouri River Bank Stabilization and Navigation Project, and Operation of the Kansas Reservoir System," U.S. Army Corps of Engineers, Omaha District, Paper 1, 2000, 2-3. See also "Draft Implementation Plan for the Final Biological Opinion on Operation of the Missouri River Main Stem Reservoir System, Operation and Maintenance of the Missouri River Bank

USACE accepted most of these recommendations, except for the request for higher spring and lower summer flows, and suggested additional mitigation measures including construction of shallow water habitat, measures to increase the propagation of sturgeon, and summer releases from Gavins Point Dam. As a result of new information and these additional measures, USACE requested consultation again with FWS under the Endangered Species Act in 2003 and prepared a revised Biological Assessment. In its 2003 amendment to the Biological Opinion, FWS acknowledged the progress that USACE had made and focused its recommendations on creation and monitoring of habitat, specifically sandbars. FWS called for creation of an average of forty acres per mile of emergent sandbar habitat in the 59-mile reach by 2005, increased to an average of eighty acres per mile by 2015. This increase was to be accomplished by replenishing existing sandbars, creating new sandbars, and removing vegetation from existing nesting areas to make them more inviting to the birds. With regard to the pallid sturgeon, however, FWS continued to recommend adjustment to the USACE's flow regime.[470]

Particularly following consultation between USACE and FWS in 2003, creation and manipulation of emergent sandbar habitats in the Missouri NRR became an important priority for the two agencies. NPS was, in part, a spectator for this work but made attempts through its review authority under Section 7(a) of the WSR Act to protect the values of the Missouri NRR. While the endangered species were one component of the WSR's values, their protection was not the only one, and NPS sought to balance the various needs of the Missouri NRR and responsibilities of its managing and cooperating agencies. Early in 2003, for example, Missouri NRR Superintendent Paul Hedren provided a response to a USACE proposal to clear sandbars in the 39-mile segment of the Missouri NRR in time for the spring arrival of terns and plovers in need of a place to nest. NPS, according to Hedren, "acknowledges the need for improved habitat for these species but must point out that this proposal is a short sighted 'bandaid' approach. The NPS prefers to see more natural processes such as a spring rise or flood pulse to accomplish the desired sandbar clearing." Recognizing the need to prepare habitat, however, Hedren also stated that the proposed sandbar clearing would not have a direct and adverse effect on the Missouri NRR's values.[471]

As Hedren explained in 2003, the objections that NPS had to clearing of sandbars for habitat lay in part with USACE's avoidance of improving the altered flows of the river. Allowing for spring rises and summer low flows was a constant refrain from NPS as the most natural and most effective solution to many of the habitat issues in the Missouri NRR. Recognizing that decisions for how USACE managed flows of the river were far out of their hands and in those of politically-connected MRBSA and, more importantly, the downstream Congressional delegations, NPS also focused on methods of

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Stabilization and Navigation Project, and Operation of the Kansas Reservoir System," prepared by U.S. Army Corps of Engineers, Northwestern Division, December 2000.

[470] "U.S. Fish and Wildlife Service 2003 Amendment to the 2000 Biological Opinion on the Operation of the Missouri River Main Stem Reservoir System, Operation and Maintenance of the Missouri River Bank Stabilization and Navigation Project, and Operation of the Kansas River Reservoir System."

[471] Memorandum, Paul L. Hedren, NPS to Nebraska and South Dakota Ecological Field Services Offices, FWS, March 25, 2003. Files of Missouri NRR, File 1.A.1, COE 2007.

sandbar clearing. Operations typically involved both mechanical scraping away of vegetation using heavy equipment that frequently was provided by the South Dakota National Guard and use of herbicides applied both from all-terrain vehicles and from helicopters.

In addition to protecting existing sandbars and the habitats they provided, USACE, under recommendations of the 2000 Biological Opinion, began a process in the early 2000s of creating sandbars in the Missouri NRR. In 2004, USACE began work on an Environmental Assessment for the Restoration of Emergent Sandbar Habitat on the Missouri River in Nebraska and South Dakota, and requested that NPS serve as a cooperating agency, to which NPS initially agreed.[472] As scoping of the EA developed through 2004, however, NPS became less enthused. Later in 2004, Acting Regional Director Al Hutchings pointed out that the scope of the EA was focused solely on mechanical creation and maintenance of emergent sandbar habitats without considering changes in flow releases such as are required for the pallid sturgeon in FWS's 2003 Biological Opinion. This sole focus on mechanical sandbar creation, he noted, "has the potential to create impacts to the river system that might be avoided altogether by first considering all other aspects." Hutchings explained that the proposal was to create up to 3,500 acres of new habitat within the 59-mile segment alone, a level of construction activity for islands with a three-to-five-year lifespan that "will lead to unacceptable impacts to the values of the MNRR and to its designation as a wild and scenic river. Of particular concern," he continued, "is the potential impact to recreationists who may not be able to avoid construction in any portion of the river at any time of the year." Hutchings proposed that an EIS would be the more appropriate level of analysis, rather than an EA.[473]

While these discussions were being held, however, construction of emergent sandbar habitats within the Missouri NRR under the directives of the 2003 amendment to the Biological Opinion, particularly the 59-mile reach, began in 2004 near Ponca State Park and continued in 2005. In 2005, though, USACE agreed to increase the level of analysis to an EIS, and again asked NPS to serve as a cooperating agency.[474] NPS agreed, and USACE continued work on the EIS through 2005 and into 2006.

Even while the EIS was under way, USACE still had to comply with the ESA and provide for tern and plover habitat. In 2006, USACE also began to plan for construction in 2007 of four emergent sandbar habitat complexes in the 59-mile segment. Although manipulating flow releases from Gavins Point Dam was not an option for 2007 due to a drought as well as to political considerations, USACE sought to minimize impacts from

[472] Ernest Quintana, NPS to Todd E. Skoog, USACE, July 9, 2004. Files of Missouri NRR, File 1.A.1, COE 2004.
[473] Al Hutchings, NPS to Jeffrey Bedey, USACE, October 29, 2004. Files of Missouri NRR, File 1.A.1, National Wild and Scenic Areas. Similar comments came from the Nebraska Game and Parks Commission, November 17, 2004, files of Missouri NRR, File 7B, NE Game and Parks; and American Rivers, November 18, 2004, files of Missouri NRR, File 1.A.1 COE 2004.
[474] Candace Gorton, USACE to Ernest Quintana, NPS, May 26, 2005. Files of Missouri NRR, File 1.A.1, COE 2005.

the work. To that end, USACE requested from NPS site-specific information on sensitive resources, and planned on buffer distances for the work.[475]

In the summer of 2007, NPS issued its preliminary assessment of USACE's sandbar restoration project for the 59-mile segment under Section 7(a) of the WSR Act. The document detailed potential for effects on all of the Missouri NRR's ORV, including fish and wildlife, recreation, historical, and cultural. NPS placed protective conditions on the work for each of these resource areas, all of which included purchasing fee or conservation easement interests in the lands that were closest to the four sandbar construction locations, monitoring the construction sites, and coordinating with state agencies for historical and cultural resources. If these conditions were met, the document concluded, the work as proposed would not result in direct and adverse effects to the Missouri NRR.[476] This assessment led to development of additional emergent sandbar habitat projects in 2008, including pilot projects in the 39-mile segment and Lewis and Clark Lake, along with the 59-mile reach.[477]

While the overall EIS for sandbar habitat languished after its initiation in 2004, USACE prepared annual EAs for each upcoming year's work. By 2008 and 2009, both NPS and FWS, in their comments on the EAs, cited the need to complete the EIS so as to evaluate the project overall. Funding for USACE's work on the Missouri NRR, however, was regularly limited. The Office of the Chief of Engineers in Washington, D.C., seeing recovery work being done on the Missouri River through several basin-wide planning organizations emerging at the time, thought that restoration work specifically for the Missouri NRR was duplicative, and frequently withdrew funds from the Missouri NRR.[478] NPS, meanwhile, continued to insist that alternatives existed to mechanical creation of sandbars, specifically, management of flows in the river. USACE repeatedly replied to NPS that management of flows was the province of the *Master Manual*, which had to meet a much wider range of interests.

The Programmatic EIS for emergent sandbar habitat work was finally released in draft in 2010. As the Department of the Interior agencies feared, it was focused exclusively on mechanical construction of habitat. FWS commented that the draft PEIS "has a very narrow focus, almost exclusively on the construction of habitat. We believe that the options included are overly limited." FWS pointed out that, in their 2003 Biological Opinion on which USACE had based their sole use of mechanical means to create sandbar habitats, FWS had also discussed "a number of other possible ways to provide habitat." Indeed, according to FWS, the draft PEIS excluded use of flows as a method to create habitat from further review. There are times, FWS opined, when the

[475] Larry Jams, USACE to Ernest Quintana, NPS, March 10, 2006; see also reply from Paul Hedren to Timothy Fleeger, November 27, 2006. Files of Missouri NRR, File 1.A.1, Permanent.
[476] Preliminary Determination Pursuant to Section 7(a) of the Wild and Scenic Rivers Act for the Restoration of Emergent Sandbar Habitat Complexes by the U.S. Army Corps of Engineers, Omaha District, within the Missouri National Recreational River, Nebraska and South Dakota, July 17, 2007. Files of Missouri NRR, File 1.A.1, COE 2007.
[477] Larry D. Janis, USACE to Wayne Werkmeister, NPS, December 17, 2007. Files of Missouri NRR, File 1.A.1, COE 2008.
[478] Becky Latka interview, April 17, 2015.

river conditions will not allow for mechanical construction of sandbar habitat, and USACE would need to have alternative methods in place. Moreover, FWS continued, the amount of construction that the PEIS envisioned would require funds exceeding the average level of funding since 2004, and, thus, might not be feasible.[479]

In his comments, the new Superintendent of the Missouri NRR, Steve Mietz, who replaced Mike Madell in August 2010,was more succinct in calling for the addition of the use of flows as an alternative to mechanical construction of sandbars. A concern specific to the Missouri NRR, he explained, was public perception that creation of sandbars might exacerbate bank erosion, leading to increased calls for bank stabilization. Already, he noted, approximately forty percent of the 59-mile segment of the river had been stabilized, and "additional stabilization may impact the free-flowing status and degrade the outstandingly remarkable values for which the Missouri National Recreational River was established."[480] MRBSA manifested these concerns. In a letter to MRBSA members, the president, Jim Peterson, stated that "the most contentious issue this past year is the construction of the so-called 'bird islands.' The islands divert the flows into the banks and the result has been substantial erosion." According to Peterson, USACE initially offered to reimburse landowners for the eroded areas, but "Recent inquiry was answered by the statement that the COE lacked funds for such payment. One wonders," he concluded, "how much, if any, was asked for."[481]



Figure 10: Superintendent Steven Mietz on right, undated. Photo provided by Missouri NRR.

[479] Michael Olson, FWS to Cynthia S. Upah, USACE, September 24, 2010. Files of Missouri NRR, File 1.A.1, COE 2012.
[480] Steve Mietz, NPS to Cindy Upah, USACE, September 24, 2010. Files of Missouri NRR, File 1.A.1, COE 2010.
[481] Letter to Members and Friends of the Missouri River Bank Stabilization Association, from J.M. Peterson, March 25, 2010. Files of Missouri NRR, File 7.B. Temp.

Reviews of the 2010 draft PEIS continued into 2011, with comments from EPA and the Department of the Interior's Office of Environmental Policy and Compliance. In the Final PEIS, released in May 2011, USACE selected an Adaptive Management Implementation Process as the preferred alternative which, they claimed, would allow them flexibility to meet the needs of the terns and plovers while minimizing potential impacts to the values of the Missouri NRR.[482] While the Final PEIS did not make any promises regarding working with the flows of the river, EPA, in its review, opined that the document "recognizes the importance of acquiring a complete understanding of the interactions between river sediment movement, aggradation and degradation within the riverine segments of the upper Missouri River and the performance and sustainability of ESH [emergent sandbar habitat]." EPA also expressed hope that the adaptive management strategy "might also include the possibility of reevaluating the operational parameters of the Missouri River Mainstem System and its EIS."[483]

[482] Kayla Eckert Uptmor, USACE to Stephen Mietz, NPS, May 9, 2011. Files of Missouri NRR, File 1.A.1, COE 2011.
[483] Ronald F. Hammerschmidt, EPA to Cynthia S. Upah, USACE, June 15, 2011. Files of Missouri NRR, File 1.A.1, COE 2011.

Chapter 9: Resource Management, Environmental Compliance, and Stewardship

In both correspondence at the time and more recent interviews, a constant refrain has been that the real administration of the Missouri NRR, as a functioning and ongoing unit of the National Park System, began only in the late 1990s with completion of the two General Management Plans for the two different segments. Frequently in correspondence during the late 1990s and early 2000s, for example, Superintendent Paul Hedren referred to the Missouri NRR as a young park just getting established. A great deal of groundwork had already been laid, with patterns of response established for handling USACE permits in the 1980s, an otherwise largely inactive period, through the planning process in the 1990s. Completion of the 39-mile segment GMP/EIS in 1997, however, and completion of the 59-mile segment in 1999 with the Record of Decision issued in early 2000, clearly marked turning points that led to the modern management strategies of the Missouri NRR.

The previous chapter explored in some detail the developing relationships among NPS, USACE, and FWS in management of the Missouri NRR from the late 1990s through the first decade of the twenty-first century. These relationships were often contentious as the staff of each agency sought to advance particular goals of that agency, which frequently were at odds with each other. Staff concerns tended to focus on the banks of the river and endangered species' habitats. Beginning in the late 1990s and early 2000s, however, focus of NPS's staff turned toward managing the Missouri NRR in a more holistic way, caring for a broader array of resources, and engaging with neighbors, visitors, and potential visitors. This and the next chapter address this new vision for the Missouri NRR, based on the successful planning work of the 1990s which was fully implemented over the course of a decade or more once GMPs were completed. This chapter focuses on the management of resources, primarily natural resources, given the nature of the Missouri NRR, while the following chapter examines the new approach to interpretation and engagement with the public.

This new focus for management of the Missouri NRR, not ignoring the often contentious relationship with USACE but taking advantage of new opportunities to advance and promote the mission of the Missouri NRR, was reflected in two additions to the staff. Both Chief of Resources Management Wayne Werkmeister and Chief of Interpretation George Berndt were hired by Superintendent Hedren in the summer of 2000 and remained until 2009 when Werkmeister returned to BLM and Berndt retired from NPS. Wayne Werkmeister, formerly with BLM in southwestern Colorado, was hired in spring of 2000 as Resources Management Specialist to supplement work being done by Lauren Johnson, also a Resources Management Specialist. Workmeister began work on July 30, 2000. With the administrative division between the Niobrara NSR and the Missouri NRR, and in recognition of the divergent needs of each, Johnson remained focused on the Niobrara NSR while Werkmeister's brief was to develop and lead the resources management program on the Missouri NRR. Werkmeister effectively replaced Outdoor Recreation Planner William Beteta, who coordinated much of the later planning and early development efforts. Like Beteta before him, and with Johnson, Werkmeister

was stationed at the O'Neill Headquarters Office. One of Werkmeister's first actions after beginning work was to recommend hiring Biologist Stephen Wilson, who had significant experience with GIS.[484] In 2005, the Missouri NRR also hired Hydrologist Tyler Cole, who arrived from Alaska and provided a great deal of expertise and ability to discuss technical matters pertaining to the river with USACE's engineers and managers.



Figure 11: Biologist Stephen Wilson, undated. Photo provided by Missouri NRR.

As Paul Hedren explained later, with completion of the planning phase of the Missouri NRR he sought to replace planners with resources people: "I was of the conviction, first, that this is all about resources management and riverine landscapes management, and I needed people that talked that language well, and so first hires on the Missouri were resources people, resources management people, who were willing to undertake the challenges."[485] The work of this resources management staff, led by Werkmeister, was alternately reactive and proactive planning. They helped the Superintendent to coordinate responses to actions that had potential to threaten any of the Missouri NRR's values or free-flowing nature, and to coordinate various programs and projects that would advance the Missouri NRR's mission to protect and preserve the river's values.

[484] Memorandum, Superintendent, Homestead National Monument of America to Regional Director, MWRO, May 17, 2000. Files Missouri NRR, File L7019 (HOME). See also Wayne Werkmeister interview, May 8, 2015.
[485] Paul Hedren interview, April 17, 2015.

Ponca State Park

Amid the controversies and challenges faced by the Missouri NRR in its relations with USACE since the 1991 designation, Ponca State Park represents one of the bright spots of collaboration and one of the overall successes of resources management within the Missouri NRR. Ponca State Park, operated by the Nebraska Game and Parks Commission (NGPC), was established in 1934 on 200 acres of land donated to the state. It currently occupies nearly 1,400 acres, combining tall, rolling bluffs with bottomlands and wetlands along the Missouri River, and serves as the downstream boundary, and anchor, of the 59-mile segment of the Missouri NRR. It also serves as one of the principal entry points for visitors coming to the Missouri NRR, and has become a key component in interpretation of the different Missouri NRR segments.

NPS's involvement with Ponca State Park began in 1998 and early 1999, when NGPC began looking into acquiring the Schram property, a large parcel of bottomlands on the Missouri River adjacent to the north side of the park. USACE and NPS were then in frequent contact, and in frequent disagreement, over development of the GMP for the 59-mile segment. NGPC planned to acquire the Schram property, consisting of approximately 295 acres of bottomland and eighty-two acres of wooded bluff, as a component of the Ponca State Park to be used for environmental restoration and to provide primitive and low-impact recreational uses.[486]



Figure 12: Ponca State Park, looking upstream, 2014. Photo by the author.

[486] Jerry Tworek, USACE, Ponca Restoration Project Trip Report, June 29, 1999, attached to memorandum from Becky Latka, USAE to John Kingsbury, Better Ponca Foundation (BPF), August 5, 1999; memorandum from John Kingsbury to Paul Hedren, NPS, March 12, 1999. Files of Missouri NRR, File 1B Cooperation/Admin Planning: Ponca State Park.

USACE and NPS were then collaborating on the Resource Education Center (REC) at Ponca State Park, which will be discussed in Chapter 10. At the same time, NGPC requested that USACE protect the wetlands and bottomlands of the Schram property, soon to be part of Ponca State Park, from erosion.[487] In response, USACE developed a draft EA for bank stabilization along the Ponca State Park boundary at the Missouri River's banks that included three structural alternatives along with the standard "no-action" alternative. The preferred alternative included a peaked revetment that would divert the flow of the Missouri away from the bank but would allow water and fish passage through the structure and would also allow sediment to build up between the structure and the bank. In May 1999, USACE requested NPS review and comment on the Draft EA, adding that USACE intended to issue a Finding of No Significant Impact (FONSI) for the plan, which it did in July 1999.[488]

The years from 2000 to early 2002 were occupied primarily by development of the new Resource Education Center, along with restoration of bottomlands, under the coordinated efforts and funding of NPS and USACE at the request of NGPC. The issue of bank stabilization along the Ponca State Park boundary was resumed in the summer of 2002, as planning and construction for the REC continued. In 2002, USACE announced plans to conduct a restoration feasibility study for the 295-acre Schram parcel, which NGPC had, by then, acquired. A consulting firm, Tetra Tech, was hired to conduct the study, which was aimed at restoring side channels, backwater areas, wetlands, and prairie meadows on the bottomland tract. The area had been drained and filled for agriculture, but NGPC planned to revert it to wetlands. The project as envisioned would create wetlands primarily by diverting runoff from bluffs above the tract, and by creating trenches and chutes within the area that would create valuable habitat. In addition, the project included plans for soft bank stabilization, potentially using trees cabled together with small rock riprap.[489]

Driven largely by NGPC's acquisition of the Schram parcel, the project also was occurring as USACE and FWS were negotiating a response to FWS' Biological Opinion from 2000 regarding restoration of habitat for tern, plover, and pallid sturgeon. The project also was unfolding as USACE was developing an EIS for the proposed Section 33 bank stabilization demonstration projects and study. In early 2003, Tetra Tech released a Pre-Draft Habitat Restoration and Integrated Environmental Assessment for the work, which identified a preferred alternative that included excavation to extend backwater fingers, reestablish an oxbow, create wetlands, and create a backwater chute on the south inlet, while using large woody debris along the shorelines to increase habitat and allow anchoring.[490] USACE requested comments from NPS in early February 2003, since, with

[487] See Chapter 10 for a discussion of the REC at Ponca State Park.
[488] Draft Environmental Assessment, Bank Stabilization Project, Ponca State Park, Nebraska, Missouri National Recreational River, May 1999. Attached to letter from Rebecca J. Latka, USACE to Paul Hedren, NPS, May 26, 1999. Files of Missouri NRR, File D3219.
[489] Ponca State Park Aquatic Habitat Restoration, Missouri National Recreational River, Project Management Plan, attached to letter from Candace M. Gorton, USACE to Wayne Werkmeister, NPS, August 5, 2002. Files of Missouri NRR, File 1A.1, COE 2002.
[490] Pre-Draft Ponca State Park Habitat Restoration and Integrated Environmental Assessment. Tetra Tech, Inc., January 10, 2003. Files of Missouri NRR, File 1.A.1, COE 2003

proposed alteration to the bank of the Missouri River, it would require review under Section 7(a) of the WSR Act. [491] While generally commending USACE on the work and supporting the preferred alternative, Hedren added that NPS "would also like to take this opportunity to reiterate our wish that in the future projects like this take a 'bigger picture' view of impacts and potential opportunities from the larger encompassing reach if not the riverine environment. Past stabilization efforts," he explained, "have impacted how this project could and will perform in the future and we believe more effort needs to be made to address and understand these impacts."[492] Despite these reservations, NPS then issued its draft 7(a) determination in April 2003, observing that previous concerns regarding bank stabilization had been resolved, and impacts to the bed and banks of the river associated with dredging appeared not to be negative in terms of the ORV.[493] In June 2003, USACE requested permission for a special Real Estate Letter Design Memorandum that would allow them to acquire easements by donation for Ponca State Park work.[494]

The project encountered a setback in late 2004, however, over bank stabilization proposals. NGPC wished to protect the banks of the river that bordered the park from erosion, a condition which, they claimed, both threatened park infrastructure, including a parking lot and campground, and created safety concerns. Their preferred solution was to use a buried revetment to forestall bank erosion. They met on-site with Becky Latka and Jerry Tworek from USACE and Wayne Werkmeister from NPS to discuss this plan. In response, NPS permitted installation by USACE of a temporary structure in April 2005, with the expectation that the longer-term solution would include experimental, bio-engineered solutions expected to "serve as an example for alternative riverbank stabilization with techniques that have not been used before on the Missouri River." The permit approval was to allow the structure to stand for a maximum of three years and would include topdressing with soil.[495] Unfortunately for the State Park, however, USACE's federal FY06 budget contained no money for the Missouri NRR, and it was not able to conduct the temporary bank stabilization work throughout 2005 and into 2006. In early 2006, however, Congress added funds into the Missouri NRR budget, to be used to develop a design for Ponca State Park erosion protection.[496] No actions to stabilize the bank at Ponca State Park took place throughout 2006, however, and, in 2007, the park hosted another on-site meeting to discuss possibilities for resolving the issue.

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[491] Candace M. Gorton, USACE to Paul Hedren, NPS, February 14, 2003. Files of Missouri NRR, File 1.A.1 COE 2003.
[492] Paul L. Hedren, NPS to Candace Gorton, USACE, March 7, 2003. Files of Missouri NRR, File 1.A.1, COE 2003.
[493] Paul L. Hedren, NPS to Candace Gorton, USACE, April 23, 2003. Files of Missouri NRR, File 1.A.1, COE 2003.
[494] Memorandum for Commander, Northwestern Division, USACE regarding the Missouri National Recreational River, June 23, 2003. Files of Missouri NRR, File 1.A.1, COE 2003.
[495] Memorandum, Paul L. Hedren, NPS to Steve Anschutz, FWS, April 14, 2005. Files of Missouri NRR, File 1.A.1, National Wild & Scenic Areas.
[496] Becky Latka, USACE to Jeff Fields, Superintendent, Ponca State Park, February 17, 2006. Files of Missouri NRR, File 1.A.1, COE 2006.

Nevertheless, the issue remained in limbo with few resolutions for several years until design and installation of a successful bio-engineered stabilization structure in 2011.[497]

Relations between NPS and USACE regarding Ponca State Park, including collaborating with NGPC on development of the REC and working to identify solutions for restoring wetlands and protecting banks along the park, were relatively smooth. The agencies collaborated and compromised, as necessary, on behalf of this important eastern gateway to the Missouri NRR. The only contentious issue regarding Ponca State Park was with a non-park facility: a tall concrete pier that rose from the middle of the river across from Ponca State Park. It was an issue that proved contentious with residents of the area, and involved yet another federal agency: the U.S. Coast Guard.

The U.S. Coast Guard is responsible for monitoring navigation on the nation's rivers, with capabilities including law enforcement, search and rescue, icebreaking, and environmental issues such as fisheries law enforcement and marine environmental protection. The Coast Guard is, therefore, continuously active on the Missouri River, though its role is largely unnoticed. However, the Coast Guard was brought into the Missouri NRR's politics in the early 2000s, at the same time as the work at Ponca State Park, just described, was taking place.

In 1932, a suspension bridge was placed across the Missouri River, from Ponca, Nebraska to Elk Point, South Dakota. The work was conducted by Northern Natural Gas and Pipeline Company and was designed to carry a gas line across the river. As a suspension bridge, cables supporting the pipeline were suspended from two concrete towers in the river and then anchored to the shores by concrete piers. As the river shifted its course, the pier on the South Dakota side ended up within the river channel. Given this movement of the river, the pipeline bridge was abandoned in the early 1950s, and the suspension towers were removed, though the piers remained in place. The original South Dakota pier, by the 1990s well into the river channel and within the boundaries of the 59-mile segment of the Missouri NRR, had become a local landmark.[498]

Two developments in the early 2000s brought the issue of the pier to a head. The U.S. Coast Guard, which has responsibility for protecting and monitoring navigation of the river, questioned the need for the pipeline and called for its removal. At the same time, local residents requested permission to place a billboard on the pier as a welcome to Ponca State Park. First contacting USACE, these local advocates for the reuse of the pier were advised to contact NPS, which had announced plans to remove it.[499] Phil Knerl, editor of a local newspaper, wrote to Hedren with a proposal to maintain the pier, and use it to support a sign that would welcome boaters to Ponca State Park. In his initial reply in May 2002, Superintendent Hedren replied with typical mellifluousness, noting that, while

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[497] Superintendent's Annual Report, Fiscal Year 2011, Missouri National Recreational River. Files of Missouri NRR.

[498] For background on the pipeline and pier, see http://www.johnweeks.com/river_missouri/pages/nesd_mo_06.html (accessed February 21, 2016); and Phil F. Knerl to National Parks [sic] Service, May 7, 2002. Files of Missouri NRR, File 1.A.1, Environments—Ponca Pier.

[499] Ibid.

NPS has had to temper its mandate to protect the Missouri NRR in its natural, free-flowing state, given the needs for bridges and other structures, there are some occasions that allow them to restore the river. "That," Hedren announced, "is precisely the case of the Ponca pier. We believe that the last thing the Missouri River needs is a billboard of a parallel sort to those intruding on America's highway vistas. Instead, we see an opportunity to cleanse the Missouri of an obstruction that did not exist when sturgeon and paddlefish thrived, Lewis and Clark passed, still grieving no doubt over the death of Sergeant Floyd but now embracing the wonders of the wooded bluffs on the river's south banks, and the river itself flowed free, untouched by man."[500]

Undaunted by Hedren's prose, Knerl remained steadfast that the pier should remain in the river and be enhanced by a billboard announcing a welcome to the Missouri NRR as well as to the state park. In addition, he brought the pier and its impending demolition to the attention of MRBSA, which, likewise, supported the pier remaining in place.[501] Knerl also approached Rep. Bereuter for support, and Bereuter, in turn, requested an explanation of the issue from Hedren, who replied that NPS intended to have the pier removed. In his reply to Knerl, Rep. Bereuter assured Knerl that he had contacted NPS about keeping the pier, "although I must candidly say that I did not endorse it. It seems to me that such signage would be inconsistent with the purpose of a section of river designated under the Wild and Scenic Rivers Act."[502] Proposed removal of the pier, however, became another point of conflict and mistrust between NPS and MRBSA.

Because the pier was owned by Northern Natural Gas, which was, by then, a subsidiary of Enron, it was Enron's responsibility to remove the pier under order from the Coast Guard. It took several years to develop methods for removing the pier, however. In 2006, the Dixon County Board of Supervisors, apparently unaware of the earlier correspondence, wrote to Superintendent Hedren regarding the pier, again requesting that the pier remain in place. It was, the Chairman explained, an important reminder of the region's history, and its location in the middle of the river was a powerful example of how the river changes course over time.[503] Hedren replied by repeating the intention to remove the pier that remained in the river, but he noted that the corresponding pier on the Nebraska side also remained in place, now within the Ponca State Park, and, he suggested, could serve as a reminder of this part of local history.[504] By 2007, after nearly two years of delays, methods for removal had been approved, and river conditions finally allowed removal of the pier. In his annual report to members of MRBSA in early 2008,

[500] Paul L. Hedren, NPS to Phil F. Kerl, May 8, 2002. Files of Missouri NRR, File 1.A.1, Environments—Ponca Pier.
[501] Phil F. Knerl to Paul L. Hedren, NPS, July 22, 2002. Files of Missouri NRR, File 1.A.1, Environments—Ponca Pier.
[502] See correspondence among Bereuter, Hedren, and Kerl, September-December 2002. Files of Missouri NRR, File 1.A.1, Environments—Ponca Pier.
[503] Russell Fleury, Chairman, Dixon County Board of Supervisors to Paul Hedren, NPS, August 7, 2006.
[504] Paul L. Hedren, NPS to Russell Fleury, August 21, 2006. Files of Missouri NRR, File 1.A.1, Environments—Ponca Pier.

following removal of the pier, Peterson added that "I can think of no other single act by the NPS which has antagonized more people."[505]

Studies and Plans

Among the complaints that NPS lodged in its dealings with USACE through the late 1990s and well into the 2000s was lack of information and studies on impacts from various actions within the two segments of the Missouri NRR. Under direction of Hedren and Werkmeister, and in conjunction with USACE and other federal agencies, NPS planned their own studies and plans and took advantage of those prepared by other agencies. As with other programs that came to fruition in the 2000s, they built on early, preliminary efforts from the 1990s that helped to explain the river's functions in the post-Pick-Sloan era. In 1997, for example, NPS participated in the second of a five-year study of benthic fish (those that live and feed on or close to the bottom of rivers and lakes) being conducted by USACE, which included both of the Missouri NRR segments.[506] In 1998, meanwhile, NPS's Water Resources Division prepared a summary of existing surface-water quality data for the Missouri NRR.

In the few years after Werkmeister arrived, NPS initiated several studies and plans to evaluate impacts of altered river flows on the river's ecology. One of Werkmeister's early charges was to develop the first-ever resources management plan for the Missouri NRR. The process began in October 2001, with a two-day scoping meeting at Niobrara State Park among a variety of resource specialists and park managers from the region. The meeting included tours of the Missouri NRR, both on land and on water, and resulted in identification of prioritized issues.[507] Work on the resources management plan quickly faltered, however, and, by 2003, no review draft had yet been completed.

In late 2003, when relations between Hedren and USACE were at their nadir, Hedren proposed to MWRO a reinvigorated resources management plan. He cited USACE's continuing work on stabilizing the banks, prompted by Congressional action which responded to lobbying by MRBSA and others, and which was abetted by the inaction of NPS itself. He observed that "until very recently, no one in NPS's behalf challenged in any meaningful way USACE's proactive stabilization work there, they in turn seizing full opportunity borne in their own unique interpretation of the Amendment [that designated the Missouri NRR] to be responsive to public and political clamor." Even the recent GMP, he expounded, "laid out two alternative pathways allowing stabilization work *to continue* in the District. The plan encouraged environmentally friendly alternatives to rock but did not question the fundamental issue of riprapping the banks of this designated Wild and Scenic River, and nor did it offer a discouraging

[505] J.M. Peterson, annual letter to "Members and friends of the Missouri River Bank Stabilization Association," April 10, 2008. Files of Missouri NRR, File 7.B, Temp. 7 years.
[506] See Candace M. Thomas, USACE to Warren Hill, NPS, December 20, 1996, files of Missouri NRR, File 1.A.2, Fish
[507] Annual Superintendent's Report for 2001-2002, January 23, 2003. Files of Missouri NRR.

word."[508] Threat of continued bank stabilization was real, he argued, noting that approximately forty percent of the banks in the 59-mile segment had some form of hard stabilization and that NPS's Water Resources Division had expressed concern that "hydrologic processes on the MNRR may be so compromised already as to have reached the brink of no return." In order to stem this tide of rock, Hedren proposed a clearly programmatic resource management plan that would include a legal analysis of the two legislations that designated the Missouri NRR, recommendations for scientific studies to allow for a greater understanding of the river's processes, precise analyses of existing conditions, and discussions of a wide variety of alternatives to rock-based bank stabilization. He included with his memorandum a draft outline and introduction for his envisioned resources management plan, a wide-ranging document that included both natural and cultural resources. [509]

Hedren's proposal for the resources management plan was not adopted as originally proposed, due, in part, to the decision by NPS Washington Office to put on hold such park Resources Management Plans while developing Resources Stewardship Strategies. NPS Water Resources Division and Geological Resources Division staff met at the Missouri NRR in June 2004 to begin planning a broader report, the Water Resources Information and Issues Overview Report. The resulting report, released in 2005, outlined the development of the Missouri NRR, with a focus on its role in managing the river, and provided an outline of the key water resource issues including altered flows, erosion and deposition, channel depth, water quality, wetlands, floodplains, riparian zones, and biological species including threatened and endangered species. The report made a strong pitch in favor of returning to a more natural flow regime with seasonal high and low flows and allowances for meanders. Explaining that the original intent of the Pick-Sloan Plan's management of the Missouri heavily favored navigation needs of the lower river, the report stated that barge traffic on the Missouri River had peaked in 1977, below the original expectations which had fed calculations that resulted in the Pick-Sloan Plan, and had been falling steadily since. The report also recommended treading very lightly with bank stabilization projects, explaining that introduction of riprap into the stream alters many natural processes of the river including reducing sediment load and increasing scour, changing natural habitats, altering stream geometry, and greatly reducing the diversity of habitats in and along the rivers. The report's recommendations included encouraging USACE to adopt more natural flow regimes, evaluate bank stabilization projects on a case-by-case basis, use non-structural means for bank stabilization, and conduct further studies to examine the Missouri River's ecosystem at a more general level.[510]

At the same time, NPS contracted with the U.S. Geological Survey (USGS) to prepare a large-scale, multi-year geomorphological study of the Missouri NRR. Begun

[508] Paul L. Hedren to Regional Director, MWRO, December 2, 2003; files of Missouri NRR, File 1.A.1, COE 2003.
[509] Ibid. The draft outline and introduction is found in Missouri NRR, File 1.A.2, Planning Program.
[510] Don P. Weeks, David L. Vana-Miller, and Hal Pranger, "Missouri National Recreational River, Nebraska-South Dakota: Water Resources Information and Issues Overview Report," Special Report prepared for NPS, 2005.

shortly after 2000 and completed in 2006, this report provided an intensive study of river processes influencing the flows, banks, and islands of the Missouri River within the two segments.[511] In particular, the study examined specific, localized components of the river to understand the variety of responses that the river had made to the new conditions, and to allow NPS and USACE to make individual decisions about particular areas within the two segments: "This report is based on the premise that improved understanding of spatial variability of river processes can contribute useful information to those who make decisions about the river and its resources."[512]

The geomorphological study presented a valuable snapshot of conditions of the river in the early 2000s, and reported that, by 2006, 12.5 percent of banks in the 39-mile segment and thirty-two percent of banks in the 59-mile segment had been revetted, or stabilized, using rock or similar hard points. The river, the report stated was characterized by "relatively discrete reaches with naturally clustering sets of geomorphic characteristics." Wading into the treacherous political waters of bank stabilization within the Missouri NRR, the report indicated that bank stabilization projects generally were conducted to protect specific interests, but that there were also ecological benefits to channel migration, a migration which erodes certain banks. The different geomorphic classifications that the report identified, the authors recommended, could allow the river's managers to determine more carefully "where bank stabilization is warranted or where bank instability could be controlled at socially acceptable rates." This would allow, the authors continued, for protection of particular features or properties which lay within areas of high erosion rates and for the allowance of erosion and development of habitat in areas of lower erosion. The geomorphic classifications that the report outlined also could aid in construction of sandbars for endangered species habitat by identifying where sandbars will naturally form and persist.[513]

NPS, through the Missouri NRR, has continued to support a range of ecological studies carried out by other agencies and individuals within the two stretches of the Missouri NRR, from the early 2000s to the present. These included a geological resource inventory, a study of zebra mussels and other invasive species, and several studies designed to alleviate problems of sedimentation, particularly in the delta of the Niobrara River where it enters the Missouri and in the upper sections of Lewis and Clark Lake. At the same time, USACE and FWS were conducting a range of other ecological studies within the Missouri NRR.

In particular, the Missouri NRR has supported, and been supported by, the Missouri River Institute (MRI) at the University of South Dakota in Vermillion. Established in 1999 as an affiliate of the University, MRI has interacted regularly with the Missouri NRR by conducting or sponsoring a variety of ecological and

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[511] Caroline M. Elliott and Robert B. Jacobson, "Geomorphic Classification and Assessment of Channel Dynamics in the Missouri National Recreational River, South Dakota and Nebraska," USGS, Scientific Investigations Report 2006-5313, produced in conjunction with the National Park Service.
[512] Ibid., 1.
[513] Ibid., 59.

geomorphological studies of the two segments of the Missouri River.[514] MRI has been very active in coordinating the work of faculty and students and partnering with USACE, FWS, and state agencies as well as with NPS to conduct studies of the river, both its geomorphological development and significant ecological issues. USACE involved faculty and students in development of emergent sandbar habitats, for example, along with other habitat restoration programs. As Director of MRI Tim Cowman observed, "we overlap in terms of research that we do with [the USACE]. Sometimes we do research that they can use. Sometimes they fund us to do that." USACE has funded MRI to perform various kinds of outreach, as well, including a website aimed at elementary school children about how the Missouri River developed. MRI also has worked extensively with NPS on studies, including impacts from the massive flood of 2011. Similarly, in November 2013 MRI was instrumental in working with NPS to establish the Missouri National Recreational River Water Trail which provided added distinction to the park. MRI has, however, avoided debates over the type and extent of bank stabilization; as Cowman noted, "The kinds of research we did had to do more with the ecosystem, development of backwaters, and so on. Anything that dealt with the installation of bank stabilization, we. . .weren't involved in that at all."[515]

In addition to these ecological studies, however, the Missouri NRR also supported a range of cultural resources studies. The foundational study was the historical overview of both the Niobrara NSR and the Missouri NRR, completed in 1994 at the outset of the multifaceted planning program following the 1991 legislation.[516] The report was prepared by three graduate students: two Seasonal Historians, Rachel Franklin and Michael Grant, and Seasonal Landscape Architect Martha Hunt under direction of the Division of Cultural Resources Management of MWRO. It involved extensive travel throughout the two river corridors for research and site visits including consultation with the State Historic Preservation Office (SHPO) for both Nebraska and South Dakota. The researchers also collaborated with the O'Neill Headquarters Office staff, DSC, and the Midwest Archeological Center, and drew upon recent developments in GIS and database management for their report. This report included a thorough historical overview from the time of the earliest European exploration to the twentieth century, a summary of existing cultural resources identified to date, and a preliminary list of historically significant resources. It also described a number of historical and cultural themes that could guide future cultural resources managers in evaluating other resources. In 2002, MWRO prepared a list of twelve proposed studies that included historical topics, American Indian studies, ethnographic overviews, and landscape assessments, along with a recommendation for an Administrative History.[517] While few of these were implemented, the Missouri NRR supported and helped to fund a historical study of Fort

[514] See "University of South Dakota Creates Missouri River Institute," *Yankton Press & Daily*, October 16, 1999; available online, http://www.yankton.net/community/article_b3d904bb-6a0e-5582-b00c-b9eb9fecffef.html.
[515] The oral history interview with Tim Cowman, April 23, 2015, is particularly helpful for understanding the kinds of studies being done on the Missouri NRR.
[516] Franklin et al, *Historical Overview and Inventory of the Niobrara/Missouri National Scenic Riverways, Nebraska/South Dakota*, 1994.
[517] Sherda Williams, Missouri National Recreational River, Suggested Cultural Resources Management Projects, December 16, 2002. Files of Missouri NRR, File 1.A.2, Research Programs.

Randall, the mid-nineteenth century military settlement at the upstream end of the 39-mile segment. Jerry Greene, a research historian working for NPS's Harpers Ferry Center in West Virginia (HFC) but based in Denver, Colorado, prepared the study beginning in September, 2001. His book, the ultimate result of that work, was published by the South Dakota Historical Society in 2006.[518]

Another scholarly effort was developed in 2007-2008, when Daniel Spegel, a graduate student in the History Department at the University of Nebraska at Omaha, began work on a Master's thesis. His focus was on the interplay of actions that led to creation of the 59-mile segment's legislation in 1978, with a particular emphasis on the legislative background and the political forces that shaped it. Coordinating with MWRO's Cultural Resources/History and National Register Program, Spegel worked closely with the O'Neill Headquarters Office, USACE, and MRBSA. Spegel completed his thesis in 2008.[519] Spegel's thesis became an important point in MRBSA's annual report for 2009. Writing as president of the organization in March, 2010, Jim Peterson alleged that the "River Futures" group (presumably Missouri River Futures, a program of the National Resources Conservation Service, described later under Basin-Wide Planning) attempted to prevent Spegel from speaking at a Missouri River Futures meeting. Spegel, Peterson asserted, "has no axes to grind," and concluded "that the addition of the Yankton-Ponca reach of the Missouri to the W&SRS [Wild and Scenic Rivers system] was done principally as a means to secure funding for bank stabilization. One or more of the agencies objected to the content of the proposed speech." When he was subsequently invited to speak, Peterson claimed, Spegel was, by then, unable to give the talk due to schedule changes. "The content of the thesis," Peterson concluded, "certainly has generated fear among the various agencies involved in 'saving' the river."[520]

In part because there are so few identified historic properties within the Missouri NRR boundary, and because NPS took few actions with potential to disturb archeological resources, there were few interactions with either the Nebraska or the South Dakota State Historic Preservation Offices (SHPOs) or the Tribal Historic Preservation Offices (THPOs) of the tribes in those states, through the early and mid-2000s. Such consultations normally take place in accordance with Section 106 of the National Historic Preservation Act of 1966, which called for federal agencies to take into account the effects of their actions on historic properties, defined in the ensuing regulations (36 CFR 800) as those historical and archeological resources that are listed in, or eligible for listing in, the National Register of Historic Places. Superintendent Paul Hedren had contacted the South Dakota SHPO in 2005 in accordance with Section 106 regarding development of an exotic plant management plan, but few other examples of such SHPO

[518] Jerome A. Greene, *Fort Randall on the Missouri, 1856-1892* (Pierre: South Dakota Historical Society, 2006); see also memorandum, Superintendent, Homestead National Monument of America to Regional Director, MWRO, monthly report for October, 2001, November 19, 2001, files of Missouri NRR, File L7019 (HOME).

[519] Spegel, *Missouri National Recreational River*, 2008. As noted in Chapter 2 above, I am particularly indebted to Spegel's excellent work.

[520] J.M. Peterson, Annual letter to "Members and friends of the Missouri River Bank Stabilization Association," March 25, 2010. Files of Missouri NRR, File 7.B, Temp. 7 years.

and THPO consultation exist in the records of the Missouri NRR.[521] In 2008, however, the National Park Service entered into a Programmatic Agreement with the National Council of State Historic Preservation Officers and the Advisory Council on Historic Preservation regarding Section 106 consultation. The purpose, according to the Advisory Council on Historic Preservation, was "to further integrate the stewardship of historic properties into NPS policy, streamline the Section 106 process, and strengthen NPS' partnership with state and tribal preservation programs across the country." NPS had initiated discussions with the Advisory Council and the National Council of State Historic Preservation Officers in 2005 to replace an outdated agreement, and the 2008 agreement spurred far more communication with the Nebraska and South Dakota SHPO from the Missouri NRR staff.

By the time that the Programmatic Agreement was fully implemented, Werkmeister had resigned his position with the Missouri NRR and returned to BLM in Grand Junction, Colorado. He resigned in February 2009, and was replaced as the Chief of Resources Management in October 2009 by Gia Wagner, who consulted regularly with the two SHPOs and with the Tribal Historic Preservation Officers with the Santee Sioux Tribe, the Ponca Tribe of Nebraska, and the Yankton Sioux Tribe. Reporting requirements under the Programmatic Agreement called for at least an annual report, and regular consultation in cases of potential effects. Projects that involved Section 106 consultation included a fire management plan in 2009, a proposed river access site near Vermillion, cutting of invasive trees at Mulberry Bend and Green Island in 2011, and additional boat landing site improvement and more invasive tree removal work at Green Island and Mulberry Bend in 2012 and 2013.[522]

Bridge Construction

Given the nature of waterways designated under the WSR Act, which carries an expectation of limited, if any development, bridges pose a particular problem. Highway bridges clearly constitute a disruptive element along the largely undeveloped stretches of river in terms of visual impact, noise pollution, and alteration to both riverine and shoreline habitats. One of the intriguing, less noticed points in the 1991 Niobrara legislation, however, specifically addressed bridges. Section 6 of the Act, which addressed the 39-mile Missouri River segment, provided that designation of the Missouri NRR would "not place any additional requirements on the placement of bridges other than those contained in section 303 of title 49, United States Code." This section of the U.S. Code allows for special protections of parks and public lands, wildlife and wildfowl refuges, and historic sites in the process of planning transportation improvements. While those protections remained in place, passage of the Act was designed to allow, and even encourage, bridges within the Missouri NRR.

[521] Paul L. Hedren, NPS to Jay D. Vogt, South Dakota SHPO, August 2, 2005; files of Missouri NRR, File 1.A.1, Environmental Impact Policy.
[522] Standardized consultation letters to SHPOs and Tribal Historic Preservation Officers can be found in various files at the Missouri NRR, under the heading of 1.A.2, including Historic Preservation Program and Historic Sites/Structures Management, and Permanent

Rep. Douglas Bereuter (R-NE), principal author of the 1991 legislation, was explicit in seeing the new sections of the Missouri NRR as, in part, an economic stimulant to the region. While agriculture would remain the principal economic engine for central Nebraska and South Dakota, he saw enhanced recreation as one among several means to diversify the economy of the region. Allowing visitors and residents to cross over the Missouri, he believed, would add to the appeal of the area and promote more recreational use and tourism. In a letter to the editor of a local newspaper in April, 1992, Bereuter hoped to counter a series of what he considered to be misperceptions about NPS's role along the Missouri River. He saw designation of the 39-mile segment as a National Recreational River as a way to "help facilitate the economic development in Knox County [Nebraska], or at least help to stem the economic decline of the area over the past decade or two." Agriculture would remain the backbone, he asserted, and he was working to attract new industry to the area. One of the best options available, he argued, "to provide additional future economic stimulus to the area would be to encourage the growth of business's [sic] centered around recreation, tourism, and even possible retirement homes." Bridges, he continued, were important to facilitating this recreational development: "In addition to facilitating transportation for other purposes, the bridge [over the Missouri at Niobrara, funds for which he helped to secure] will allow recreation related traffic from the existing recreation developments near the Missouri River and Lewis and Clark Lake in both South Dakota and Nebraska to travel back and forth. Circular trips around the Lewis and Clark Lake will be possible when the bridge is completed."[523]

Currently, four bridges cross the Missouri River within the Missouri NRR; three of them on the 59-mile segment and one across the 39-mile segment. Of these four bridges, only one existed at the time of initial designation of the Missouri NRR in 1978: the Meridian Bridge in Yankton, which was built in 1924 and originally carried U.S. Highway 81 across the river. It was designed as a double-deck truss bridge, with an upper deck for automobile traffic and a lower deck for trains. Constructed of steel trusses and floor supported by concrete piers, it includes nineteen spans with a total length of 3013 feet. The lower deck was built with a vertical lift in one of the spans to allow for river boat traffic to pass. Trains never used the lower deck, however, and, in 1953, it was converted to automobile use, with the upper and lower decks each having one-way traffic. The bridge was listed on the National Register of Historic Places (NRHP) in 1993.[524] After its replacement in 2008, as described in the following paragraph, it was converted for recreational use to allow walkers and bicyclists to cross the river, and re-opened in 2011.

[523] Doug Bereuter, Letter to the Editor, April 29, 1992. Clipping from unnamed newspaper, in files of Missouri NRR, Box NIMI I-1.
[524] Charlene K. Roise, Jeffrey A. Hess, *National Register of Historic Places Registration Form, Meridian Bridge*, 1993.



Figure 13: Meridian Bridge looking southeast, 2016. Photo by the author.



Figure 14: Discovery Bridge, Yankton, looking northwest, 2016. Photo by the author.

The Meridian Bridge in Yankton was replaced in 2008 by the Discovery Bridge, which crosses the Missouri River approximately 1,000 feet west of the Meridian Bridge. It now carries U.S. Highway 81 across the Missouri River. It is a nearly level, steel girder bridge with a concrete deck 134 feet wide and extending 1,591 feet across the river. At only thirty feet above ordinary high water, it is not designed to allow for commercial boat transportation beneath it.

The third bridge that crosses the 59-mile segment connects South Dakota Route 19 and Nebraska Route 15, between Vermillion, South Dakota, and Newcastle, Nebraska. Until it was completed in 2001, the only bridge that crossed the Missouri River between Gavins Point Dam and Sioux City, Iowa, aside from the Gavins Point Dam itself, which carries vehicular traffic, was the narrow Meridian Bridge in Yankton. Located near Mulberry Bend in the Missouri River, the Newcastle-Vermillion Bridge extends 2,455 feet across the river and is thirty-six feet wide with two lanes. It is constructed of steel girders with a concrete deck. A row of single steel and concrete columns rises from the river to support the road bed, which is a single incline from the Nebraska side north to South Dakota. An interpretive area and park on a bluff above the road on the Nebraska side provide overviews of the bridge and river.



Figure 15: Vermillion-Newcastle Bridge, looking southeast, 2016. Photo by the author.

Only one bridge crosses the Missouri River within the 39-mile segment. Located approximately two miles east of Niobrara, Nebraska, near Running Water, South Dakota, the Chief Standing Bear Memorial Bridge connects Nebraska Route 14 and South Dakota Route 37. It was completed in 1996, and extends 2,953 feet across the river, with a single steep incline from the Nebraska side to South Dakota. It is constructed of concrete with steel girders, the road bed supported on a row of single columns rising from the river. A large overview and park are located on the South Dakota side, providing sweeping views of the bridge and river.

Each of the three bridges built following designation of the Missouri NRR—the Discovery Bridge in Yankton, the Newcastle-Vermillion Bridge over the 59-mile segment, and the Chief Standing Bear Memorial Bridge over the 39-mile segment—required extensive consultation, with NPS playing a relatively minor but important role. NPS, in its regulatory role with regard to the Missouri NRR, was not comfortable with allowing major construction within the boundaries of the Missouri NRR. The purpose of the WSR Act is to preserve designated stretches of a river in their free-flowing state and to protect its natural, historical, cultural, and scenic values. Such major constructions as bridges clearly pose threats to these values. Bridges are, however, vital to communities nearby and afford opportunities to bring more people to the region. Moreover, the 1991 legislation specifically provided for construction of bridges within the 39-mile segment. NPS, therefore, provided input in a process over which it had little control, to protect as many of the values as possible and to provide for interpretive measures that would help to mitigate for the intrusion in the natural setting.

NPS's first formal consultation for bridges in the Missouri NRR began with a simultaneous notice of both the Yankton and the Newcastle-Vermillion bridges in August, 1992. While the proposed Newcastle-Vermillion Bridge was a new construction, the Yankton bridge was seen as being either a rehabilitation of the existing Meridian Bridge or a replacement. Warren Hill, Missouri NRR Superintendent then beginning work on the GMPs for both the 39- and 59-mile segments, received notice from the South Dakota Department of Transportation (SDDOT) and immediately requested technical support from DSC.[525]

Initial planning moved slowly, with early coordination meetings about the bridge near Running Water a year later, in October, 1993, and a public meeting about the repair or rehabilitation of the Meridian Bridge in March, 1994. At that early stage, consultants and planners of the bridge in Yankton recommended short-term rehabilitation work, designed to extend the bridge's life by approximately ten years, while planning for a new bridge. By 1997, planning for the new bridge in Yankton was under way, and NPS staff participated in meetings to discuss potential impacts to the Missouri NRR. Jill Medland, the Resources Management Specialist in MWRO, was tasked with being NPS lead for the development of Section 7(a) consultation under the WSR Act.[526]

[525] Richard L. Howard, SDDOT to Warren Hill, NPS, August 28, 1992; memorandum, Warren Hill to Regional Director, MWRO, September 1, 1992. Files of Missouri NRR, File NIMI I-1.
[526] Memorandum, Jill Medland, NPS to File, July 2, 1997. Files of Missouri NRR, File D-30 (NIMI).



Figure 16: Running Water Bridge, looking north, 2014. Photo by the author.

With planning for a new bridge at Yankton under way, discussion turned to disposition of the historic Meridian Bridge, which had recently been listed on the NRHP. In 1998, the City of Yankton expressed hopes that it could be converted to pedestrian use but acknowledged that the City did not have necessary funds for its conversion.[527] In early 1999, with Paul Hedren now the Missouri NRR Superintendent, the Nebraska Department of Roads (NDOR) proposed to demolish the Meridian Bridge using explosives, which generated concern regarding environmental impacts to the river, though NPS did not, on principal oppose this bridge removal if environmental safeguards were in place. The Nebraska SHPO, however, entered consultations in 1999 with the hopes of preserving the Meridian Bridge in place. [528]

Consultation among NPS, the Nebraska and South Dakota highway departments, and the Nebraska SHPO regarding construction of the new bridge and disposition of the old one continued into the early 2000s. By 2002, NPS issued a 7(a) evaluation of the new bridge, determining that, as designed, it would have adverse effects, including impacts to wetlands along Green Island near the southern bank of the river, to cottonwoods along the bank, and to endangered species, but proposing mitigation measures, described later, to allow construction to move forward. In 2004, the Federal Highway Administration released the Final EIS for the Yankton Bridge Replacement project, which included

[527] Eric Swanson, City Manager, Yankton to Steve McBeth, Nebraska Department of Roads, April 14, 1998. Files of Missouri NRR, File D-30 (NIMI).
[528] Paul L. Hedren, NPS to Arthur B. Yonkey, NDOR, January 9, 1999. L.Robert Puschendorf, Nebraska SHPO to William W. Schenk, NPS, April 20, 1999. Files of Missouri NRR, File D-30 (NIMI).

mitigation measures for the Missouri NRR. These were protection of water quality from materials that were allowed to enter the river, limited vegetation removal, monitoring of the river channel for contaminants, protection against sediment build-up and to control any erosion that was caused by the bridge, revegetation of disturbed areas above the ordinary high water mark, conversion of the Meridian Bridge for pedestrian use, design of the new bridge to minimize visual impact, and a voluntary conservation easement on City-owned property within the Missouri NRR boundary to protect existing wildlife values and a deeded tree easement on adjoining private land. Finally, a sixty-acre parcel on the southern bank of the river, identified as Green Island, would be acquired by the Nebraska Department of Roads and transferred to NPS for preservation of wetlands and wildlife habitat.[529] Green Island was finally transferred to NPS in April 2014.



Figure 17: A view of Discovery Bridge and downstream end of Green Island, looking southwest from Meridian Bridge, 2016. Photo by the author.

By 2005, however, while design work for the new bridge was continuing, the City of Yankton announced that funds necessary to convert the historic Meridian Bridge for recreational, non-vehicular use were available and requested NPS's participation in development of plans for its use. The two Yankton bridge projects then began to move

[529] *Record of Decision, Highway US-81 Yankton Bridge Study, A Missouri River Crossing Between the City of Yankton, Yankton County, South Dakota, and Cedar County, Nebraska, NH-81-4 (113), September, 2004*. Files of Missouri NRR, File D-30 (NIMI).

forward simultaneously.[530] The Meridian Bridge was converted to recreational and pedestrian use, and opened to the public in 2011.

Initial planning for the Newcastle-Vermillion Bridge took place at the same time as planning for the Yankton bridge. Public hearings were held in late December 1994, in both Vermillion and Newcastle. Three alternatives for locations were presented, including the current Mulberry Bend site, one site upstream, identified as Highline, and one site downstream, identified as Lembke Landing. At that early date, the Mulberry Bend site already was the preferred alternative.[531] In early 1997, as with the Yankton bridge project, Jill Medland at the MWRO took the lead on the NPS response, together with Outdoor Recreation Planner Bill Beteta at the O'Neill Headquarters Office.[532]

Funding for the bridge was available by 1996, and Beteta and Hedren continued consultation with the South Dakota and Nebraska departments of transportation By 1997, they had formulated the basics of its mitigation requirements. As described by Rep. Bereuter in the fall of 1997, these included "a scenic easement and overlook be provided similar to the one that was provided in the Springfield, South Dakota area as part of the Niobrara Bridge Project." Funding would come largely from the Intermodal Surface Transportation Enhancement Act (ISTEA). The director of the Nebraska Department of Roads (NDOR), however, opposed the requirement, which USACE was prepared to support in the Section 404 permit. Bereuter urged him to find a way to move forward, for state pride if for no other reason: "I hate to give the South Dakota DOT an opportunity to say that further delay is caused by a problem on the Nebraska side."[533]

Bereuter's intervention proved successful. In the summer of 1998, NPS issued its formal Section 7 evaluation of impacts of construction and identified necessary mitigation requirements. While most were similar to the cautionary requirements for the Discovery Bridge in Yankton, mitigation for the Newcastle-Vermillion Bridge also included an interpretive site at an overlook above Mulberry Bend, with a scenic easement. Covering thirty-one acres on a tall bluff above the Missouri River on the Nebraska side, the Mulberry Bend Overlook provides limited hiking, interpretive signage, and spectacular views of the river. The Nebraska Department of Roads constructed the turnout and overlook as partial mitigation for construction of the bridge within the 59-mile segment of the Missouri NRR, and transferred the property to NPS on

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[530] Memorandum, Acting Regional Director, MWRO to Chief, Environmental Quality, WASO, January 13, 2003, containing NPS comments on Draft EIS for Yankton Bridge Replacement; Curt Bernard, Mayor, City of Yankton to Paul Hedron [sic], April 15, 2005; Memorandum, Kevin Kuhl, City of Yankton to Jeff Weldon, Manager, City of Yankton, March 6, 2006. Files of Missouri NRR, File D-30 (NIMI).

[531] Public Hearing/Open House, Missouri Bridge Near Vermillion and Newcastle, Clay County, South Dakota and Cedar/Dixon Counties, Nebraska, December 19-20, 1994. Files of Missouri NRR, File D-30 (NIMI).

[532] Memorandum, Jill Medland, NPS to Bill Beteta, NPS, March 17, 1997. Files of Missouri NRR, File D-30 (NIMI). In early 1997, Warren Hill noted that the development of a bridge there had been sanctioned in an earlier general management plan; Memorandum, Superintendent, Niobrara/Missouri National Scenic Riverways to Regional Director, MWRO, February 14, 1997. Files of Missouri NRR, Annual Superintendent's Reports.

[533] Rep. Doug Bereuter to Allan L. Abbott, NDOR, November 17, 1997. Files of Missouri NRR, File 1.A.1, Encroachments-Water.

April 16, 2002.[534] Groundbreaking for the Newcastle-Vermillion Bridge took place in July, 2000, and the bridge was completed in November, 2001.

A bridge across the Missouri near Niobrara, within what became the 39-mile segment, had been advocated since the 1920s. The initial attempt to secure funding made headway until the stock market crash of 1929, and the ensuing Great Depression put a halt to the plans. Mobilization for World War II quashed the next attempt, while the Korean War stopped the third attempt. After a fourth attempt failed in the early 1980s, and a ferry at the site stopped running in 1984, Rep. Bereuter took up the cause. With the combined backing of Nebraska and South Dakota state officials, Bereuter's efforts finally paid off when Congress approved funding in 1995. The Federal Highway Administration (FHWA) completed an EIS in 1994, and ground was broken in May, 1996. Construction on the bridge was completed in 1998, and included a scenic overlook on the South Dakota side which features wayside exhibits developed primarily by Outdoor Recreation Planner Bill Betata at the O'Neill Headquarters Office.[535] The bridge was named in honor of Ponca Chief Standing Bear, whose home in the nineteenth century was near the location of the bridge and whose Supreme Court case validating the legal personhood of American Indians prevailed in 1879.

Nebraska Highway 12

While bridges clearly are a massive intrusion on the landscape, perhaps the most significant potential impact on the Missouri NRR came in the mid-2000s with the proposal to re-route Nebraska Highway 12 (NE-12) near the Village of Niobrara. Located along the 39-mile segment, NE-12 parallels the southern edge of the river nearly at the level of the water. With the dramatic increase of siltation at the mouth of the Niobrara River that resulted from the slower water of the Missouri River behind Gavins Point Dam, NE-12 was facing increasing pressure from rising water. In 2008, Missouri NRR staff began attending scoping meetings for relocation of NE-12 on either side of the Village of Niobrara and learned of the potential to impact more than 100 acres of wetlands, the largest in Nebraska's history.[536] The potential impact on the Missouri NRR and its ORV was clear.

Given its regulatory role under Section 7(a) of the WSR Act, NPS was invited to serve as a cooperating agency in development of an EIS for the proposed road project. Negotiations continued for seven years as NPS and other agencies pressed for avoidance of the impacts or mitigation for the impacts that could not be avoided. Missouri NRR staff were extensively involved in these negotiations, including Wayne Werkmeister and

[534] Deed of Correction, Dixon County, Nebraska Deed Book 88 of DR, p.544; copy in files of Missouri NRR. See also Annual Superintendent's Report for 2002, files of Missouri NRR.
[535] Memorandum, Superintendent, Homestead National Monument of America to Regional Director, MWRO, State Coordinator's Report for August, 1998, September 9, 1998. Files of Missouri NRR, File L7019 (HOME). See also reference to FHWA Final EIS in the GMP for the 39-mile segment, 1996, 17.
[536] Memorandum, Superintendent, Homestead National Monument of America to Regional Director, MWRO, September 29, 2008. Files of Missouri NRR, File L7019 (HOME).

his successors as resources managers, and the Missouri NRR's new hydrologist, John Macy, who replaced Tyler Cole. In late 2015, USACE and the Nebraska Department of Roads jointly issued a Draft EIS which acknowledged that the preferred alternative would result in permanent impacts to approximately ninety-one acres of wetlands, and temporary impacts to approximately twenty-three acres of wetlands. As mitigation, the Draft EIS provided for a wetland mitigation and monitoring plan, restoration of 8,700 feet of former Missouri River chutes, enhancement of fifty acres of existing wetlands to preserve important floodplain and backwater habitat, and removal of portions of the existing NE-12 roadway to the existing grade, which would result in the restoration of another twenty-seven acres of wetlands.[537] As of the writing of this Administrative History, the Draft EIS is under public review.



Figure 18: Hydrologist John Macy, undated. Photo provided by Missouri NRR.

Land Acquisition

Under the terms of the WSR Act and both the 1978 and 1991 legislation, NPS has strict limits on the amount of land or interest in land in the form of easements of various sorts that it can acquire. Particularly in the face of strong landowner concerns during the GMP process of the early and mid-1990s regarding the possibility of federal

[537] Public Notice of Availability of Draft Environmental Impact Statement, Nebraska Highway 12 Niobrara East and West, U.S. Army Corps of Engineers, October 9, 2015.

condemnation and seizure of private land, NPS staff in the O'Neill Headquarters Office pledged to work with willing sellers as much as possible, and to avoid condemnation.

At the same time, though, the ability of NPS to fulfill its mandate to preserve and protect the river in its free-flowing state is considerably more effective when threat of private development, either new buildings or bank stabilization, is removed or lessened. This requires the kind of control that comes only with public domain ownership, either in fee or through easements. A significant portion of the Missouri NRR's resources management efforts were focused on either acquiring land or interests in land or coordinating with other agencies to preserve pristine shoreline through acquisition. The ability to acquire land and interests in land, even from willing sellers, was limited by availability of funds. NPS staff, therefore, encouraged USACE also to acquire easements of different types as preservation methods, and has coordinated with a range of other organizations that have had funds available to purchase easements.

Currently, NPS holds title to only three parcels: Bow Creek Recreation Area (209 acres), Mulberry Bend Overlook (thirty-one acres), and Green Island near Yankton (sixty acres), all of them within the 59-mile segment of the Missouri NRR. The latter two, as described earlier, were acquired by other agencies and title transferred to NPS as mitigation for adverse effects to the Missouri NRR's values. The Bow Creek Recreation Area, however, was the most successful of the O'Neill office's attempts to acquire land within the Missouri NRR boundaries. As allowed under the enabling legislation, NPS made many other attempts, both for acquisition in fee and for acquisition of protective conservation easements, while facilitating acquisition by other agencies and non-profits. A brief discussion of these efforts follows.

The O'Neill Headquarters Office staff, particularly Superintendent Hedren and Chief of Resources Management Wayne Werkmeister, were constantly alert to those who might be interested in conveying an easement or selling their river front land to NPS. Their ability to act on these expressions of interest was limited by availability of funds through the Land and Water Conservation Fund via annual requests to NPS Midwest Regional Office's call for proposals. These requests ranked low given other compelling land acquisition needs at other Midwest Region parks. Consequently, this required NPS staff to look for alternative means. In some cases, this meant lining up information and interests so that both NPS and the seller could move quickly when funds became available. In the spring of 2002, for example, Werkmeister identified two parcels near the Mulberry Bend Overlook in the 59-mile segment, each totaling approximately five acres, along with a larger parcel set back from the river that included over 130 acres. Werkmeister then wrote to the owner of the property, inquiring about his interest in conveying a conservation easement on any or all of these tracts. As he described, "easements allow property owners to sell some of the rights they have with their property while still maintaining ownership and use of the property." NPS, he continued, "would like to acquire development rights on unique properties along the river to protect their resource values and beauty." If the owner did not wish to sell the easement, however, "the conversation ends here." The challenge, of course, was funding. As Werkmeister noted, "we currently have no money available for land or easement acquisition. However,

if there is a willingness on your part to discuss one or all of these options, then hopefully we can work out the details soon so that if money becomes available we can act promptly."[538]

In other cases, NPS directed the potential seller to other organizations that could acquire easements. In 1999, for example, the owner of a large and significant tract on the South Dakota side of the Missouri River in the 39-mile segment, directly across the river from "Old Baldy," wrote to Superintendent Hedren about offering her 365-acre parcel for sale.[539] The owner of the property, Mrs. Lois Hyde, was concerned about the fate of the land that she and her family had owned for several decades, desiring that it not be developed after they sold it, either by private interests or by the Yankton Sioux Tribe, which had also expressed an interest in the land. She and her husband, however, were also concerned about the price, and named a fixed price from which they announced they would not negotiate. Hedren responded right away and explained process of land acquisition, including an assessment to determine the value, an offer of purchase, negotiations over the purchase price, and closing the deal. He invited her to remain in contact if she remained interested.[540]

Mrs. Hyde had also been in touch with the Trust for Public Land, a non-profit in Saint Paul, Minnesota, in 1999, but without conveying the land. Her correspondence with Hedren resumed two years later, in May, 2001. Mrs. Hyde still had not sold the land, despite continuing to be approached by others about a sale. Discussions continued through the summer of 2001, but Hedren acknowledged that NPS did not have the funds to proceed with a purchase. "Land acquisition authority and funding for easements or fee title," he explained, "has always been limited in the National Park System and new units like ours always stand at the foot of the priority lists, whether a compelling case exists or not."[541] However, he contacted The Conservation Fund, a non-profit based in Boulder, Colorado, about partnering with NPS to acquire the portion of the tract that was within the Missouri NRR boundary. In pitching it to The Conservation Fund, Hedren explained that, in the planning process for the 39-mile segment, "we constantly developed and played on the notion that of all places on the Middle Missouri where the spirit of Lewis and Clark was present, best was here where development is scarce, landmarks are plentiful, and land like the Hyde's retains its inherent wildness."[542]

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[538] Wayne Werkmeister, NPS to Lowell Rahn, April 10, 2002. Files of Missouri NRR, 1.A.1, Land Acquisition.

[539] Old Baldy, a prominent hill on the Nebraska side of the 39-mile segment, was preserved through a conservation easement purchased by the Northern Prairies Land Trust in January, 2006; see Monthly Superintendent's Report for January, 2006, February 2, 2006, files of Missouri NRR, File A2615 (NIOB/MNRR).

[540] Lois F. Hyde to Paul Hedren, NPS, May 12, 1999; Hedren to Hyde, May 19, 1999. Files in files of Missouri NRR, File 1.A.1, Policies and Procedures.

[541] Paul L. Hedren, NPS to Lois F. Hyde, June 13, 2001. Files of Missouri NRR, File 1.A.1, Land Acquisition.

[542] Paul L. Hedren, NPS to David Kirk, The Conservation Fund, June 14, 2001; see also Hyde to Hedren, May 14, 2001, Hedren to Hyde, May 14, 2001, Hedren to Hyde, August 14, 2001. Files of Missouri NRR, File 1.A.1, Land Acquisition.

Following a visit to the property by Werkmeister in early October 2001, NPS suggested a rough estimate for a sale price prior to having an assessment completed. That rough estimate was not satisfactory to the Hydes. Mrs. Hyde declared that she and her husband "are just plain insulted at the cheap price of from $1500 to $1600 an acre" for their land. She announced that she was writing, also, to the South Dakota Game, Fish and Parks regarding an offer, "to let them know this offer is nothing but an insult to our intelligence." Later that month, however, she agreed to work with an appraiser to develop a value for the land. Unfortunately, the general economic downturn following the September 11, 2001, terrorist attacks in New York, Pennsylvania, and Washington, D.C., made the prospect of acquiring the land difficult, and the correspondence ended in late November 2001.[543]

Some land acquisition processes have been even more drawn out than the correspondence with the Hydes. In the summer of 2001, the multiple owners of James River Island invited NPS to evaluate the property for potential sale. This is a large island near the upstream (western) end of the 59-mile segment, covering 759 acres immediately opposite St. Helena, Nebraska. Hedren, Werkmeister, and Biologist Stephen Wilson visited the island in early August 2001 with the attorney for the owners. In a follow-up email to MWRO, Hedren explained that the owners "deliberately chose to pitch this to NPS because they've liked our talk about resource preservation, our fight over jetskis [see Chapter 10 for a discussion of this issue], and our vision for Goat Island. As importantly, they are all concerned about the future of the island and they've concluded that we are the best hope for keeping it intact." Moving forward, however, likely would involve coordinating funding with Senator Daschle's office, and would take at least a year or two to accomplish.[544]

NPS's initial offer of $750,000 in January 2002, based on a recent appraisal, was rejected by the owners of James River Island. The owners, however, remained patient in hopes that alternatives could be found, and Hedren agreed that local comparable values were too low for a property of this scale and natural condition.[545] In the summer of 2004, Hedren wrote again to The Conservation Fund requesting their assistance, a request that was formalized in 2005 by MWRO. The expected timeframe for a purchase at that point was approximately three years but would be dependent on Congressional funding.[546] The Conservation Fund then conducted their own appraisal, which identified a value of $1.2 million for the property. In early 2006, however, the owners of the property again rejected the value, and opted to list the property for sale.[547]

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[543] Hyde to Hedren, October 12, 2001; Hyde to Hedren, October 29, 2001; Hedren to Hyde, November 20, 2001. Files of Missouri NRR, File 1.A.1, Land Acquisition.
[544] Craig A. Kennedy, Attorney to Wayne Werkmeister, NPS, June 26, 2001; email, Hedren to David Given et al., MWRO, August 3, 2001; files of Missouri NRR, File L14.
[545] Email, Hedren to Bill Schenk et al., June 6, 2002;Craig A. Kennedy, Attorney to Paul Hedren, NPS, March 18, 2003. Files of Missouri NRR, File L14.
[546] Paul L. Hedren, NPS to Christine Quinlan, The Conservation Fund, July 1, 2004; Ernest Quinlan, NPS-MWRO to Sydney S. Macy, The Conservation Fund, May 6, 2005; files of Missouri NRR, File L14.
[547] Email, Christine Quinlan to Paul Hedren, March 14, 2006. Files of Missouri NRR, File L14.

This process, including site visits and extended conversations with potential sellers, typified NPS's attempts to acquire land or easements to protect the values of the Missouri NRR. Clearly, not all of NPS's attempts to acquire land were successful. The most successful of these ventures, however, was what is now the Bow Creek Recreational Area. In the fall of 2002, representative of the estate of the owner of the property wrote to Superintendent Hedren. The Ketter Estate owned 250 acres of river bottom land in Nebraska where Bow Creek drains into the Missouri River, immediately north of Wynot, and was listing the property for sale. The property consisted of 135 acres of farm land, ninety-five acres of pasture, and twenty acres at the mouth of Bow Creek on its north side between the farm land and the Missouri River, including 0.8 miles of river frontage. Following a site visit with representatives from the Ketter Estate and from NPS, Hedren wrote to say that NPS currently did not have an appropriation to purchase the property, but would work with The Trust for Public Lands. As Hedren described it, the Ketter Estate parcel "represents many of the values of the Missouri National Recreational River cherished by the National Park Service, including a tributary access to the Missouri, namely Bow Creek, a functional backwater, which separates your property from your upstream neighbor, cottonwood forests and other valuable riparian habitat, and a sandbar island laying on your frontage that provides periodic habitat for Least Terns and Piping Plovers."[548]

By early 2003, funds had become available for NPS to purchase the Ketter Estate property. The appraisal process began in April 2003. Negotiations continued through the summer of 2003, and NPS made an offer to the Ketter Estate in late August, 2003, of $371,300. The offer was accepted, and the sale closed on February 24, 2004.[549] It was the second parcel within the Missouri NRR boundary to be owned by NPS, after the Mulberry Bend Overlook.

Because the Ketter Estate property extended beyond the Missouri NRR boundary, however, NPS was required under the WSR Act to dispose of the lands outside the boundary. Of 217 acres that were included in the final purchase, approximately ninety-seven acres, all farm land, lay outside the Missouri NRR boundary. The owners of the property immediately south of Bow Creek, Jerome and Richard Boeckman, owned approximately eighty-seven acres of Missouri River frontage. As Hedren described it, the land, "retains its inherent natural condition throughout, has no riprap anywhere, would forestall development along the affected bluff line, and would allow for the NPS to

[548] Paul L. Hedren, NPS to Maurice Ketter, October 31, 2002; Ketter to Hedren, September 25, 2002. Files of Missouri NRR, File 1.A.1, Ketter Property. The available documentation in the files of Missouri NRR, including correspondence, talking papers, transaction records, and oral history interviews, does not provide the source of the funds. However, in an email to the author, former Biologist Stephen Wilson pointed out that NPS purchased the Bow Creek Recreation Area using a $1,000,000 line item that was designated originally for the purchase of James River Island. When the sellers of James River Island rejected the NPS offer based on the appraisal, those funds were made available for the purchase of the Ketter Estate. See email, Stephan Wilson to Bruce G. Harvey, July 28, 2016. See also Talking Paper, Proposed Boeckman Land Exchange, section 2.3; files of Missouri NRR, File 1.A.1, Boeckman Land Exchange.

[549] Land acquisition summary and Warranty Deed in files of Missouri NRR, File 1.A.1, Land Acquisition; see also Alfred M. Suarez, Chief of Land Resources, NPS-MWRO to Mr. and Mrs. Maurice Ketter, April 17, 2003, files of Missouri NRR, File 1.A.1, Holdings.



Figure 19: Bow Creek Recreation Area, looking downstream, 2014. Photo by the author.

own the entire Bow Creek confluence area." The Boeckman's expressed an interest in exchanging their river frontage for the productive farm land of the Ketter Estate in early 2005.[550] Negotiations for the land exchange then took place over the next several years, and, on February 19, 2008, two parcels totaling 101.69 acres passed to NPS in exchange for the ninety-seven acres of farm lands lying outside the boundaries of the Missouri NRR.[551]

While negotiations were taking place, NPS began restoration work on the former Ketter Estate. This work included planting native grasses and wildflowers and beginning work to eradicate exotic, non-native plants in 2004. NPS coordinated with the Sierra Club to clean the property in 2005 and developed a five-year management plan that year that recommended converting the tilled fields back to native vegetation. Given the changes to the river, the management plan noted that it was unlikely that the river front could be restored to its natural riparian function.[552]

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[550] Memorandum, Paul Hedren to Chief, Division of Land Resources, MWRO, May 10, 2005. Typescript MS in files of Missouri NRR, File 1.A.1, Boeckman Land Exchange.
[551] Memorandum, Chief, Land Resources to Superintendent, Missouri National Recreational River, re: Notification of Closing, March 10, 2008. Typescript MS in files of Missouri NRR, File 1.A.1, Boeckman Land Exchange.
[552] Bow Creek Recreation Area, 5-Year Management Plan. Typescript MS in files of Missouri NRR, File 1.A.1, Boeckman Land Exchange.

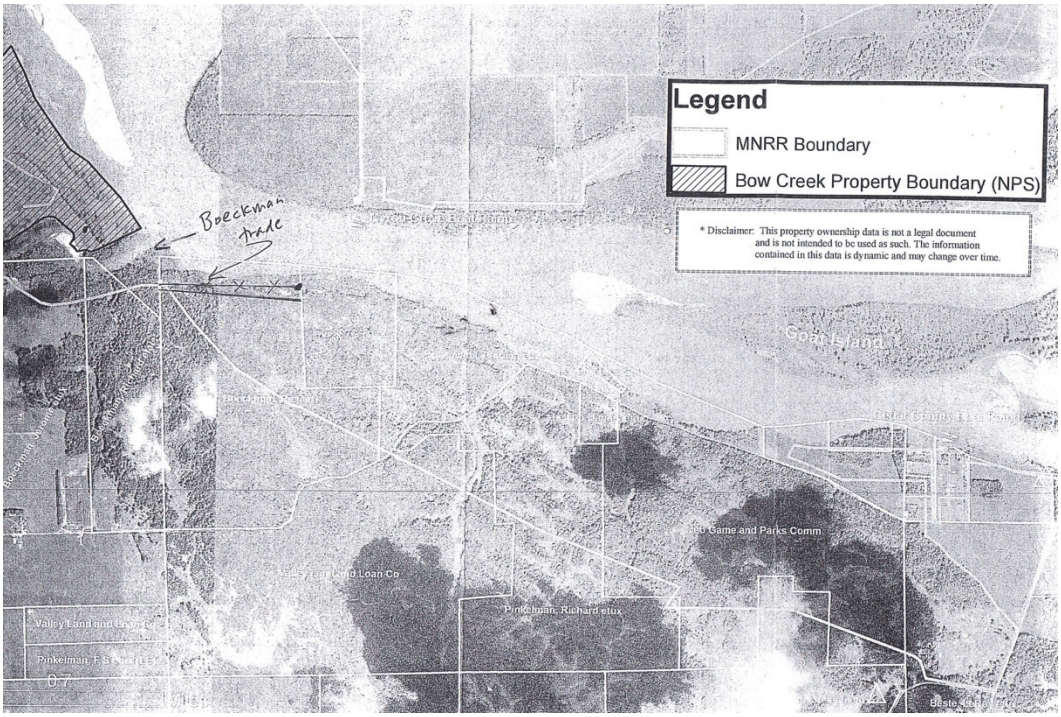


Figure 20: Map showing Bow Creek Recreation Area and Boeckman land exchange, undated. Files of Missouri NRR.

Law Enforcement, Visitor and Resource Protection

The Missouri NRR has never had any dedicated, full-time permanent law enforcement law enforcement personnel (commissioned rangers) of its own. Occasionally, personnel from the Niobrara NSR have patrolled the Missouri NRR, but only infrequently over the years. Out of necessity, the Missouri NRR has had to rely primarily on other agencies, including the states of Nebraska and South Dakota, and USACE to meet law enforcement responsibilities. Law enforcement patrols on the river by these cooperating agencies, however, are infrequent. As described later in Chapter 11, initial law enforcement personnel were funded in Operation of the National Park Service (ONPS) base increases in FY09 and FY10. The funds were re-directed, however, in accordance with the short-lived "Core Ops" budget process intended to wean Missouri NRR full-time base salaries from continuing to be covered by Niobrara NSR ONPS base funds as part of the budgetary separation of the two parks. While funds became available in 2011 for a seasonal full-time Law Enforcement Ranger, the position briefly filled was not continued due to, among other things, concerns for officer safety given the presence of only one Law Enforcement Ranger. As of 2015, the Missouri NRR receives law enforcement support from the Niobrara NSR according to the terms of a Memorandum of Understanding under which the Missouri NRR provides $30,000 per year to the Niobrara NSR for that purpose. This support includes coverage from Niobrara Law Enforcement Rangers serving at Missouri NRR for major holidays and special events during the summer season and occasional patrols during fall hunting season.

In 2008, however, the Missouri NRR began work on a Fire Management Plan (FMP) for lands within the NRR boundary. The O'Neill Headquarters Office prepared the FMP, together with an Environmental Assessment, in compliance with an order from the Director of NPS that all parks with vegetation capable of burning should have such a plan. According to the FMP, Missouri NRR "will utilize an adaptive management process to plan, implement, and evaluate the fuels management program." The FMP includes coordination with federal, state, tribal, and local entities on a full range of fire suppression technologies, mechanical removal of hazard fuels from the ground, and use of prescribed burns to reduce potential for unplanned fires. After preparing the FMP and its accompanying EA, the plan was implemented in 2009.[553]

Basin-Wide Planning and Coordination

Because of the scale of the Missouri River, which counts as its drainage area approximately one-sixth of the land mass of the continental United States, planning on a basin-wide basis has been a profound challenge. Several attempts were made in the 1930s and 1940s, when regional planning was gaining traction throughout the nation, largely in an attempt to counter the threat of the Pick-Sloan Plan. The movement regained momentum in the 1980s and 1990s as the combined economic and ecological impacts of the Pick-Sloan program were becoming more palpable.[554] By the 2000s, several regional organizations attempted to provide a degree of coordination among the states, municipalities, American Indian tribes, and federal agencies that lay along the river or in its valley. The Missouri River Basin Interagency Roundtable (MRBIR), the Missouri River Recovery Program, the Missouri River Ecosystem Recovery Program, the Missouri River Corridor Alliance, the State Interagency Missouri River Authority, and others emerged during the 1990s and early 2000s to provide this coordination in hopes that the river's recovery as a functioning ecosystem could be achieved while balancing the various needs of individuals, counties, and states which lay along it. NPS interacted with several of these programs to some degree, though three, in particular, were most often involved with NPS: Missouri River Futures (MRF), Missouri River Recovery Implementation Committee (MRRIC), and MRBIR.

NPS staff had, for many years, been taking part in the Fort Randall Project Interagency Meetings convened by USACE at Fort Randall Dam. These annual meetings were designed to allow for coordination among those federal and state agencies that were tasked with managing and protecting various environmental aspects impacted by Fort Randall Dam and its environs and served as a way for USACE to keep the several agencies informed of the latest developments and issues. USACE continued to provide leadership for a variety of interagency coordination programs from the 1990s into the 2000s, most notably MRBIR. Created in 1996, MRBIR is a forum specifically for federal

[553] *Fire Management Plan and Environmental Assessment* (National Park Service, Missouri National Recreational River Nebraska-South Dakota, 2009), 1. See also Fire Management Plan Finding of No Significant Impact, April 20, 2009; files of Missouri NRR, File N1-95-05-2, Wildland Fire Management.
[554] See Chapter 1 for a more involved discussion of these early basin-wide planning movements.

agencies whose responsibilities include sundry aspects of the Missouri River tasked with identifying collaborative approaches to solving problems within the river basin. Focusing on the river as a single, functioning ecosystem with benefits for human communities as well as native plant and animal species, the hope was that, through MRBIR, federal agencies, through the respective executives, could speak with one voice on basin issues.

In 2007, MRRIC emerged as a forum that would allow tribal, state, and local governments, nongovernmental stakeholders, and the public at large to take part in the planning processes. MRRIC was authorized by the WRDA of 2007, and was referenced in USACE's transmittal letter for the 2006 revision of the *Master Manual* as vital to efforts to use the new flow regime to recover habitats for endangered species. Following a meeting of MRRIC in Omaha in 2006, Superintendent Hedren noted that the organization was "led by and largely serving the Corps of Engineers" and observed that "As with most conversations involving such disparate groups as downstream farmers, upstream recreation providers, Indian tribes, the bank stabilization group, and the environmental community, chaos reigned."[555] Superintendent Mike Madell, who succeeded Hedren, believed that, because MRRIC was a USACE initiative, USACE was "getting a ton of money related to the river. Their mission was not always. . .consistent with our mission, which created some friction."[556]

MRRIC was also tasked with providing guidance for the Missouri River Ecosystem Recovery Plan (MRERP). The WRDA of 2007 had authorized the MRERP as a joint operation of USACE and FWS designed to identify actions that would mitigate loss of aquatic and terrestrial habitat, recover federally listed threatened and endangered species, and restore the overall Missouri River ecosystem. USACE first invited NPS to participate as a cooperating agency in October 2008, and the two agencies signed a Memorandum of Understanding in 2009. This program remained active until 2012, when funding was suspended and the MRERP planning effort terminated.

Missouri River Futures (MRF), meanwhile, was created in 2004 as a separate program by the Natural Resources Conservation Service (NRCS) office in Hartington, Nebraska. Don Nelson, state director for Senator Ben Nelson, prompted NRCS to establish a program that could represent the interests of residents along both sides of the river, particularly within the Missouri NRR. The organization, which NRCS eliminated in 2012, served as an impartial liaison between federal agencies, particularly NPS, USACE, and FWS, and landowners, including MRBSA. One goal of MRF was to help landowners identify where to find assistance for particular problems. Theresa Symdra Risinger, MRF Coordinator from 2006 to 2012, worked among the involved agencies and individuals to help facilitate communications and to convey issues and concerns from one to another. She regularly attended meetings with USACE, NPS, and any other agency whose policies had an impact on landowners along the river. She worked hard, she recalled, to serve as an impartial facilitator among the agencies and groups that frequently were at odds with

[555] Hedren, Monthly Report for February, 2006, March 13, 2006; files of Missouri NRR, File A2615 (NIOB/MNRR).
[556] Mike Madell interview, July 27, 2015.

one another. Her basic job, she observed, was to "Listen, and then share."[557] As Superintendent Madell recalled, "if you were a landowner and were becoming frustrated because you wanted to get a stabilization permit or whatever and didn't know where to go or felt like you were not getting cooperation, you could go to this person, and she would help, then, navigate that. Her work as a liaison among the oft-competing agencies," Madell recalled, "was worth its weight in gold."[558]

Despite its value to the various participants whose work and property were tied to the Missouri River within the Missouri NRR, the Missouri River Futures program was phased out in 2012. During its brief existence, however, the program mirrored attempts by the Missouri NRR natural resources staff to be more actively engaged with the agencies, communities, and individuals involved with and impacted by the Missouri NRR. Under the general leadership of Superintendent Hedren, Wayne Werkmeister created the pattern of bringing greater awareness of NPS in the region through promoting its natural resources. As he recalled later, the Missouri NRR was still relatively new as an operating unit of the NPS, and "there had not been a lot of things done, a lot of relationships established, a lot of work done with the landowners along the river. . . .it had been planning up until I got there, so it was going out, meeting with landowners, talking about trying to implement some of the protections that were talked about in the development of plans for the park. So, it was a lot of relationship-building." Among his accomplishments, he observed, were the river clean-up programs that he began in 2004-2005 following a tour of the river with a fish biologist from the Nebraska Game and Parks, Gerald Mestle. As they watched a refrigerator float down the river past them, they decided that they could organize a clean-up. Werkmeister made the arrangements for the event, the Nebraska Game and Parks contributed six boats, and 300 people showed up to help clean the river and its banks. The annual program is currently in its eleventh year and will continue for the foreseeable future.[559]

Werkmeister was not alone in fostering this spirit of collaboration, of course. He received direction from Superintendent Hedren, and was supported by a strong staff. He was also joined in this effort by the new Chief Ranger for Interpretation, George Berndt, whose tenure at the Missouri NRR nearly exactly coincided with his own. Together, they sought to create a greater awareness of NPS' presence on the river through programs designed to protect the resources, and to explain why those resources were important. In this second goal, interpretation and education was key.

[557] Theresa Smydra-Risinger interview, October 6, 2015.
[558] Mike Madell interview, July 27, 2015.
[559] Wayne Werkmeister interview, May 8, 2015.

Chapter 10: Interpretation and Recreation

Introduction

NPS' management and operations focus at the Missouri NRR for more than two decades after initial designation was resources management. With a mandate to preserve and protect the 59-mile and, later, 39-mile segments of this extensively-altered river in its free-flowing state with attention on their outstandingly remarkable values, issues of bank stabilization, sedimentation, endangered species habitat, bank clean-up, and permit reviews dominated the limited available staff time and energy. NPS staff time was limited particularly through much of the 1990s when the O'Neill Headquarters Office staff was occupied with development of five major planning documents including the General Management Plans for the two NRR segments. With the completion of the 39-mile segment GMP/EIS in 1997, followed by the 59-mile segment GMP/EIS in 1999, staff could give more attention to recreation and interpretation.

Much of the recreational opportunities associated with the Missouri NRR were, and remain, passive and shoreline-based: fishing, limited boating, enjoying scenic vistas, and learning about the river and its history. As a result, interpretation and recreation are intertwined to a high degree. The purpose statement in the initial Long Range Interpretive Plan (LRIP), which was completed between 1999 and 2001, made the point succinctly: "The primary purpose of interpretation is to connect the park resources to visitors' experiences so they will understand, appreciate, and help preserve the park."[560] The point of the WSR Act was to protect the nation's free-flowing rivers for future generations by minimizing the man-made influences on them, retaining as natural and untouched a setting as possible. The light hand which NPS kept on the recreational development of the Missouri NRR was, thus, in keeping with the spirit of the WSR Act.

At the same time, the possibility of dramatically increased visitor usage of the river was one of the points of concern that emerged during the GMP planning process in the 1990s. Both segments of the Missouri NRR pass through primarily private lands on both sides of the river. Those landowners whose property fronted on the river were justly concerned about large numbers of boaters in the river creating noise, trash, and safety issues. In response, neither the 39-mile nor the 59-mile GMPs sought to develop substantially increased visitor use. Preservation of the river in its free-flowing state and protection of the values for which the river was designated took priority.

Once the park was established and had its planning documents in place, however, NPS began identifying an approach to an interpretation program that would help visitors to the area know about the river and its values. This included providing visitors with the opportunity to learn about what the Missouri River was like in its original, unmanaged state, its natural resources, how it was used by travelers and residents of the river's valley

[560] Division of Interpretive Planning, Harpers Ferry Design Center, "Long Range Interpretive Plan: Missouri National Recreational River" (2001), 11.

from prehistoric times to the twentieth century, and how it is currently being managed. This interpretive goal has been accomplished through a combination of staff presence at key visitor center locations, wayside and mobile exhibits, public and classroom programs, an internet presence, and, more recently, through various social media outlets.

Early Interpretive Efforts

For the reasons discussed in Chapters 4 and 5, NPS undertook little or no interpretive efforts from the original 1978 designation through the 1980s and into the early 1990s. The Missouri NRR, then consisting of only the 59-mile segment, was managed at a minimal level from MWRO. Concerns of this early era were permit reviews and limited coordination with USACE and MRBSA. Following the 1991 designation of the 39-mile segment, with the lower Niobrara River and Verdigre Creek, NPS established a field office in O'Neill that created a NPS presence in the region of the Missouri NRR. The staff at this field office, though, was oriented toward developing six planning documents through the early and mid-1990s. Despite this planning focus, however, the O'Neill office made several initial steps toward an interpretive program in the 1990s. In the early 1990s, for example, when federal highway funds became available for scenic highway designations through the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA, P.L. 102-240), Superintendent Warren Hill, in 1995, coordinated with the Lewis & Clark Natural Resources District and the Nebraska Department of Roads (NDOR) to develop a scenic highway program in Nebraska that would highlight Missouri NRR resources.[561]

The most important interpretive development in the 1990s, though, was associated with new bridges. As discussed in the previous chapter, three bridges were built across the Missouri River within the Missouri NRR after its designation: two in the 59-mile segment and one in the 39-mile segment. The first bridge to begin construction crossed the river within the 39-mile segment. Later named the Chief Standing Bear Memorial Bridge in honor of the nineteenth century Ponca Indian chief, it crosses from near Niobrara, Nebraska, to near Running Water, South Dakota. While the anticipated environmental impacts were few with appropriate safeguards in place, the bridge posed a significant visual impact on the Missouri NRR. Discussions through 1994 and 1995 led to a mitigation plan that focused primarily on creation of a scenic overlook and with exhibit panels on the South Dakota side of the bridge. In March 1996, NPS and the South Dakota Department of Transportation (SDDOT) entered into an agreement according to which SDDOT acquired and prepared land for the overlook, while NPS prepared, installed, and will maintain an interpretive center.[562] Construction on the bridge began in 1997, and Management Assistant Chuck Cranfield and Outdoor Recreation Planner William Beteta

[561] Warren H. Hill, NPS to Tom Moser, Lewis & Clark NRD, November 20, 1995. Computer print-out in files of Missouri NRR, File 4A, Roads/Trails.
[562] Memorandum of Agreement between National Park Service and State of South Dakota, signed by the NPS on March 21, 1996; attached to letter, Warren H. Hill, NPS to Jim Nelson, SDDOT, March 21, 1996. Computer print-out in files of Missouri NRR, File 10A, MOAs.

coordinated with NPS' Harpers Ferry Center (HFC) to develop the exhibit. The exhibit and scenic overlook opened with the dedication of the bridge on August 29, 1998.[563]



Figure 21: Chief Standing Bear Memorial Bridge, exhibit area, 2014. Photo by the author.

A second bridge across the Missouri River, between Vermillion, South Dakota, and Newcastle, Nebraska, in the 59-mile segment, also began planning in the mid-1990s. After studies and discussions, the O'Neill Headquarters Office issued an evaluation of the proposed bridge's impacts under Section 7(a) of the WSR Act. The principal mitigation for the bridge's impacts on the Missouri NRR, in addition to environmental safeguards, was a scenic pull-out and exhibit on the Nebraska side. As with the earlier Chief Standing Bear Memorial Bridge, the principal impact to the Missouri NRR was visual, a massive structural intrusion in an otherwise natural river, and the proposed mitigation was another scenic overlook and exhibit. While SDDOT provided overlook space with relatively few challenges, the Nebraska Department of Roads (NDOR) balked at the requirement. In part due to intervention from Rep. Bereuter as described in Chapter 8, NDOR finally agreed to provide buffer acreage along the river and construct the exhibit by the summer of 1998.[564] Under terms of the agreement, NDOR agreed to acquire twenty-eight acres along the Missouri River that would include the scenic overlook, and to grade and pave

[563] Annual Superintendent's Report for 1998, February 24, 1999, typescript MS in files of Missouri NRR; memorandum, Paul H. Hedren, NPS to Chief, Wayside Exhibits, HFC, January 26, 1998, files of Missouri NRR, File 6.A.1, Interpretive Planning.

[564] Annual Superintendent's Report for 1998, February 24, 1999, typescript MS in files of Missouri NRR; Paul L. Hedren, NPS to Arthur B. Yonkey, NDOR, February 23, 1999, files of Missouri NRR, File 4A, Roads/Trails.

the parking and exhibit area. NPS, meanwhile, would maintain the site and design, construct, install, and maintain the exhibit.[565] Construction on the bridge and the scenic overlook was complete in 2001, again with the input of HFC.



Figure 22: Mulberry Bend Overlook Area, 2014. Photo by the author.

Additional groundwork for the Missouri NRR's interpretive program was laid after Superintendent Paul Hedren began work in January 1997, including support for a proposed Welcome/Visitor Center on U.S. Highway 81 immediately south of Yankton, what is now the Corps of Discovery Welcome Center. Chuck Cranfield and William Beteta served on the planning committee for this project. The Corps of Discovery Welcome Center was developed by a private non-profit organization in Nebraska, and opened in 2001.[566] The goal of the Missouri NRR's initial interpretive program, which was developed more fully after the first Chief of Interpretation, George Berndt, was hired in 2000, was to increase visibility and public awareness of the Missouri NRR. The Missouri NRR had existed since the 1978 designation, but, through the 1990s, only a few people other than landowners who fronted the designated segments of river had a substantial awareness that NPS had a park on the Missouri River in that region. As a linear park extending more than 100 miles from Ponca State Park in the east to Fort

[565] Agreement between the National Park Service and the State of Nebraska Department of Roads, executed on March 11, 1999; attached to letter from Jerry Adams, NDOR to Paul L. Hedren, NPS, April 1, 1999, files of Missouri NRR, File 10A, MOAs.
[566] Paul L. Hedren, NPS to Carmen Shaffer, Hwy 81 Welcome Center Committee, June 10, 1997, files of Missouri NRR, File 6.A.1, Interpretive Planning.

Randall Dam in the west, and with no visitor facilities and few points to access the river, it was an easy park to miss. Raising awareness of the park was a vital pre-requisite to



Figure 23: Chief of Interpretation George Berndt, undated. Photo provided by Missouri NRR.

interpretive planning. Two programs in particular were developed in the late 1990s to establish an interpretive program for the Missouri NRR.

In 1998, Superintendent Hedren began discussions with HFC on development of a series of wayside exhibits. The purpose of these exhibits was to alert those who drove the roads near the river that they were in a National Park. Hedren contacted HFC in 1998 to solicit a proposal for wayside exhibits. Wayside exhibits are weatherproof panels mounted on supports that contain information about some feature of the landscape in the vicinity of the exhibit. They are located along walking or biking trails, in camping areas, or in other significant outdoor areas to educate the public about the natural or historic features that can be seen from the location of the wayside exhibit. Tied into the planning for the upcoming Lewis and Clark Bicentennial celebrations in 2004-2006, Hedren envisioned twenty-seven such exhibits.[567] Subsequent planning for the wayside exhibits took place through 1999 under guidance of Superintendent Hedren and Management Assistant Phil Campbell, who replaced Chuck Canfield in 1999. By the spring of 2000,

[567] Memorandum, Paul L. Hedren, NPS to Associate Chief, HFC, October 7, 1998, files of Missouri NRR, File 1B, Museum Exhibits.

when HFC delivered its final proposal for the work, several exhibit panels had been added to the program.[568]

The second program in the late 1990s was the creation of the Missouri NRR's first Long Range Interpretive Plan. HFC's Interpretive Planner, Jack Spinnler, with the input of Chief of Interpretation and Education Tom Richter at MWRO, led the development of the LRIP. The process began in early August 1999, with a three-day workshop in the O'Neill Headquarters Office for the Missouri NRR staff, followed, in October 1999, by a similar workshop with a wider array of potential Missouri NRR interpretive partners including the Nebraska Game and Parks Commission, FWS, USACE, the City of Yankton, and Jim Peterson.[569] Spinnler and Richter then led preparation of the LRIP, which was completed in the summer of 2001.

The LRIP laid out a general framework for interpretation at the Missouri NRR with overarching management goals. Management goals focused on protecting and restoring the natural and cultural resources of the Missouri NRR and providing visitors with access to learn about the river's ecosystem, cultural history, and historical and current management of the river. In order to advance these goals, the LRIP included a variety of potential topics within the three-part themes of natural history, cultural history, and recreation from which visitors would most benefit. The LRIP pointed out that few, if any, visitor studies had been conducted for the Missouri NRR to date, and those that did exist had used inconsistent data collection methods. One of the principal recommendations was, therefore, to develop baseline visitor use studies along with regular monitoring of visitor use. The LRIP also concluded that, since the Missouri NRR owned almost no land within the park, it needed to partner extensively with regional agencies and individuals. Within these constraints, however, the LRIP contained several recommendations, including continued development of wayside exhibits, a physical presence in Yankton, and mobile exhibits. Potential partnerships for interpretive services, in addition to USACE's Lewis & Clark Visitor Center at Gavins Point Dam, the Fort Randall Dam Visitor Center, and Ponca State Park, included Riverside Park in Yankton, the new Corps of Discovery Center on U.S. Highway 81 south of Yankton, and a potential Missouri NRR Headquarters or Field Office and Visitor Center in Yankton.[570]

Interpretive Program Development, 2000-2010

George Berndt was hired in 2000 as the first full-time Interpretive Specialist for the Missouri NRR and began work in July 2000. Rather than work from the O'Neill Headquarters Office, however, Berndt served as the first field employee in the unit and was stationed at the Lewis & Clark Visitor Center at Gavins Point Dam, a USACE

[568] Memorandum, Acting Associate Manager, HFC to Superintendent, Missouri NRR, April 14, 2000, files of Missouri NRR, File 1B, Museum Exhibits.
[569] Memorandum, Superintendent, Homestead National Monument of America to Regional Director, MWRO, State Coordinator's Report for August, 1999, September 17, 1999; State Coordinator's Report for October, 1999, November 8, 1999 . Files of Missouri NRR, File L7019 (HOME).
[570] Long Range Interpretive Plan, 2001, passim.

interpretive facility. While Hedren and his Management Assistants, Chuck Canfield and, later, Phil Campbell, had developed the basis for an interpretive program, including the arrangement with USACE to house NPS interpretive staff at the Lewis & Clark Visitor Center in 1999, it was left to Berndt to bring it to fruition.[571] When he arrived in the summer of 2000, he was tasked with two primary goals: to lead the Missouri NRR's involvement in the region-wide bicentennial commemoration of the Lewis and Clark Expedition, planned for 2004-2006, and "to introduce the National Park Service to the community—to the area in general." He spent much of this first year learning about the region, and particularly about the Lewis and Clark Expedition, including a two week drive from Yankton to the Pacific Coast to investigate bicentennial plans of other sites.[572]

With these general directives, Berndt was faced with developing and implementing several major initiatives in addition to building up a small staff from his base at the Lewis & Clark Visitor Center (including the current interpretive Park Ranger Dugan Smith, hired in 2001). These initiatives included completing the wayside exhibit program that Hedren had started, planning a new Resource Education Center (REC) in collaboration with USACE at Ponca State Park, and coordinating NPS involvement in interpreting Spirit Mound, a distinctive site important in American Indian history and culture in South Dakota and one of the sites visited by Lewis and Clark during their Voyage of Discovery.



Figure 24: Interpretive Park Ranger Dugan Smith, 2016. Photo by the author.

[571] Memorandum, Superintendent of Homestead National Monument of America to Regional Director, MWRO, State Coordinator's Report for April, 1999, May 20, 1999. Files of Missouri NRR, File L7019 (HOME).
[572] George Berndt interview, July 22, 2015; see also Annual Superintendent's Report for 2000, February 10, 2001, files of Missouri NRR.

Superintendent Hedren had begun the process of developing wayside exhibits in 1998, in coordination with HFC. In 2000, HFC provided a proposal, but the process slowed dramatically after that. In the spring of 2001, Hedren reminded HFC that the Missouri NRR had not heard from HFC recently, and that the wayside exhibit project was a year behind schedule already. The program, he noted, "has created a great deal of enthusiasm among our partners on the Missouri National Recreational River."[573] With Berndt now overseeing the process, however, HFC and the O'Neill Headquarters Office began making better progress. By spring of 2002, maps for the region were produced, and HFC produced on short notice a set of exhibits for the opening of Riverside Park in Yankton in the summer of 2002. The urgency of having the Yankton panels ready for the annual Riverboat Days in 2002 was increased by the prospect of having Tom Brokaw, the NBC News anchor and a Yankton native, in attendance. By having these signs in time for the event, Hedren stated, "The National Park Service gains considerable visibility with this wayside initiative, this across a vast, linear resource where we are not yet very well known."[574]



Figure 25: Riverside Park and Meridian Bridge, Yankton, 2015. Photo by the author.

With those initial wayside exhibit panels in place in Yankton's Riverside Park, Berndt then shepherded the design, fabrication, and placement of the remaining wayside exhibits throughout the Missouri NRR through 2003 and 2004. Berndt, Hedren, and

[573] Memorandum, Paul L. Hedren to Bob Grogg, HFC, April 6, 2001. Files of Missouri NRR, File 1.B, Museum Exhibits.
[574] Memorandum, Paul L. Hedren, NPS to Bob Grogg, HFC, July 31, 2002; see also George Berndt to Megan Kealy, HFC, April 19, 2002. Files of Missouri NRR, File 1B, Museum Exhibits.

Management Assistant Phil Campbell traveled through the two segments of the Missouri NRR, identifying locations for wayside exhibits which, by 2004, numbered nearly eighty. Berndt then worked with HFC to identify topics based on the interpretive themes outlined in the LRIP, writing copy for the signs, coordinating reviews, and seeing to their delivery and installation. Many of the topics focused on Lewis and Clark's expedition through the region, though topics pertaining to the region's natural and cultural history were included as well. Berndt also worked with the state parks, American Indian tribes, and private individuals to get permission to place signs on their properties since the Missouri NRR had so little of its own.[575]

At the same time, Berndt also worked with HFC to develop the Missouri NRR's first park brochure. In 2003, Berndt co-wrote the text with Lynn Sibley from HFC, and HFC then designed and produced the brochure which was released in 2004. As Hedren noted in a 2004 nomination of Berndt for the NPS' Freeman Tilden Award, Berndt's work on the wayside exhibits and the brochure "raised the awareness and presence of the MNRR in the South Dakota-Nebraska-Iowa trade area from a state of virtual non-existence to the current broad, warm, effectual embrace." Berndt, likewise, explained that

> I considered one of the primary missions there, really. . . .To let the public know that the National Park Service is here. There's a National Park in your backyard! And that finally. . . .I think that finally got through to a lot of the people, especially the chambers of commerce and the tourism bureaus in that part of the country. That, yes, you know, all the National Park Service sites in South Dakota are not in the Black Hills, you know. There's one right here, that you. . . .can take advantage. . . .of the different resources here.[576]

With George Berndt beginning work at the Missouri NRR in 2000, and Dugan Smith hired in 2001, the Missouri NRR had a modest but highly effective interpretive staff. There were, however, no permanent, dedicated interpretive spaces. Instead, the Missouri NRR relied for its public interpretive spaces on partnerships with USACE, which operated the Visitor Centers at Gavins Point Dam and at Fort Randall Dam; and two Nebraska state parks, Niobrara State Park on the 39-mile segment and Ponca State Park at the eastern end of the Missouri NRR on the 59-mile segment. Aside from the agreement with USACE to provide office space for the Missouri NRR interpretive specialists at the Lewis & Clark Visitor Center at Gavins Point Dam, the most important partnership emerged in the early 2000s at Ponca State Park.

The Nebraska Game and Parks Commission (NGPC) began efforts to redevelop and expand Ponca State Park in the late 1990s. As recounted in Chapter 7, the State of Nebraska began the process of acquiring nearly 300 acres of bottomland adjacent to the existing park, within the Missouri NRR boundary, in 1998 and 1999. NGPC then coordinated closely with USACE and NPS to protect and restore the new bottomlands

[575] George Berndt interview, July 22, 2015; see also Hedren, 2004 Nomination Form for Freeman Tilden Award on behalf of Berndt, July 29, 2004, attached to a memorandum, Hedren to Regional Director, MWRO, July 29, 2004. Files of Missouri NRR, File 10D, Commendations.
[576] George Berndt interview, July 22, 2015; Hedren, Tilden Award Nomination, 2004.

area, an important instance of collaboration on riverbank protection and restoration between the two federal agencies and a state agency.

The purchase and redevelopment of bottomlands fit into an existing proposal for a Ponca Research and Education Center (REC) at the state park, allowing for a multi-faceted expansion. Almost immediately, the Nebraska Game and Parks Commission reached out to USACE and NPS, seeking support and funds for the natural resource restoration of the property and for developing it for low-impact recreational use. "Given that this land is Missouri National Recreational River," the Assistant Director of the Commission pointed out to MWRO Regional Director, "any funding assistance for restoration and/or planning would be crucial to showcase this vital piece of Missouri River bottom for those traveling along the Lewis and Clark trail for the upcoming 200th Anniversary of their expedition."[577]

Rep. Bereuter, ever active in the interests of the Missouri NRR and its environs, supported the project and was able to secure funds in the fall of 1999 to begin work on early phases of the project. This work included restoration of wetlands and initial planning for the REC. Bereuter also contacted MWRO to urge their support, which both MWRO and the O'Neill office offered. MWRO identified several sources of funds for the overall program, including the Challenge Cost Share Program, the Lewis and Clark National Historic Trail Challenge Cost Share Program, the Recreation Fee Demonstration Program, and the Rivers, Trails, and Conservation Assistance program.[578]

In May 2000, this joint action stimulated a request to USACE to provide funds for an initial visit from NPS' museum planning staff at HFC, to begin the planning process for an interpretive display in the proposed Visitor Center. Mark Tillotson the District Engineer at USACE's Omaha office, quickly agreed to the request, noting, however, that the addition to the budget would require an additional cost share amount from the State of Nebraska.[579] HFC then developed an exhibit plan and design for the new REC in early 2001 to focus on how people have interacted with, used, and changed the river over time in relation to the river's own dynamic character. Recognizing the challenging political climate surrounding operation and maintenance of the river, HFC design proposal assured that they would take "extra care" with some topics, including "those of private land use along the NRR; use of personal water craft within the NRR; the changes to the river wrought by the mainstream dams and impoundment's [sic]; federal property holdings within the NRR." Berndt coordinated involvement of a range of participants in planning and developing the exhibit, including Chief of Resources Management Wayne

[577] Roger L. Kuhn, Nebraska Game and Parks Commission (NGPC), to William Schenk, NPS, September 21, 1999. See also Kuhn to Mark E. Tillotson, USACE, September 3, 1999. Files of Missouri NRR, File 1B Cooperation/Admin Planning: Ponca State Park.

[578] John Kingsbury, BPF to Paul Hedren, NPS, October 29, 1999; Hedren to Kingsbury, November 2, 1999; William W. Schenk, NPS to Roger Kuhn, NGPC, October 21, 1999; files of Missouri NRR, File 1B Cooperation/Admin Planning: Ponca State Park. The amount of funding at this initial phase was not made clear in the available documents.

[579] Roger L. Kuhn, NGPC to Mark E. Tillotson, USACE, May 23, 2000; Tillotson to Kuhn, June 7, 2000. Files of Missouri NRR, File 1B Cooperation/Admin Planning: Ponca State Park.

Werkmeister, and Management Assistant Phil Campbell, together with staff from Ponca State Park, NGPC, USACE, and John Kingsbury with the Better Ponca Foundation.[580]

Senator Chuck Hagel (R-NE) began work on the project in May 2000 also, requesting $2.35 million for development and construction of the interpretive facility to be located at Ponca. As noted in the legislative proposal, Phase I of the project, which would create offices, operations support, a conference and study room, a visitor contact area, and a road and utility network, had already been funded by USACE with a substantial match from the State of Nebraska. Phase II, which the May 2000 proposal would fund, was for the first interpretive wing. Phase III would be a second wing to the interpretive center to be used by school groups and other organizations.[581] Work progressed quickly over the winter of 2000-2001, with a Project Cooperative Agreement in place by June 2001, allowing preliminary construction on the REC to begin.[582] The groundbreaking ceremony took place on October 22, 2001 with addresses from Superintendent Hedren and Rep. Bereueter. When constructed, the entrance to the visitor center's auditorium bore the inscription "Missouri National Recreational River Museum."

The high level of funding support from USACE for this recreation project was, by the early 2000s, highly unusual. As Becky Latka recalled, USACE had, by that time, withdrawn from its recreation function associated with the Pick-Sloan Plan and other massive water development projects through the 1950s and 1960s, giving away many of its campgrounds and other facilities. "I can tell you," she explained in 2015, "that recreational construction is very rare in the Corps of Engineers any more" as it was determined that USACE needed to focus on other core areas. Even on a cost-share basis, she noted, "it was amazing that we were able to pull that one off."[583]

In March 2002, Superintendent Hedren outlined his proposed staffing plan for the new Ponca REC, which consisted of two permanent and two seasonal positions. These would be NPS staff members but located at Ponca State Park, with training from both NPS and NDGP. Administrative supervision for these staff members would be from NPS, but with day-to-day coordination and management from NGPC. Hedren envisioned the tasks including environmental and interpretive services at the park. This was similar, he explained, to the arrangement that NPS currently had with the Lewis and Clark Visitor Center, the USACE interpretive facility at Gavins Point Dam.[584]

While HFC prepared exhibit materials for the new REC, Berndt was an "instrumental reviewer of all interpretive media" for the building. NPS was the sole lead

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[580] Project Agreement for Interpretive Media Development, Missouri National Recreational River: Resource Education Center—Ponca State Park, Nebraska. Phase II-Exhibit Wing. Files of Missouri NRR, File L7019.
[581] Department of the Interior, FY2001 Construction Questionnaire, May 17, 2000. Files of Missouri NRR, File 10A, Situations.
[582] Roger L Kuhn, NGPC to Mark Tillotson, USACE, June 20, 2001. Files of Missouri NRR, File 7B, NE Game & Parks.
[583] Becky Latka interview, April 17, 2015.
[584] Paul L. Hedren, NPS to Roger Kuhn, NGPC, March 11, 2002. Files of Missouri NRR, File 6.A.1, Interpretive Services.



Figure 26: Ponca State Park Resource Education Center, 2014. Photo by the author.



Figure 27: Ponca State Park Resource Education Center, interior, 2014. Photo by the author.



Figure 28: Ribbon-cutting ceremony, Ponca State Park Resource Education Center, 2004. Photo provided by Missouri NRR.

for exhibits, which were budgeted at $1.5 million. Exhibits came to occupy approximately 2,500 square feet in the building that was designed and constructed by USACE. The new building, with exhibits in place, was dedicated over the weekend of October 10-12, 2003, with addresses from Nebraska Governor Mike Johanns, Senators Ben Nelson and Tim Johnson, and Rep. Bereuter. As Hedren noted in a later summary, "The center showcases throughout, and in an unblushing, straightforward manner, the interpretive story of the MNRR and Wild and Scenic Rivers System."[585] The Ponca REC has remained a vital component in the Missouri NRR's interpretive program.[586]

In addition to exhibits, along the roads and highways within and adjacent to the Missouri NRR and at the new Ponca REC, Berndt developed educational programming for visitors to the Missouri NRR. Initially the Missouri NRR was able to tap into programming developed by USACE, particularly at the Lewis & Clark Visitor Center, including school group tours and weekend re-enactments of the Lewis and Clark Expedition. In addition, Berndt developed summer programming in partnership with several state parks in both Nebraska and South Dakota, sending seasonal rangers to the parks to give programs on a variety of subjects, including Lewis and Clark, pioneering settlement in the area, American Indian history, steamboats on the Missouri, natural

[585] Annual Superintendent's Report for 2004, May 6, 2005. Typescript MS in the files of Missouri NRR.
[586] Hedren, Tilden Award nomination, 2004. See also Annual Superintendent's Report for 2001, January 29, 2002. Files of Missouri NRR.

resource topics, and others. USACE, meanwhile, had established a program for school groups to visit Gavins Point Dam and Lewis & Clark Visitor Center, where the children learned about operation of the dam and hydroelectric plant. As Berndt recalled, "we just piggy-backed on the school's visit. It became longer, then, because we would provide a program also."[587]



Figure 29: Lewis and Clark Visitor Center, exhibits, 2014. Photo by the author.

The principal focus of the Missouri NRR's interpretive efforts in the late 1990s and early 2000s was the bicentennial celebration of the Lewis and Clark Expedition of 1804-1806. Initial NPS planning for the bicentennial programs began in 1994 when the manager of the Lewis and Clark National Historic Trail convened a meeting among a variety of federal and state agencies and private groups. The core NPS units included the Lewis and Clark National Historic Trail, the Jefferson National Expansion Memorial National Historic Site, the Niobrara NSR, the Missouri NRR, Knife River Indian Village National Historic Site, Fort Clatsop National Memorial, Nez Perce National Historical Park, the Washington Office of NPS, and the Regional Offices whose territories included the Missouri River.[588] Sporadic planning continued throughout the 1990s, and the topic became the clear focus for much of George Berndt's early interpretive planning, though, as Berndt recalled,

[587] George Berndt interview, July 22, 2015.
[588] Memorandum, Manager, Ice Age, North Country, and Lewis and Clark National Trails to Superintendent, Niobrara/Missouri National Scenic Riverways, March 31, 1994. Files of Missouri NRR, File 10.C, Special Events. The Superintendent's Annual Report for 1998, February 24, 1999, reports on a meeting among NPS Lewis and Clark unit managers in April 1998.



Figure 30: Lewis and Clark Expedition Bicentennial Celebration, undated. Photo provided by Missouri NRR.

interest in Lewis and Clark's expedition from the Missouri NRR's visitors declined sharply after 2005.[589]

Under Berndt, the Missouri NRR also participated in creation of the Missouri National Recreational River Water Trail. The Missouri River Institute at the University of South Dakota at Vermillion facilitated development of this program beginning in 2008, with the goal of providing interpretive materials to boaters on the Missouri River, particularly in the 39-mile and 59-mile segments of the Missouri NRR. The Missouri National Recreational River Water Trail was officially designated by Secretary of the Interior Sally Jewell in November 2013. It remains an independent entity consisting of representatives from several federal and state agencies, including NPS, coordinated closely by the Missouri River Institute and NPS to develop and install interpretive and locational signage along the river banks.[590]

Land Acquisition

In addition to educational and programming functions, the inaugural Chief of Interpretation was involved extensively in research and development of parcels of land

[589] George Berndt interview, July 22, 2015.
[590] Tim Cowman interview, April 23, 2015.

which NPS acquired within the Missouri NRR boundary. Berndt was involved in two parcels in particular: Spirit Mound and Goat Island.

Spirit Mound is a prominent hill rising from surrounding flat floodplain and prairie on the South Dakota side of the Missouri River near Vermillion, within the boundary of the 59-mile segment of the Missouri NRR. Hearing that the hill had great spiritual significance to the American Indians in the region, Lewis and Clark, along with several of their crew members, hiked to Spirit Mound from their camp, and climbed to its summit in August, 1804. Unlike many sites that Lewis and Clark recorded, Spirit Mound remains easily identifiable, approximately eight miles north of Vermillion on Route 19 near 312th Street. Because of its cultural and historical significance to both American Indians and the Lewis and Clark Expedition, Spirit Mound was included within the Missouri NRR boundary for the GMP when it was released in 2000.

A local non-profit organization, the Spirit Mound Trust, had been formed in 1984 to raise funds to purchase a 320 acre-parcel from private owners that included this natural feature. Although active in raising awareness of its significance, the Spirit Mound Trust was unable to raise necessary funds into the mid-1990s, even after the State of South Dakota offered to purchase it with matching funds. With organizing support from Jim Peterson, however, Senator Tim Johnson (D-SD) pledged to secure federal funding. As a result, the Omnibus Consolidated Appropriations Act of 1998 (P.L. 105-277) authorized the Department of the Interior to enter into an agreement with the State of South Dakota to acquire Spirit Mound, and appropriated $600,000 through the Land and Water Conservation Fund to allow the state, through the South Dakota Parks and Wildlife Foundation (SDPWF), to purchase the 320-acre property.

Once legislation was passed in late October 1998, an intensive planning program began, led by a Spirit Mound Advisory Team. This team completed its development plan in the spring of 2000, which was the basis for allowing transfer of funds to the State of South Dakota for purchase of the property. A meeting at the W.H. Over State Museum in Vermillion on June 29, 2000 outlined the basic responsibilities of the various agencies: the Spirit Mound Trust would negotiate a contract for site clearing activities, including those intended for later buildings on the site, NPS would develop the interpretive and trail program, and the South Dakota Department of Game, Fish and Parks would coordinate the native grass seeding program.[591] NPS and SDPWF worked on a cooperative agreement through the spring and early summer of 2000, which was signed in August 2000. While SDPWF would receive the funds and acquire the property to be held in public trust in perpetuity, they were required to consult with the Missouri NRR on ongoing restoration and interpretation of the site.[592] The South Dakota Department of Game, Fish and Parks prepared a draft restoration plan in late February 2001, and Superintendent Hedren invited the Yankton Sioux Tribe of South Dakota to take part in

[591] Tim Bjork, SDPWF, Spirit Mound Advisory Team Meeting Summary, June 29, 2000. Files of Missouri NRR, File 7B, Spirit Mound Acquisition.
[592] "General Agreement: Provisions for Administration with Regard to Funds and Activities Authorized Under Section 112 of the Omnibus Consolidated Appropriations Act of October 22, 1998." Files of Missouri NRR, File 7B, Spirit Mound Acquisition.



Figure 31: Spirit Mound looking north, 2014. Photo by the author.



Figure 32: Spirit Mound, interpretive kiosk, 2014 Photo by the author.

planning efforts at the same time. In 2001 also, the South Dakota SHPO hired a consultant to prepare a cultural history of Spirit Mound as part of a National Historic Landmark (NHL) nomination. Although the site was not, thereafter, listed as an NHL, the cultural history assisted NPS in the development of interpretive themes.[593] Funds were officially transferred to complete the purchase in July, 2002.[594]

NPS' role in development of Spirit Mound, as identified in early coordination meetings, was to provide interpretive planning. George Berndt, coming on staff in 2000, took the lead role in developing interpretive strategies for the site.[595] In 2002, the modern buildings on the site were razed, and nearly the entire 320 acres planted in prairie grasses. A trail was built leading from a new parking area to the summit. Berndt, meanwhile, coordinated with HFC to develop signage, which was completed by late 2002.[596] Opening ceremonies were held on August 25, 2004, two hundred years to the day after Lewis and Clark visited Spirit Mound.[597]

NPS's interest in Spirit Mound was primarily for its interpretive value. Although it was included within the Missouri NRR boundary during the GMP development process due to its cultural associations with the river, it was not a river feature. In this case, NPS simply facilitated its interpretation program once federal funds were transferred to the State of South Dakota; the state then purchased it. At the same time that the state's acquisition of Spirit Mound was moving forward, however, the O'Neill office initiated steps toward the purchase of a feature within the river itself: Goat Island, located in Cedar County, Nebraska, within the 59-mile segment of the Missouri NRR between Vermillion and Yankton.

The Missouri NRR staff, particularly under Superintendent Paul Hedren, was ever eager to preserve shoreline areas and islands within the river so as to maintain as much of the river as possible in a natural, free-flowing state. In 1997, Cedar County, which had the island on its tax rolls, looked into foreclosing on the property due to nonpayment of taxes. The county auditor and treasurer then discovered that the island was unclaimed federal property and not subject to Cedar County taxes. While disappointing for the county, it served as an opportunity for NPS. Hedren contacted the Bureau of Land Management (BLM) regarding the island and expressed hopes that it could be transferred to NPS as a component of the Missouri NRR. Goat Island, he explained, "is a delightfully untrammeled natural resource within the boundaries of this park unit and accordingly should remain in the public domain. Administered by the NPS, Goat Island would be

[593] Sherri Deaver, Ph.D., "Draft Spirit Mound Culture History," prepared for South Dakota Historical Society, Pierre, South Dakota, June, 2002; see also memorandum from Linda Sandness, South Dakota Department of Game, Fish and Parks to Paul Hedren, Phil Campbell, George Berndt, NPS, July 9, 2002. Files of Missouri NRR, File 7B, Spirit Mound Acquisition.
[594] Annual Superintendent's Report for 2002, January 29, 2002; Paul L. Hedren, NPS to Madonna Archambeau, Yankton Sioux Tribe of South Dakota, January 12, 2001. Files of Missouri NRR.
[595] Annual Superintendent's Report for 1999 and 2000, February 10, 2001. Files of Missouri NRR.
[596] Annual Superintendent's Report for 2002, January 23, 2003. Files of Missouri NRR.
[597] Annual Superintendent's Report for 2004, May 6, 2005. Files of Missouri NRR.

afforded the full protection of the Wild and Scenic Rivers Act and would be a considerable asset to the purposes and goals of the recreational river."[598]

This plan was disturbing news to the person who had purchased Goat Island in 1979, holding a deed that was recorded in Cedar County. Glenn Foster's attorney wrote to Superintendent Hedren in the summer of 1998, stating that Foster had several improvements on the island, where he grazed cattle. "If Cedar County gives the Park Service a deed to Goat Island for a sanctuary," the attorney concluded, "Mr. Foster will give the Park Service a deed to the Cedar County Courthouse for a historical monument."[599] The issue of Goat Island then became one of historical research, to determine whether the island, in this notoriously shifting and meandering river, could be documented as predating the admission of Nebraska as a state of the United States. If so, it was federal property and in the public domain, but, if it emerged after Nebraska became a state, it was state land and thus still the property of Mr. Foster. Hedren requested a formal determination by BLM in August 1998. In February 1999, BLM reported a preliminary determination that the island was indeed in the public domain but admitted that additional research in the form of a cadastral survey would be required, with funding from NPS requested through 2000 and totaling $36,500. Hedren approved the expenditure to conduct the additional research.[600] In the meantime, Hedren included Goat Island in the list of potential wayside exhibits and organized the National Guard and local Boy Scouts to help clean it up. Apparently, by the fall of 1999, the status of Mr. Foster's ownership of Goat Island had been settled, as NPS was moving ahead with removing much of the man-made material that was left on the island.[601]

While Cedar County, Nebraska, had initially claimed Goat Island, investigation of the island by NPS and BLM caught the attention of the State of South Dakota, which filed a formal protest against a survey of the island in April, 1999. Under leadership of Governor Bill Janklow, the State of South Dakota claimed that Goat Island was part of South Dakota. In November 2000, BLM issued another determination that Goat Island qualified as "omitted land," leaving it in the public domain. The State of South Dakota, however, continued to press its case that Goat Island was state land, not federal land, and submitted map evidence to that effect. The South Dakota Attorney General filed a protest in December 2000, calling for a thirty-day extension to submit additional evidence. Rep. Bereuter joined the side of NPS, calling on BLM to expedite its determination.[602] At approximately the same time, the State of Nebraska filed a challenge as well, not wanting to see the island in federal hands.

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[598] Paul L. Hedren, NPS to Bill Carson, BLM, October 10, 1997. Files of Missouri NRR, 1.A.1, Goat Island.
[599] John Thomas, Attorney to Paul Hedren, NPS, July 2, 1998. Files of Missouri NRR, 1.A.1, Goat Island.
[600] Robert Henry, BLM to Paul Hedren, NPS, February 5, 1999; Hedren to Henry, February 24, 1999. Files of Missouri NRR, 1.A.1, Goat Island.
[601] Paul L. Hedren, NPS to John Lee, BLM, September 29, 1999. Files of Missouri NRR, 1.A.1, Goat Island.
[602] Rep. Doug Bereuter to Alan R. Pierson, BLM, January 10, 2001; Pierson to Mark Barnett, Attorney General, State of South Dakota, November 16, 2000. Files of Missouri NRR, 1.A.1, Goat Island.

In March 2001, BLM reported back to the State of South Dakota the agency's determination that Goat Island predated statehood and, thus, remained in the public domain.[603] The State of South Dakota again challenged BLM's finding and made an appeal to the Interior Board of Land Appeals in the summer of 2001. In early 2003, the case had still not been heard, and Regional Director of MWRO William Schenk wrote to Governor of South Dakota Michael Rounds with a request that the state withdraw its challenge and allow NPS to manage Goat Island in the public interest, including fire management, clean-up, and allowing public access.[604] In reply, the governor offered to dismiss the state's appeal if NPS would manage the island in accordance with the methods described in Schenk's letter and would honor both South Dakota and Nebraska hunting licenses on the island. The incentive, in part, was to have the issue settled and the island cleaned up before the Lewis and Clark bicentennial celebration: According to Governor Rounds, "We all want to put our best foot forward for the visitors who come to the Missouri River retracing this great expedition and certainly removing the generations of litter and neglect on this unique landscape would be an important step in the right direction."[605]

Unfortunately, nothing came of this offer, and the island remained in limbo for several years. In 2005, the Interior Board of Land Appeals declined to rule on the matter and referred it to a future hearing.[606] A hearing was not scheduled until May 2007, as NPS and BLM research continued. Superintendent Hedren, along with Chief of Resources Management Wayne Werkmeister and Biologist Stephen Wilson, worked with scientists from the U.S. Geological Survey, including geomorphologists and a soil scientist, who identified evidence suggesting that the island had been in place for hundreds, if not thousands, of years. In addition, Berndt, conducting research into USACE activities on the river, located an 1882 photograph of the river which appeared to show Goat Island in its current location.[607]

Upon publication of a BLM notice in the *Federal Register*, the State of South Dakota issued a letter of protest in April 2009 to the BLM Wyoming State Office objecting to the findings of BLM's cadastral survey. The survey found that Goat Island predated statehood by Nebraska and South Dakota and therefore remained in the public domain. The matter languished until 2015 when a coalition of local citizens advocated for NPS management. At the time of publication of this document there are favorable indications that the State of South Dakota under the gubernatorial administration of Dennis Daugaard is receptive to NPS management of Goat Island in perpetuity and will rescind its April 2009 protest, paving the way for a BLM-NPS settlement agreement. NPS will then prepare a comprehensive management plan and companion environmental assessment in collaboration with both states to assure short- and long-term state interests are adequately addressed.

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[603] Pierson to Barnett, March 23, 2001. Files of Missouri NRR, 1.A.1, Goat Island.
[604] William W. Schenk, NPS to Mike Rounds, Governor of South Dakota, January 87, 2003.
[605] M. Michael Rounds, Governor of South Dakota to Ernest Quintana, NPS, April 1, 2003. Files of Missouri NRR, 1.A.1, Goat Island.
[606] United States Department of the Interior, Office of Hearings and Appeals, State of South Dakota, Case IBLA 2001-348, decided July 27, 2005. Files of Missouri NRR, 1.A.1, Goat Island.
[607] Annual Superintendent's Report for 2006-2007, October 26, 2007.

Long-Range Interpretive Plan

George Berndt, the inaugural Chief of Interpretation for the Missouri NRR, retired from NPS on February 27, 2009. After a national search, Anne Doherty-Stephan, formerly the Education Program Manager at Mount Rainier National Park, was hired in August 2009. Doherty-Stephan's principal role was to initiate development of an updated LRIP. The Missouri NRR, with Steven Mietz as Superintendent, agreed with HFC on the scope of the revised LRIP in September, 2010.[608]

When completed in September, 2011, the LRIP reported that awareness of the Missouri NRR remained low despite a decade of active interpretation and promotion. In describing the challenges facing the Missouri NRR's interpretive program, the LRIP identified confusion over the name of the park, a National Recreational River, and the mix of federal and state agencies that are involved in it as a significant problem. The LRIP stated, "It is not clear to the public what 'Recreational River' means, and even long-time area residents are not fully aware that the MNRR is a unit of the National Park System. This is partly due to multiple managing partners and partly because the NPS



Figure 33: Chief of Interpretation Anne Doherty-Stephan, undated. Photo provided by Missouri NRR.

[608] Project Agreement, Long-Range Interpretive Plan for Missouri National Recreational River, HFC Project Agreement HFC-10-1889, executed September 22, 2010. Files of Missouri NRR, File 6.A.1, Interpretive Planning.

currently owns relatively little land other than the Bow Creek Recreational Area and Mulberry Bend Overlook tracts."[609]

Despite the challenges posed by the lack of NPS land within the park and the confusion over the park's purpose and management, the LRIP identified many opportunities for interpretation, several of them directly addressing and taking advantage of the challenges. These included the opportunity to present a model of ways to preserve natural rivers in balance with private land ownership; the possibility of using the multiple agencies involved in the Missouri NRR as a way to promote a wide-ranging recreational and heritage corridor that is both shared with, and promoted by, a range of agencies; the opportunity to share a wide variety of voices who are concerned with protection of different aspects of the river, including advocates of natural resources, agriculture, cultural resources, and more; and the ability to use these stretches of river that have been altered in relatively minor ways as a contrast to more heavily-modified rivers.

Among the opportunities that the LRIP identified was a list of more than sixty sites within the Missouri NRR corridor where there were existing interpretive facilities or the potential for interpretive facilities. These sites included well-known facilities such as the REC at Ponca State Park, Spirit Mound, the Fort Randall Historic Site, the Corps of Discovery Welcome Center south of Yankton, Niobrara State Park, and the Chief Standing Bear Memorial Bridge overlook. The LRIP included many other sites along the corridor, however, such as the W.H. Over Museum on the University of South Dakota campus, city and county parks in Vermillion, Yankton, and Clay County, and numerous boat ramps, river access points, trails, and campsites.

The LRIP then made several specific recommendations aimed at strengthening the Missouri NRR's visibility in the region, including development of a heritage corridor concept among the several federal and state agencies that could join forces to "address branding, joint marketing, partnership programs, and grant opportunities." In addition, responding to the far-flung nature of the Missouri NRR, the LRIP recommended both a Mobile Ranger Station, which could bring exhibits and other interpretive media to locations throughout the media corridor, and other interpretive media about the Missouri NRR that could be made available at all of the partner visitor and welcome centers as well as for both television and web outlets. A Mobile Ranger Station, based on the conceptual recommendations of the LRIP and further designed and developed by Park Ranger Interpretation Dugan Smith, is currently in use for events through the Missouri NRR corridor from Pickstown, SD, to Ponca, NE, and beyond.

Effective with Chris Wilkinson assuming the Chief of Interpretation position in October 2011, further emphasis was placed on developing a youth-oriented curriculum that included interface and close working relationships with schools throughout the Missouri NRR corridor. Wilkinson developed a Social Media Strategy document that served as a basis for NPS outreach using the latest technological developments, including Facebook, Instagram, Snapchat, Twitter, etc. The combined emphasis of enhancing

[609] Interpretive Solutions, Inc., "Missouri National Recreational River: Long-Range Interpretive Plan," prepared for HFC, Contract No. C1180070004, September, 2011, 23.

curriculum-based interpretive programming with local schools and increasing use of social media continued through May 2014 when Wilkinson transferred to Minuteman Missile National Historic Site, South Dakota, but persists to the present based upon the firm foundation that he laid.

The LRIP made a particular point to recommend additional curriculum-based educational programs, noting that the Missouri NRR "is tremendously under-utilized as an educational resource for all grade levels, from kindergarten through university." While some school groups visited the Missouri NRR, according to the LRIP, they usually were parts of field trips to facilities of other agencies including FWS and USACE. The LRIP added that, although NPS staff took part in these trips and provided additional support, there was "no clear emphasis on the NPS and its role on the MNRR." The development of a curriculum-based interpretive program was one of Superintendent Madell's goals during his brief tenure at the Missouri NRR, and was being developed while the LRIP was being written.[610] These included an eight-week Teacher-Ranger-Teacher program and coordinating with the Missouri River Institute's Teacher Workshop at Ponca State Park. Funding was secured for FY11 to develop age-specific activity books and web programs through the National Junior Ranger Program.[611] Finally, the LRIP recommended expanding the Missouri NRR's reach beyond the local area by making more effective use of social media.

Recreation

Despite the name, Missouri National Recreational River, recreation is not the most important part of the mission of the Missouri NRR. As noted in Chapter 2, "Recreational River" pertains to the lowest of three classification levels of the NWSR System: Wild, Scenic, and Recreational. In Recreational Rivers, some development is allowed, along with potential for more provisions for recreational activities. The name of this unit of the National Park System has remained a source of confusion for many. The Missouri NRR conducted a Core Operations Evaluation in 2009, identifying the priorities for the unit that are essential to achieving the park's purpose. As noted earlier in this chapter, the Missouri NRR's priorities lay primarily with preserving and protecting the two stretches of the Missouri River in their relatively natural and free-flowing state, with their unique natural and cultural landscapes, scenic vistas, and natural resources including fish and wildlife and their associated habitats. Providing for "appropriate recreational use" of the river was one among several identified management priorities.[612]

In recognition of the concerns of landowners along both segments of the Missouri River, recreational use was downplayed during the GMP process. This, combined with NPS's limited ability to acquire land along the river, restricted the types of recreational

[610] Madell recalled in his recent interview (July 27, 2015) that "I felt strongly we needed to go in a little different direction and that to go to more of a curriculum-based education program rather than a traditional interpretation-based, and I brought in a woman [Doherty-Stephan] who wanted to steer things that way."
[611] LRIP, 2010, 44, 45; see also Mike Madell interview.
[612] LRIP, 2010, 12.

opportunities that can be provided. These opportunities generally include hunting and fishing, boating, enjoying the natural vistas, and taking part in activities at the federal, state, and county parks that partner with NPS within the Missouri NRR. Access to the river, meanwhile, is also limited, since most of the river passes through private lands. In addition to the state and federal parks, however, there are several boat landing sites along both segments of the Missouri. The lower segments of the Niobrara River and Verdigre Creek, however, have no public access sites within the Missouri NRR boundary.

Because of the decentralized nature of the Missouri NRR, with no formal visitor facilities, one of the principal challenges in recreation planning has been a solid understanding of the nature of the park's visitors and their activities. Visitor use studies began only in the 1990s, and have relied substantially on estimates and probabilities based on sampling. The initial survey, which was released in March 1993, examined only Nebraska sites. The study included four sections of the Missouri River, two of which included the 39-mile and 59-mile segments of the Missouri NRR. The study included sampling at the five public access sites on the Nebraska side of each segment that had the highest probability of use. The remaining two sections of the Missouri River in the study were located downstream of the Missouri NRR. Despite its limited nature, this early survey highlighted a need for additional bank access points, particularly in Nebraska.[613]

A more substantial survey of recreational use was completed from April through December 2000. Prepared by staff from the Nebraska Game and Parks Commission and the South Dakota Game, Fish and Parks Department, the survey collected data by means of postage-paid post cards left on vehicles, and interviews with recreational users. Other survey personnel conducted ground counts of vehicles, boat trailers, and recreational users. The survey area extended from Fort Randall Dam to the Big Sioux River above Council Bluffs, Iowa. A substantial majority of the users, 62%, reported fishing as their primary activity, while boating accounted for 34% of activity. The remaining four percent of recreational use was spread principally among hunting, camping, picnicking, sightseeing, wildlife watching, and outdoor photography. At that point, almost 80% of the users agreed that the facilities were adequate for their needs.[614]

In 2005 and 2006, for the first time, the Missouri NRR recorded public use of the park. While still not a comprehensive study of all recreation users, the 2005 study indicated nearly 170,000 users of the various park-related facilities.[615] A steady refrain throughout the 2000s, however, repeated in the 2010 LRIP, has been the lack of solid, quantifiable data regarding visitor recreational use. The complexity of the Missouri NRR, with its two segments and multiple entry points (e.g. boat ramps and access roads) along the Missouri River spread over more than 100 miles and the lower segments of the Niobrara River and Verdigre Creek, makes a more substantial visitor use study

[613] Larry E. Hesse et al., "Recreational Use Survey of the Missouri River in Nebraska," State of Nebraska Game and Parks Commission, March, 1993. Files of Missouri NRR, Recreation Planning.
[614] Gerald Mestl, Gerald Wickstrom, and Clifton Stone, "Nebraska and South Dakota 2000 Missouri River Recreational Use Survey," November 2001. Files of Missouri NRR, Recreation Planning.
[615] Annual Superintendent's Report for 2006-2007, October 26, 2007. Files of Missouri NRR.

challenging. The challenge is compounded by the frequent shortage of funding to carry out many activities with regard to the Missouri NRR.

A more comprehensive visitor study was carried out in the summer of 2012. Researchers under contract to NPS's Natural Resource Stewardship and Science Office in Fort Collins, Colorado, conducted the study that included a systematic random sample of visitors to the Missouri NRR during a week in July 2012. Those who responded to the questionnaire included both first-time visitors, who constituted just over one-quarter of the respondents, and those who had been to the park more than once. The study found that nearly 70% of visitors made the Missouri NRR their primary destination. Nearly three-quarters of the respondents identified simply enjoying the natural quiet as an activity, while nearly half of the respondents also included playing in the water and viewing wildlife in their activities. Camping was the most important activity to fewer than one-quarter of the respondents. Nearly all of the respondents rated the overall quality of the facilities, recreational opportunities, and services as "very good" or "good."[616]

Personal Watercraft Ban

Recreational activities lay primarily in the background of the O'Neill Headquarters Office's staff concerns, which were oriented more toward resource planning, including negotiations with USACE and adjoining landowners, as represented by MRBSA, over bank stabilization and other construction within the river. Just as the park's planning efforts had come to an end and operations management was beginning, however, a substantial recreation issue arose which put the staff in the public spotlight. In March 2000, NPS announced its intention to ban use of personal watercraft, also known as jet skis, on most waters of the National Park System effective April 20, 2000. The issue, while relatively short-lived, created a powerful uproar among the public throughout 2000 and into 2001.

The final GMP for the 59-mile plan, released in 1999, noted that personal watercraft were not allowed on NPS waters, though it admitted that many might use them anyway. The GMP planning process, indeed, elicited nearly 800 written responses supporting the ban of personal watercraft for their impacts on enjoyment of the river. Although the O'Neill Headquarters Office staff had addressed the topic during several public meetings for the GMP, the 2000 announcement from NPS caught many by surprise and created an uproar that brought both the Nebraska and South Dakota Congressional delegations into the discussion. In particular, Representative John Thune (R-SD, at-large) was the voice for those who opposed the ban. On May 2, 2000 Superintendent Hedren and Management Assistant Phil Campbell attended a public meeting in Yankton at the request of South Dakota State Senator Garry Moore (D-18th

[616] Marc F. Mannie, Yen Le, and Steven H. Hollenhorst, *Missouri National Recreational River Visitor Study, Summer 2012*. Report for National Park Service, Natural Resource Stewardship and Science Program, Fort Collins, Colorado, April 2013.

District). Approximately 150 people attended the meeting, at which the ban was debated hotly.

In response to continued Congressional inquiries from Senators and Representatives in both Nebraska and South Dakota, the O'Neill Headquarters Office agreed to open a public comment period regarding the personal watercraft ban on the Missouri NRR in the summer of 2000. O'Neill Headquarters Office staff attended a second meeting in Yankton on June 16, 2000, hosted by Rep. Thune, where 250 attendees quickly and vociferously focused on NPS's rationale for the ban. The public comment period was established informally: as NPS invited people to write in their comments, which officially would be accepted until September 30, 2000 (though comments continued to be received into October).

Throughout the summer, as public input was being received, NPS's nationwide ban on jet skis drew extensive media attention, both regionally and nationally. Regional newspapers, including the *Yankton Press & Dakotan*, the *Sioux Falls Argus Leader*, and the *Omaha World-Herald*, came out generally in support of the ban. With public attention along the Missouri River corridor in the summer of 2000 focused on personal watercraft and its potential use on the Missouri NRR, the public comment period eventually drew more than 10,000 responses including individual and form letters, emails, and petitions.

In November 2000, Hedren summarized the response, together with NPS' rationale for the ban, in a White Paper which was widely distributed. NPS, he explained, established the ban on personal watercraft after several years of study in the late 1990s and based its decision on several factors. These factors included the existing and potential impacts on wildlife resulting from allowing the machines to enter sensitive habitats not normally accessible by other motorized watercraft, concerns over pollution, conflicts between jet ski operators and fishermen, swimmers, boaters, and others, the impact on the sense of solitude that many visitors seek from National Parks; and user safety.

The results of the summer-long polling and public input revealed a roughly equal division between those who supported the ban on personal watercraft, and those who opposed it, at least among those in Nebraska and South Dakota who lived on or near the river. Overall, however, including responses from people throughout the four-state area that most frequently used the river, Hedren noted that 82% supported the ban on personal watercraft on the Missouri NRR. Hedren went on to summarize many of the arguments that arose from the public comment period, both for and against the ban on personal watercraft. Those who opposed the ban spoke of its discriminatory approach that violated citizens' rights to unrestricted use of public lands and waters, challenged the degree to which the personal watercraft polluted the water and air and created excessive noise, and questioned NPS' jurisdiction on the Missouri NRR. Supporters of the ban included the National Park Conservation Association, the Bluewater Network, EPA, and other organizations. Hedren also provided descriptions of three studies regarding the use of personal watercraft that had been released in 2000, all of them critical of their use, particularly in National Park System waters.

In his conclusion, Hedren announced that NPS would sustain the ban on jet ski use in the Missouri NRR, along with the Niobrara NSR. All other waterways in the region, however, including all of Lewis and Clark Lake and Lake Francis Case above Fort Randall Dam, were open to use of personal watercraft.[617] The ban remained in place, many remained opposed, and the issue occasionally emerged again into the late 2000s. Many, indeed, continued to use personal watercraft (jet skis) unlawfully in the Missouri NRR. The O'Neill Headquarters Office, however, did not have its own law enforcement staff and, therefore, had virtually no ability to patrol the segments for violators. Instead, the Missouri NRR staff relied on an active education and public outreach program to promote the ban.[618] This approach continued until 2010 when Niobrara NSR set up a law enforcement, visitor and resource protection division. Niobrara NSR law enforcement rangers periodically conduct occasional patrols within Missouri NRR waters, including some random enforcement of the personal watercraft ban which continues to this day.

Recreational Facilities

NPS owns very few parcels of land within the Missouri NRR boundaries where it can operate its own recreational facilities. These include the Bow Creek Recreation Area, Mulberry Bend Overlook, and Green Island, which was transferred to NPS in April 2014 as mitigation associated with building the Highway 81 Bridge over the Missouri River, completed in 2008. Short- and long-range management of these areas, including enhanced recreational opportunities was identified in a multiple properties management plan and environmental assessment finalized in January 2016.

For recreational facilities in the Missouri NRR, NPS relies primarily on parks, boat launches, campgrounds, and trails that are owned and operated by a mix of federal, state, and county agencies. There are several categories of recreational facilities, including scenic overlooks such as those at the Chief Standing Bear Memorial Bridge and the Newcastle-Vermillion Bridge; state, county, and municipal parks; USACE visitor facilities; and natural features such as Spirit Mound and the Ionia Volcano. The most prominent recreational facilities are the two state parks in Nebraska: Ponca State Park at the eastern end of the 59-mile segment, and Niobrara State Park in the 39-mile segment. Both parks predated creation of the Missouri NRR and provide a variety of educational programming and interpretive exhibits, with scenic overlooks, and camping and hiking areas. While the Lewis and Clark Lake Recreational Area located above Gavins Point Dam is not included within Missouri NRR's authorized boundary, because it is between the 39- and 59-mile districts, NPS works in cooperation with SDGFP which administers the area to provide interpretation, education, and outreach programs during months that campgrounds and marinas are operational.

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[617] Hedren's "White Paper: The Jetski Ban on the Missouri National Recreational River," November 15, 2000, along with a vast amount of additional correspondence, can be found in the files of the Missouri NRR, File 1B, Recreation Activities, and File 10C, Complaints.

[618] See, for example, email from Paul Hedren to unknown addresses, May 20 2006, printout in files of Missouri NRR, File 1B, Recreation Activities.

The most numerous of the recreational facilities in the Missouri NRR are considerably less formal: the range of boat launches and river access points on both sides of the river. Nearly all boat launch sites are located on the 59-mile segment. On the South Dakota side of the river, Clay County Park includes a large campground set back from the river, while the river's edge features a parking area, boat ramp, open banks for picnicking, and three interpretive signs with information about the Missouri NRR, a description of natural features to look for on the river, and a description of, and directions to, Spirit Mound, which is only six miles north of the park. Further upstream, on the South Dakota side of the 59-mile segment, the Myron Grove boat launch is a far simpler site with a small parking area and a boat launch, and two interpretive signs describing the Missouri NRR and a description of natural features to look for on the river. The boat launch provides a view across the river to hills and a steep bluff on the Nebraska side. The South Dakota Department of Game, Fish and Parks, meanwhile, owns the primitive Bolton boat launch near Vermillion.



Figure 34: Clay County Park, South Dakota, interpretive signs, 2014. Photo by the author.



Figure 35: Myron Grove boat launch, South Dakota, 2014. Photo by the author.

Only one MNRR boat launch is located on the Nebraska side of the 59-mile segment, Brooky Bottom. This is a more substantial boat launch site than Myron Grove, which is only slightly upstream on the other side of the river. Brooky Bottom features a more expansive parking area giving access to the boat launch, with a picnic site nearby with a small open pavilion and two interpretive signs. Brooky Bottom provides a view of Goat Island. The Bow Creek Recreation Area, meanwhile, lies immediately upstream of Brooky Bottom. One of the only sites currently owned by NPS, the Bow Creek Recreation Area is immediately north of Wynot, Nebraska. It is a largely undeveloped area consisting of wetlands, grasslands, and cottonwood forest, providing a sense of the traditional types of lands surrounding the natural Missouri River. In addition to these MNRR sites, Cedar County, Nebraska owns the St. Helena boat ramp and the Nebraska Game and Parks Commission owns boat ramps at Mulberry Bend and Ponca State Park.



Figure 36: Brooky Bottom, Nebraska interpretive signs, 2014. Photo by the author.

The Ionia Volcano, meanwhile, is a natural feature and interpretive site on the Nebraska side of the river near Newcastle, approximately one-half mile west of the river, in a section where the river runs from north to south. Formerly a bed of minerals that, when washed by the waters of the Missouri, created "smoke," the feature was known to the region's American Indians, and Lewis and Clark reported sighting it during their expedition. Lewis and Clark investigated the site, noting a crevice from which emanated intense heat and smoke, and recorded their observations without being able to come to any conclusions. At Jefferson's request, Lewis and Clark were alert to the possibility of volcanic activity during their journey, and apparently thought it possible. During the nineteenth century the river undercut the bluff where the "volcano" was located, and over the years has meandered away from the "volcano," leaving it just a tall bluff providing expansive views over the river's broad flood plain. Other recreational and interpretive sites in or adjacent to the 59-mile segment include the Sergeant Gass Election Site, associated with the Lewis and Clark Expedition, near the eastern end of the Missouri NRR; the historic Meridian Bridge in Yankton; the relatively primitive Green Island; the extensive Mulberry Bend Overlook with short hiking trails leading to the top of a bluff providing an extensive view upstream and downstream and several interpretive signs; and Ponca State Park.



Figure 37: Looking northwest from Ionia Volcano, Nebraska, 2014. Photo by the author.



Figure 38: Niobrara State Park, Nebraska, 2014. Photo by the author.

The 39-mile segment of the Missouri NRR has even fewer recreational sites. The largest feature is the Niobrara State Park immediately west of the town of Niobrara, which is a vast, sprawling site with tall bluffs overlooking the Missouri River, a visitor center with comprehensive exhibits, and campsites and hiking trails. The Chief Standing Bear Memorial Bridge, meanwhile, features a large parking area with interpretive signs on the South Dakota side of the river. Further upstream on the Nebraska side, the Sunshine Bottom site is a small, remote boat launch near the Old Baldy overlook, a tall and isolated hill. Immediately below Fort Randall Dam, meanwhile, the Fort Randall Historic Site includes the remains of two nineteenth century buildings associated with the 1856 military outpost on the Nebraska side. State agencies also provide boat ramps in the 39-mile segment, including at Running Water and Fort Randall Dam, owned by South Dakota Department of Game, Fish and Parks; and at Niobrara and Verdel, owned by the Nebraska Game and Parks Commission.

Although its name is the Missouri National Recreational River, the limited acreage available to NPS to develop more comprehensive recreational facilities restricts the types of recreational opportunities on the river to those that can be enjoyed from the few available access points and government-controlled lands. NPS has, nevertheless, endeavored to use these meager opportunities to best advantage by initiating, funding, and staffing cooperative programs with state and local agencies in their facilities and by deploying information in various social media outlets as well as on traditional wayside exhibits and visitor brochures to encourage the public to use the recreational opportunities afforded by the Missouri NRR. Meanwhile, the main focus of NPS in the Missouri NRR is to maintain the natural, scenic, and historic values of the river corridor over which it has control for the future enjoyment of the visiting public.

Chapter 11: Current Management and Operations

Yankton Headquarters Office and Uncoupling Two Park Units

NPS was only tangentially involved with the Missouri NRR in its very early years after the 59-mile segment of the Missouri River was designated a component of the NWSR System. Even after it was tasked with administering the Missouri NRR in 1981, NPS administered the Missouri NRR with a fairly light hand. No park office was set up; instead, NPS handled all administrative functions from MWRO in Omaha, Nebraska, a two-hour drive to the closest point in the park. Visits by NPS staff were, therefore, infrequent. As Warren Hill, the inaugural superintendent of the Missouri NRR, observed, a remote operation from Omaha would not be feasible after the park was legislatively enlarged in 1991. Instead, Hill established a field planning office in O'Neill, Nebraska, which was roughly central to all new and existing components of the park on the Missouri and the Niobrara rivers.

The O'Neill office, which NPS first leased in the fall of 1991, served as the base for the complex series of planning processes that were required as a result of the 1991 legislation. In 1996, with the planning documents nearly complete, Warren Hill announced his retirement from NPS. MWRO then selected Paul Hedren, a veteran NPS administrator with a great deal of experience in the Plains states, to succeed Hill. Hedren began work at the Missouri NRR in early 1997 and took responsibility for completing the last of the initial planning documents.

With the completion of the final GMP nearing, Hedren and his staff in the O'Neill Headquarters Office began considering long-term operation of the overall Niobrara-Missouri unit. This included working with USACE on permitting, environmental compliance, and other construction issues; coordinating with local landowners on bank stabilization and sedimentation issues; and developing interpretive and resource management programs. As discussed in Chapter 7, MWRO accepted Hedren's proposal, made shortly after he became Superintendent, to divide the original Niobrara-Missouri National Scenic Riverways into two discrete units, each with its separate budget code for operations but staffed and administered jointly. As Hedren recalled later, "they were always really two parks. And NIMI [Niobrara/Missouri], in the construct of Warren Hill's time, wasn't even consistent with the plans he created, and that became increasingly evident as the years rolled on."[619] By 1998, the two segments of the Missouri River, along with the lower portions of the Niobrara River and Verdigre Creek, were administered as the Missouri NRR while the Niobrara NSR gained its own status as a unit of the National Park System, though under the overall administration of the Missouri NRR Superintendent.

As a result, Hedren served as superintendent of both units. At the staff level, the resource manager and administrative assistant, in particular, worked with both units. In

[619] Paul Hedren interview, April 17, 2015.

1999 and 2000, however, Hedren began working through the budgeting process to establish new position descriptions for critical employees that would allow the Missouri NRR to move from planning into an operations mode. In a proposed organization chart in early January 2001, Hedren included an upgrade of the Administrative Manager position, together with a Management Assistant, a Resource Management Specialist for the Missouri NRR, a Resource Management Specialist for the Niobrara NSR, and a GIS Resource Management Specialist, all reporting to the Superintendent. Two Chief Rangers of Interpretation, one for the Missouri NRR and one for the Niobrara NSR, along with a Park Ranger Interpretation, all reported to the Management Assistant.[620]

Several years later, in 2004, Hedren again proposed reorganization of the two units. The new organization chart flattened out the lines of authority, with a Superintendent to whom reported a newly-created Supervisory Park Ranger Interpretation position for the Missouri NRR; a Supervisory Park Ranger Interpretation for the Niobrara NSR; two Resource Management Specialists, one for the Missouri NRR and one for the Niobrara NSR; and a jointly-shared Administrative Officer. The Administrative Officer, in turn, had two staff reporting to the position, a clerk and a new budget assistant. This organization chart was approved in October 2005.

All of these staff reorganizations, however, were occurring within the parameter of keeping the O'Neill Headquarters Office as the park headquarters. By this time, however, as new staff were brought on board, the two units clearly began to function independently of one another, especially given the separate issues on each river. Space in the O'Neill office was limited and new staff for the Missouri NRR were housed in other facilities, most notably the interpretive staff, which shared space in the Lewis and Clark Visitor Center at Gavins Point Dam under an agreement with USACE. Establishment of a new headquarters for the Missouri NRR, though, was just one part of the formal administrative division between the Missouri NRR and the Niobrara NSR.

The scattered nature of operations on the Missouri NRR, being at a distance from O'Neill and with staff in various locations, began to take a toll. As Hedren recalled, "I had two interpreters at the Gavins Point Dam, and they were cheek to jowl with a bunch of Corps people, and I think that was tough. And they were good people. And I had my GIS guy up there, and he was just bumped around from place to place to place. And we had storage in a Corps building, and that's where we could park our boat, and it was just all so untidy, scattered as we were."[621] The distances were great, as the drive from O'Neill to Yankton covered ninety miles and took one hour and forty-five minutes. Both Hedren and Werkmeister, who were based in O'Neill, became active "road warriors" as they traveled regularly from O'Neill to Yankton and other points along the 39-mile and 59-mile segments of the Missouri NRR.

Hedren began the process of finding a new Headquarters Office for the Missouri NRR in 2004, touring Yankton to look at potential locations for office and storage space.

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[620] This and subsequent organization charts are found in the files of the Missouri NRR, File 10.A, Charts/Roles/Functions, General Administration.
[621] Paul Hedren interview, April 17, 2015.

Among the initial site visits was one at the very beginning of September 2004, to look at a former brownfields property on Second Street on Yankton's east side. Riverfront Partners, LLC, had been considering constructing a new facility there for its engineering and survey firm, Eisenbran and Associates, Inc. The site, formerly a scrap metal salvage yard, was then undergoing environmental remediation with the approval of the City of Yankton, and Riverfront Partners suggested building a facility for the Missouri NRR's new office there, as well.[622] This proposal was abandoned at the time for reasons that were not identified in the research for the current Administrative History.

In the spring of 2005, recognizing the long lead-time to secure a new building and under pressure to consolidate both the interpretive staff at the Lewis and Clark Visitor Center and a resources management specialist at the Corps of Discovery Welcome Center, Hedren requested permission to lease a small office space in Yankton. As part of his staff reorganization plan, he had already submitted several requests for operational funding through the Operations Formulation System (OFS), "and if and when we receive funding we will require a much larger office space with a locking storage space for vehicles and other park property. We'll handle that need later."[623] The requested leased office space did not materialize, however. By early 2006, the O'Neill Headquarters Office staff, with a continuing critical need, became entangled in GSA's procurement process "making immaterial the park's own scouring for available space in the months preceding." GSA had issued a solicitation for office space in Yankton, identifying three properties which Missouri NRR staff toured in late May 2006. The staff rejected two of the three, but GSA did not accept one of these staff rejections and solicited bids for two, both of which the Missouri NRR staff rejected "since both were well beyond the park's capacity to pay (and one had already been determined to be unacceptable to the park but, at GSA's insistence, remained an alternative and happened to be the low bidder)."[624]

The prospect for a new office in Yankton remained stalled through the rest of 2007 and 2008. At the same time that Hedren was casting his eyes toward Yankton for a new headquarters for the Missouri NRR, he also began to look toward Valentine, Nebraska, for a new headquarters for the Niobrara NSR. A small town approximately two hours further west from O'Neill, it was the closest community to the Niobrara NSR and would put the NSR staff in closer contact with the people and resources of that unit. As with Yankton, Hedren had already stationed staff in Valentine as a field office. As Hedren prepared for his retirement in the fall of 2007, he proposed yet another staff reorganization. In this round, however, he envisioned the full realization of the division between the Niobrara NSR and the Missouri NRR. By this time, he had taken to referring to it as the Niobrara/Missouri Park Group, and suggested a strategy "that achieves much more direct management of each park unit, a much more visible and functional management and administrative presence in the two communities most directly relevant

[622] Daniel D. Eisenbran, Riverfront Partners, LLC to Paul Hedren, NPS, September 3, 2004, files of Missouri NRR, File 4B, Office/Storage Space.
[623] Memorandum, Hedren to Regional Director, MWRO, April 18, 2005, files of Missouri NRR, File 4B, Office/Storage Space.
[624] Annual Superintendent's Report for Fiscal Years 2006-2007, October 26, 2007. Files of Missouri NRR.

to Niobrara NSR and Missouri NRR." Gradually, but inevitably, this would mean the closing of the O'Neill office. [625]

This radical office realignment was mirrored by a realignment of staff and responsibilities. In particular, each unit would have its own discrete staff and, most importantly, its own Superintendent. The Niobrara NSR Superintendent would report to the Missouri NRR Superintendent but would have responsibility over the Niobrara NSR staff that would include a chief ranger, chief interpreter, resources management specialist, two park rangers for law enforcement, one park ranger for interpretation, and an administrative assistant. The Missouri NRR, meanwhile would be staffed with a chief of resources management, a hydrologist, a resource manager for GIS, a chief interpreter, a park ranger for interpretation, an administrative officer, and an administrative assistant. All of the positions which Hedren identified for the Missouri NRR were already in place and encumbered, but staff positions for the Niobrara NSR would have to be added, particularly in the case of the Superintendent, or re-graded. The Niobrara unit, Hedren explained, was in line to receive a $266,000 operations increase in FY08 in addition to its existing funding through the Operations of the National Park Service (OPNS) line. The purpose of these funds was to establish an interpretive program at the Niobrara NSR for the first time. The additional funding, he continued, "could also well cover, we believe, a large percentage of the new superintendent position." [626]

With the Superintendent and Chief Ranger in place, Hedren argued, increased funding through the OFS in subsequent Fiscal Years would allow the new Superintendent to recruit for the other positions, including the new Park Ranger. He observed, in his justification for the funding increases, that "Niobrara/Missouri ONPS funding is generally regarded and used as pool funding, with respective accounts variously covering positions entirely or proportionally (e.g. Niobrara chief ranger from Niobrara ONPS solely, administrative positions form Niobrara and Missouri MNPS on a fifty-fifty split, etc.), allowing the two units to be mutually supportive while providing a flexibility that has helped moderate the funding adequacies and deficiencies of recent years and foreseeable always." With the Niobrara NSR and the Missouri NRR continuing to be linked administratively, he argued, "this pool funding concept ought to be embraced."[627]

Hedren's proposal, in which he had involved the Missouri NRR and Niobrara NSR staff, was carefully planned. Response from MWRO was remarkably swift: two weeks later, at the end of August 2007, he received a memorandum from Regional Director Ernest Quintana, approving the organizational changes at the Missouri NRR and the Niobrara NSR. Quintana also approved relocating the Missouri NRR staff to Yankton "as opportunities present themselves." Quintana noted, though, that he was still awaiting

[625] Memorandum, Paul Hedren to Regional Director, MWRO, August 15, 2007, files of the Missouri NRR, File 10.A, Charts/Roles/Functions, General Administration.
[626] Ibid.
[627] Ibid.

word from GSA with regard to a new office location in Yankton, "which could have a bearing on the implementation timeframe for moving the office."[628]

Mike Madell, once he arrived at the Missouri NRR in July 2008, was tasked with implementing the division. Madell observed that Quintana "believed very strongly that every park needed its own Superintendent just to deal with the community relations, the politics, et cetera," and was strongly in favor of dividing the two park units. The budget, however, did not always work out as Hedren and Quintana had planned. "I'm not sure," Madell recalled, "that he [Quintana] or anybody else realized, at the time, the extent to which Niobrara's budget was underwriting operations at the Missouri River." Once he arrived, Madell began working to separate the accounts for the two units, "dividing Niobrara money in one pot, Missouri River in another pot. Missouri was in very bad financial shape. . . .if I would have realized up front the extent to which Niobrara had been underwriting Missouri, I might have recommended to the Regional Director that we hold off on making that split until the budget situation improved." MWRO was obliged to approve supplementary funds to the Missouri NRR to keep it afloat in FY09, and Congress approved an increase the following year, "which barely got us above the break-even mark."[629] While the FY09 and FY10 ONPS base increases for Missouri NRR were justified on the grounds of starting up a new law enforcement, visitor resource and protection program, those funds had to be redirected to permanent full-time salaries of Missouri NRR-based staff. This move effectively weaned the park from reliance on Niobrara NSR base funds for fiscal solvency.[630]

Superintendent Hedren retired from NPS in late October 2007. Hedren was succeeded by Wayne Werkmeister as Acting Superintendent on a temporary basis. MWRO made official the division between the two parks in July 2008, when Mike Madell reported for duty as permanent Superintendent of the Missouri NRR alone, and Dan Foster was hired as the new Superintendent for the Niobrara NSR. Werkmeister, and then Madell, continued to coordinate with GSA on identifying new headquarters office space for the Missouri NRR in the fall of 2008, but without any immediate results. Madell worked first from his home in Yankton, and then, in September 2008, took temporary office space in the Corps of Discovery Welcome Center located on Highway 81 just south of Yankton, South Dakota.[631]

Finally, in October 2008, GSA awarded a contract to build a new headquarters facility in Yankton. GSA and park staff selected the site that Hedren and his staff had originally discussed in 2004, a former metal scrap yard on Second Street just east of downtown Yankton that was a recently-remediated brownfield site. The City of Yankton provided the site free of charge, and NPS made arrangements with a private firm that would own the building and, coordinating through GSA, lease it to NPS for an initial ten-

[628] Memorandum, Regional Director, MWRO to Hedren, August 30, 2007, files of the Missouri NRR, File 10.A, Charts/Roles/Functions, General Administration.
[629] Mike Madell interview, July 27, 2015.
[630] Missouri NRR CORE Operational Summary, 2009.
[631] Annual Superintendent's Report for Fiscal Year 2008, December 22, 2008. Files of Missouri NRR.

year term.[632] Construction proceeded over the winter of 2008-2009, and the Missouri NRR staff took possession of the new building on May 1, 2009. The new building totaled 7,300 square feet, approximately two-thirds of which was office space and the remaining one-third garage and equipment storage. The headquarters facility included an adjacent fenced compound for parking government owned or leased vehicles, boats, and various light and heavy equipment used in a wide variety of park operations All of the staff that had been working in and around Yankton for the past several years were established in the new office by the end of May 2009. Only one O'Neill Headquarters Office employee, Laurie Wise, opted to relocate to Yankton.[633] As Superintendent Madell recalled, "We had staff scattered all over the place, so building the new facility allowed us to bring everybody under one roof and made for a lot more efficient operation."[634]



Figure 39: Yankton Headquarters Office, 2014. Photo by the author.

With the new headquarters in Yankton established and the staff relocated there, Superintendent Madell announced that he would be leaving the Missouri NRR in January 2010. After overseeing completion and occupancy of the new office space in Yankton, he accepted a position as Superintendent of Vicksburg National Military Park, Mississippi. At the same time, Biologist Steven Wilson, who had joined the staff under Superintendent Hedren and Chief of Resources Management Wayne Werkmeister,

[632] Monthly Superintendent's Report for October, 2008, November 28, 2008. Print of email, files of Missouri NRR, File A2615 (MNRR). See also Mike Madell interview, July 27, 2015.
[633] Monthly Superintendent's Report for May, 2009, June 15, 2009. Print of email, Missouri NRR File A2615 (MNRR).
[634] Mike Madell interview, July 27. 2015.

announced that he was taking a position with the Northern Great Plains Inventory and Monitoring Network in Rapid City, South Dakota. In 2009 also, both Wayne Werkmeister and Chief of Interpretation George Berndt left the Missouri NRR. The new Missouri NRR Headquarters Office, then, would soon be housing a significantly changed staff.

Recent Administration of the NRR

Steven Mietz began work as the fourth permanent Superintendent of the Missouri NRR in August 2010, the first such Superintendent to report directly to the new headquarters in Yankton. Mietz had previously served as the Deputy Chief of Science and Resource Management at the Grand Canyon National Park in Arizona, the Missouri NRR being his first Superintendent position. Continual interaction between NPS and USACE and FWS continued apace, as did occasional communication with riverfront landowners regarding sedimentation and bank stabilization. As Mietz noted, he continued to meet with MRBSA and represent the NPS position on the challenges of stabilization within the Missouri NRR. Mietz quickly came to the conclusion, as had the previous Superintendents, that the legislation that designated the Missouri NRR "is problematic at best" for its inclusion of bank stabilization in these reaches of free-flowing river: "And there's no right answer. Two different people can read the same enabling legislation for the Park and come up with two different conclusions on what should be done related to bank stabilization." Adding to the confusion, he found, was that no concrete policy existed for what stabilization was allowed and what was not. "Decisions regarding stabilization are done on a case-by-case basis." He attempted to provide a degree of stabilization in terms of what would be allowed by meeting with stakeholder groups along the river to develop a policy. At the same time, he sought to be as open as possible with MRBSA and, with input from Congressional staff, sought to find compromises regarding stabilization.[635]

In addition to these ongoing concerns that had occupied all previous NPS personnel involved with the Missouri NR, from the 1980s to the present, Mietz described several general issues that occupied much of his tenure at the helm of the Missouri NRR, which lasted until February 2013. First, he noted, was the growing role of the basin-wide, interagency groups. As described in Chapter 9, the states, American Indian tribes, and federal, state, and local agencies that lay within the Missouri River Basin reinvigorated their collaborative planning efforts beginning in the late 1990s and early 2000s. By 2010, Mietz stated, the Missouri NRR's role within these basin-wide organizations was increasing. Chief among them was the Missouri River Recovery Implementation Committee (MRRIC), which had been created in 2008 around the work of USACE. Mietz's role was to represent NPS at MRRIC meetings, both those of the full organization and in subcommittees. It provided a venue, he explained, to serve as an advocate for the Missouri NRR and to express NPS's concerns on such topics as management of flows from USACE dams and habitat restoration issues that had the

[635] Steven Mietz interview, May 11, 2015.

potential to impact the Missouri NRR. At the same time, he observed, "most of the issues were bigger than our Park."[636]

Mietz also sought to increase NPS's visibility along the stretches of the Missouri NRR and in surrounding communities through interpretation and resources management. The Long-Range Interpretive Plan (LRIP) was just being completed and released as he came on board in 2010, and he fully embraced the conclusions to use interpretation to increase the Missouri NRR's presence in the region. In particular, he sought to increase flexibility of the Missouri NRR's interpretive program by supporting development of the Mobile Ranger Unit, a large utility-designed trailer with a series of exhibit materials that Interpretation, Education, and Outreach Division staff could drive to events throughout the wider Missouri NRR area. The LRIP goal, he observed, was to "go to school groups more and reach out to communities all along the river." One of his favorite successes, he noted, was that "we made good progress in restructuring the interpretation program" toward more outreach to the communities; the goal, he recalled, was "raising the stature of the Park among all these stakeholder groups and basin-wide, so that folks knew we existed." This approach, he opined, had even greater potential for impacts, as it helped to position the NPS as " a little bit more of a bigger player," setting the stage to allow the NPS to have more impact on overall river policy. While he did not make as much progress on policy as he would have liked, "eventually, by the end of our tenure," he concluded, "folks were taking the Park Service at lot more seriously because we were asserting our place at the river policy-making table."

At the same time, Mietz began to extend the Missouri NRR's reach by bringing more law enforcement into the Missouri NRR's river segments. While improving NPS's image through the region helped, lingering general distrust of the federal government along the river meant that he had to tread carefully. As he began to increase a law enforcement presence on the river, he recalled, he cautioned the rangers at first to eschew handing out tickets for violations, including the use of jet skis and airboats, and instead "Just hand out warnings and just kind of let people know it's a Wild and Scenic River. You're not allowed to have jet skis, and here's why." The situation was more challenging on the 39-mile segment, he noted, particularly the lower end at the boundary between the Missouri NRR and Lewis and Clark Lake. He drew extensively on Superintendent Hedren's White Paper following the jet ski ban in 2000 to explain to those who used the Missouri NRR for recreation the distinction between the motorized crafts that were allowed and those that were not. In Mietz's opinion, Hedren's "work on that issue was enduring in terms of the good work they did with that."[637]

As discussed in Chapter 8, Mietz also led planning efforts that included redefinition of the Missouri NRR's Outstandingly Remarkable Values. In addition, NPS's attempts to acquire easements as a way to protect those values and the river's free-flowing condition continued during Mietz's tenure. In particular, Mietz participated in a joint effort led by FWS to launch the Niobrara Confluence and Ponca Bluffs Conservation Area Draft Environmental Impact Statement and Land Protection Plan from

[636] Ibid.
[637] Steven Mietz interview, May 11, 2015.

late 2012 to March 2013, when he transferred from the park.. The combined NPS and FWS teams used GIS to identify areas that had particular values, which was used in turn to identify potential conservation easement areas. The teams then produced a Draft EIS for the Land Protection Plan, which was released in March 2013.[638]

Because of public misperception, misinformation, and community skepticism most notably in proximity to Spencer and Niobrara, Nebraska, many opposed the plan. While there were also some supporters, this sentiment was overshadowed by the vehement outcry from opponents who sought Congressional involvement to intercede. Much of the opposition was based on mistrust and the pervasive perception that the project was a land grab by the federal government. This mindset was no different from earlier times in recent history that pitted federal officials against locally based stewardship and protection.

Strong vestiges of the distrust of federal intervention that plagued the GMP and Missouri NRR boundary planning process in the 1990s remained during public discussions of the Land Protection Plan's EIS. The proposed action which federal agencies revealed and discussed at public meetings called for voluntary use, primarily, of easements, with fee purchases only for a limited number of parcels. Opposition to the proposed plan was strong at times, driven by concerns about federal ownership of the land, but was less heated in the 59-mile segment where MRBSA had been pressing for bank stabilization measures. Many landowners in this area "recognized this is a voluntary thing, and that the [federal] government is going to buy an easement." Many of those landowners recognized that the plan would allow the federal government to reimburse them for "being part of the wild and scenic river." The stronger opposition to the plan, he recalled, came from residents along the 39-mile segment, particularly on the Nebraska side of the river though he did not specify why.[639] Upon Rick Clark assuming the Missouri NRR superintendency in December 2013, a strong public uproar against the plan had already taken root, and a joint collaborative decision by FWS and NPS was reached to terminate the project in October 2015.

Finally, the most powerful issue with which Mietz had to deal was the nearly unprecedented flood of 2011. Record snowfall in the Rocky Mountains in the winter of 2010-2011 combined with near-record spring rain to create floods that caused profound damage throughout the Missouri River basin. Entire communities, particularly on the middle and lower Missouri, were entirely submerged, and the Nebraska side of the Chief Standing Bear Memorial Bridge across the 39-mile segment of the Missouri NRR lay under water for months. Gavins Point Dam, through June and July, 2011, released more than 150,000 cubic feet per second (cfs)/day, more than double the previous highest release. It was a devastating event that had powerful, far-reaching consequences.

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[638] *Draft Environmental Impact Statement and Land Protection Plan: Niobrara Confluence and Ponca Bluffs Conservation Areas, Nebraska and South Dakota*. National Park Service/Missouri National Recreational River and U.S. Fish and Wildlife Service/Region 6, Mountain-Prairie Region, March 2013. Available at http://www.fws.gov/mountain-prairie/planning/lpp/ne/nbc_pcb/nbc_pcb.html.
[639] Steven Mietz interview, May 11, 2015.



Figure 40: Superintendent Rick Clark, 2016. Photo by the author.

The Missouri NRR was closed to the public throughout the summer of 2011, as flows were entirely too dangerous to allow visitors on the river. While the ravages wrought by the months-long flood, including destruction of homes, mass evacuations, environmental catastrophe, and damage to infrastructure, were clearly the most consequential aspects of the flood, it also had a variety of impacts specifically on the Missouri NRR and its values. As a major flood event, it resulted from massive water build-up in the upper reaches of the Missouri. While residents, landowners, and MNRR staff had lead time, information as to the projected flood releases changed rapidly, with estimates varying by as much as 20,000 cfs, creating a great deal of uncertainty. Given a gubernatorial proclamation to take whatever means necessary to protect their property, many residents carried out "self-help" bank stabilization projects, often during the period of the flood itself, reverting to methods of the 1960s and 1970s with broken concrete and other hard debris. While the USACE-NPS permit process normally handled such ad hoc attempts at bank stabilization, the flood created a frenzy. As Mietz recalled, the concerns of landowners was real and understandable, if still unfortunate: "then, of course, when the river went back down after six months, then it left a big mess. To start to address the issue, I started educating folks on what it looked like post-flood." In the months after the river reopened late in the summer of 2011, Mietz and others led stakeholder trips to bring county commissioners, Congressional representatives, American Indian tribal representatives, and others, to point out not just the destruction of the flood but the impacts of the hastily-done bank stabilization projects. Seeing the stretches of river bank strewn with reinforced concrete, with rebar extending in various directions and from within the river itself, created a powerful impression, including among those who favored

stabilization projects.[640] In addition, the Missouri River Institute carried out a survey for the Missouri NRR, examining the banks of both the 39-mile and 59-segments in order to document the changes. This included extensive GIS mapping to identify changes in the river and the nature of bank alterations that had been made.[641]

While damages wrought by the 2011 flood were catastrophic, the record flows also had the effect of creating new emergent sandbars that served as habitat for threatened interior least terns and endangered piping plovers. USACE had been continuing to construct sandbars as habitat under the 2003 Biological Opinion, both before and during Mietz's tenure, "then the river did it naturally for them as part of the flood. So, that actually made it easier because we had a few years where we didn't have to consult with the Corps over mechanical construction of the islands" within the Missouri NRR. In other ways, however, Mietz suggested that the aftermath of the flood created a more challenging environment for collaboration with USACE. Many throughout the region strongly blamed USACE for not doing more to protect the basin's residents from the effects of the 2011 flood, and a major lawsuit against USACE was filed the following year. USACE, Mietz claimed, became much more closed to consultation as it sought to repair the river and its structures in the wake of the flood.

In the aftermath of the 2011 flood when landowners were given a "free ride" by the governor of South Dakota with respect to bank stabilization, illegal activities increased with unpermitted practices which continue to the present day. While Missouri NRR staff have raised these concerns with USACE and sought regulatory enforcement actions for illegal fill (e.g. concrete riprap and stabilization not to NPS approved design standards), USACE is reluctant to intervene and has taken a benign approach by allowing such stabilization to stay in place by virtue of their lack of follow-through and by issuance of after-the-fact permits.

Staffing Composition and Organizational Structure

Following the 1991 legislation, the new O'Neill office was designated a field planning office rather than a park headquarters, and the staff reflected this purpose. Staff positions through the mid and late 1990s included the Superintendent, a Management Assistant, an Administrative Assistant, and a Planner. Warren Hill, inaugural Superintendent, was forced to assemble the staff very quickly to take on the sudden workload of coordinating and conducting the five studies required by the legislation immediately and simultaneously.

The pace of work clearly was hectic, and the pressures of the work load were exacerbated by the frequently antagonistic reception at periodic public meetings to discuss boundaries and management plans. As a result, staff turnover in the first six years of the combined NSR-NRR management was relatively high, a fact noted by those within

[640] Ibid.
[641] Tim Cowman interview, April 23, 2015.

and without NPS. In late 1995, for example, Warren Hill observed that there was a fifty-percent staff turnover during the past year. While all positions were filled, he observed that the "learning curve is still quite steep at this point."[642] Particularly during a tumultuous planning effort with input from a variety of NPS sources as well as the different advisory groups and local agencies, frequent staff turnover made continuity a challenge.

Warren Hill entered duty as inaugural Superintendent of the Niobrara-Missouri National Scenic Riverways on August 5, 1991. He worked initially from MWRO in Omaha while searching for a field planning office in O'Neill. The O'Neill office then opened on November 1, 1991, still with a staff of one. With support from MWRO, however, Hill soon added two early staff members. By the spring of 1992, Bill Conrod served as Resources Management Specialist, while Gary Howe, formerly the Superintendent of Fort Laramie National Historic Site, served as Outdoor Recreation Planner and as Assistant Superintendent by October 1992.[643]

From 1991 into 1993, planning efforts focused primarily on the Niobrara NSR, and all of the staff focus lay with that river segment. By 1993, however, the O'Neill office began more intensive work on the two GMPs for the Missouri NRR, and staff began dividing time between the two different regions. The two initial staff members, Gary Howe and Bill Conrod, focused exclusively on only one river, Howe as Outdoor Recreation Planner for the Missouri NRR and Conrod as Resources Management Specialist for the Niobrara NSR. Two new staff members in 1992 and 1993, however, divided their time between the two rivers: Roberta D'Amico, Interpretive Specialist, and Sandy Weaver, Outdoor Recreation Planner. In the summer of 1993 also, Laurie Wise transferred from Hawaii Volcanoes National Park, where she served as a budget assistant, beginning work as Administrative Technician in O'Neill.[644]

The 1995-2000 period was one of great staff turnover as the purpose of the O'Neill office changed. While the team remained largely in place through 1994 and into 1995, Gary Howe departed in 1995 and was replaced by Kent Schwarzkopf, working primarily with the Niobrara NSR. In 1995, Chuck Cranfield was hired to serve as Management Assistant under Superintendent Hill. In May, 1996, Bill Conrod, then serving as the Team Leader for the Niobrara NSR planning team, departed, and, a month later, Landscape Architect William Beteta began work as Outdoor Recreation Planner. In October of that year, Jan Maslen, a part-time Clerk/Typist, also left. At the end of 1996, Hill announced his retirement, and was replaced in January 1997, by Paul Hedren, who arrived after thirteen years at Fort Union Trading Post National Historic Site, North Dakota/Montana. In June, 1997, Kent Schwarzkopf left.

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[642] Performance comments and goal accomplishments in FY 95 for appraisal period October 1, 1994 to September 30, 1995. Photocopy from personal collections of Warren H. Hill.
[643] Memorandum, Lynn Peterson, DSC to Chief, Branch of Planning, DSC, May 20, 1992; Memorandum, Pat Lineback, DSC to Chief, Branch of Planning, DSC, September 17, 1992; Memorandum, Historic Landscape Architect, MWRO to Associate Regional Director, MWRO, October 2, 1992; files of Missouri NRR, File 10A, Trip Reports.
[644] *Courier: Newsmagazine of the National Park Service*, Summer 1993, p. 7.



Figure 41: Chief of Resources Management Gia Wagner (L), Administrative Specialist Laurie Wise (R), undated. Photo provided by Missouri NRR.

Changes continued into 1998, as the multifaceted planning process was coming to an end and the operations phase was beginning under new Superintendent, Paul Hedren. He manifested that change in mission by revamping the orientation of the staff. In November 1998, Hedren took an early step by hiring Resource Management Specialist Lauren Johnson who was tasked primarily with the Niobrara NSR, as that GMP had already been completed. Chuck Cranfield, the Management Assistant since 1995, resigned in November 1998 to take a position with the North Cascades National Park Group in Washington. Earlier that year, Hedren hired Jean Perry to serve as an Administrative Assistant. She remained in that position for two years, until January 2000, and was replaced by Jo Harkins in July 2000.

The transition in the O'Neill Headquarters Office from a planning function to an operations function was consolidated from 1999 to 2000. Outdoor Recreation Planner William Beteta, who had worked on a wide variety of projects including the GMPs as well as early interpretive planning since starting in O'Neill in 1996, departed in December 1999. He was replaced in July 2000, by Wayne Werkmeister, who took on the role of Resources Management Specialist; his counterpart, Lauren Johnson, kept her focus on the Niobrara NSR while Werkmeister worked primarily with the Missouri NRR. At the same time, Hedren hired George Berndt to serve as the Interpretive Specialist. In April 1999, meanwhile, Phil Campbell was hired to replace Chuck Canfield as Management Assistant; in 2002, under a reorganization approved by MWRO, Campbell became Chief of Operations for the Missouri NRR.

Berndt and Werkmeister, whose tenures nearly exactly coincided, soon began to recommend staff to develop their respective programs. In 2001, Biologist Stephen Wilson was hired to work in resource management with Werkmeister, a valuable hire given his depth of experience with GIS. At the same time, Dugan Smith, formerly in the private sector in South Dakota, was hired as Interpretive Park Ranger to work with Berndt on the interpretive program, while Stuart Schneider, formerly a Park Ranger at the Great Sand Dunes National Monument in Colorado, came on board. By 2004-2005, as the key team was in place, the staff was divided between O'Neill and Yankton. Superintendent Hedren, along with his administrative team of Laurie Wise and Jo Harkins, and Wayne Werkmeister, were based in O'Neill. In 2005, Tyler Cole was hired as Hydrologist; formerly with the U.S. Forest Service, Cole also was based in O'Neill. Berndt, along with Dugan Smith and Stephen Wilson, were based in Yankton.

This staff remained stable through late 2007, when Hedren retired from NPS after a long and productive career as an administrator and scholar. Werkmeister served as Acting Superintendent from October 2007, until July 2008, when Mike Madell began work as the third permanent Superintendent. Madell arrived at the Missouri NRR from his previous position as Superintendent of Little Rock Central High School National Historic Site in Arkansas,. Tyler Cole, meanwhile, resigned in April 2008, and was replaced as Hydrologist later that year by John Macy, who retired in January 2015 when the position was eliminated as part of a downsizing initiative known as Voluntary Early Retirement Authority/Voluntary Separation Incentive Payment (VERA/VSIP). It is a federal personnel action whereby Executive Branch agencies may, at their option, request Office of Personnel Management (OPM) approval to offer voluntary separation incentive payments to surplus or displaced employees who separate by voluntary retirement or by resignation. Through VERA/VSIP, the park was able to redirect freed salary and benefit costs previously encumbered by the Hydrologist position and apply it to other, more pressing, staffing needs, including hiring a seasonal workforce as well as addressing erosion of base funding due to cumulative increases to cost of living adjustments and other budgetary constraints.

When he arrived in the summer of 2008, Madell inherited the key staff of Chief of Interpretation George Berndt, Chief of Resources Management Wayne Werkmeister, Hydrologist John Macy, Biologist Stephen Wilson, Park Ranger Interpretation Dugan Smith, and Administration Officer Laurie Wise. Both Berndt and Werkmeister departed in 2009; Berndt retired after four decades with the National Park Service, and Werkmeister returned to work with BLM in Grand Junction, Colorado. Werkmeister was replaced as Chief of Resources Management by Gia Wagner, who served in that capacity until July 2012 when she took the position of Natural Resources Branch Chief with Indiana Dunes National Lakeshore, Indiana. This position was lapsed until completion of the 2016-20 Missouri NRR Strategic Action Plan, which re-established the position as Chief of Science and Resources (natural and cultural) Management and was subsequently filled by Milt Haar when he reported in July 2016 after his transfer from Badlands National Park. Stephen Wilson, meanwhile, left in 2010 to take a position in NPS's office in Rapid City, South Dakota, and was replaced by the current biologist, Lisa Yager.

Berndt, meanwhile, was succeeded in August 2009, by Anne Doherty-Stephan, who remained Chief of Interpretation until 2010, when she transferred to Chamizal National Memorial in El Paso, Texas. Chris Wilkinson was appointed as Chief, Interpretation, Education, and Outreach in October 2011 and remained in the position until May 2014 when he transferred to Minuteman Missile National Historic Site in western South Dakota. Wilkinson in turn was replaced by Dan Peterson who reported on duty in April 2016. Lead Biological Science Technician Brian Korman reported for duty in March 2010 and remains in that position.

Mike Madell himself resigned in January 2010, when he accepted the position as Superintendent of the Vicksburg National Military Park in Mississippi. He was quickly replaced by Stephen Mietz, who had previously served as Chief of Natural Resources at the Grand Canyon. Mietz remained in the position until February 2013, when he accepted the position of Superintendent of Great Basin National Park in Baker, Nevada. Steven Thede, currently the Superintendent of the Niobrara NSR, served as the interim Acting Superintendent of the Missouri NRR until the end of November 2013, when the current Superintendent, Rick Clark, began a detail assignment to the Missouri NRR. Clark entered on duty in December 2013. Clark served previously as Chief of Science and Resources Management at Gulf Islands National Seashore which included oversight of barrier islands off the coasts of the Peninsula of Florida and Mississippi. It was a return home of sorts for Clark, as he had served in a planning capacity for MWRO in the late 1980s, reporting on the status of relations between NPS and USACE on the eve of the 1991 designation.

During his tenure, Clark has emphasized the following areas: 1). Developing a 2016-2021 Strategic Action Plan including vision and mission statements to guide park staffing and program priorities; 2). Outlining a joint working relationship under a Memorandum of Understanding with Niobrara NSR to provide some degree of visitor and resource protection (law enforcement) at Missouri NRR; 3). Guiding development of an Emergent Sandbar Habitat Management Plan for informed decision making, continuity, and to tier to the Missouri River Recovery Management Plan/EIS; 4). Resolving the 15-year impasse involving the State of South Dakota to enable transfer of Goat Island as public domain and management of same by Missouri NRR in perpetuity; and 5). Forming a friends group in 2015 called the Friends of Missouri National Recreational River to broaden NPS advocacy and awareness. Administrative Assistant Heidi Eckel, who reported for duty in November 2009, resigned in May 2014. Administrative Officer Laurie Wise retired in January 2016 after more than two decades of service from the earliest days of the Missouri NRR following the 1991 legislation to the present. Wise was replaced by Administrative Officer Tina Hartz who reported for duty in June 2016.

Such continuous service over such a long period of time is rare with the Missouri NRR, both from a staffing perspective and from the broader NPS perspective. Though first established in 1978, the Missouri NRR became a unit of the National Park System only in 1981. For the next decade, however, it was administered from afar by NPS, which preferred to leave as much management of the river as possible to USACE. NPS began to



Figure 42: Biologist Lisa Yager, undated. Photo provided by Missouri NRR.



Figure 43. Chief of Interpretation, Education and Outreach Chris Wilkinson, undated. Photo provided by Missouri NRR.

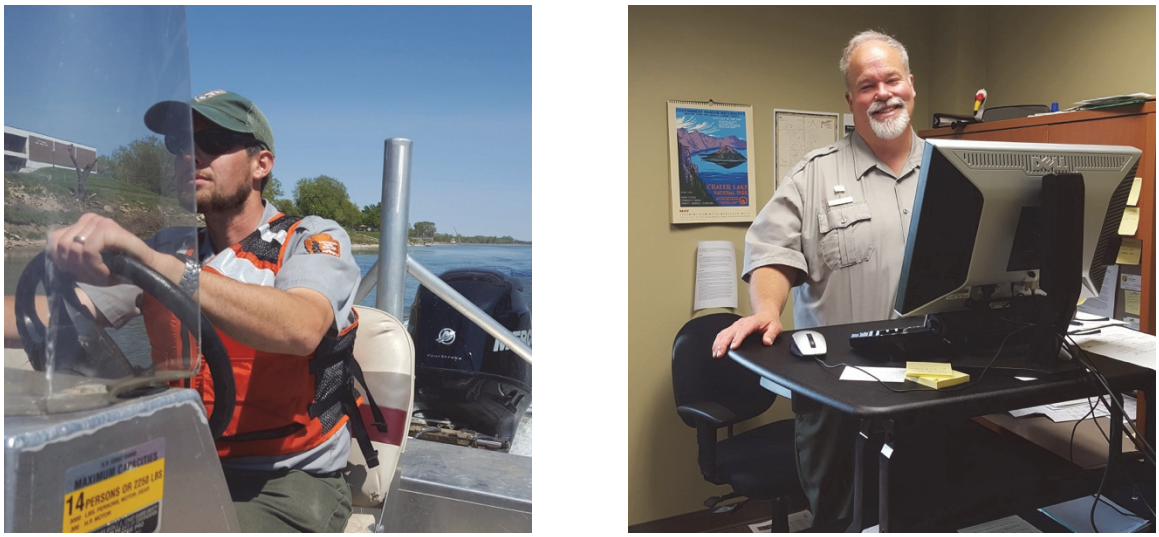


Figure 44. Lead Biological Science Technician Brian Korman (L), Chief of Interpretation, Education and Outreach Daniel Peterson (R), 2016. Photo provided by Missouri NRR.

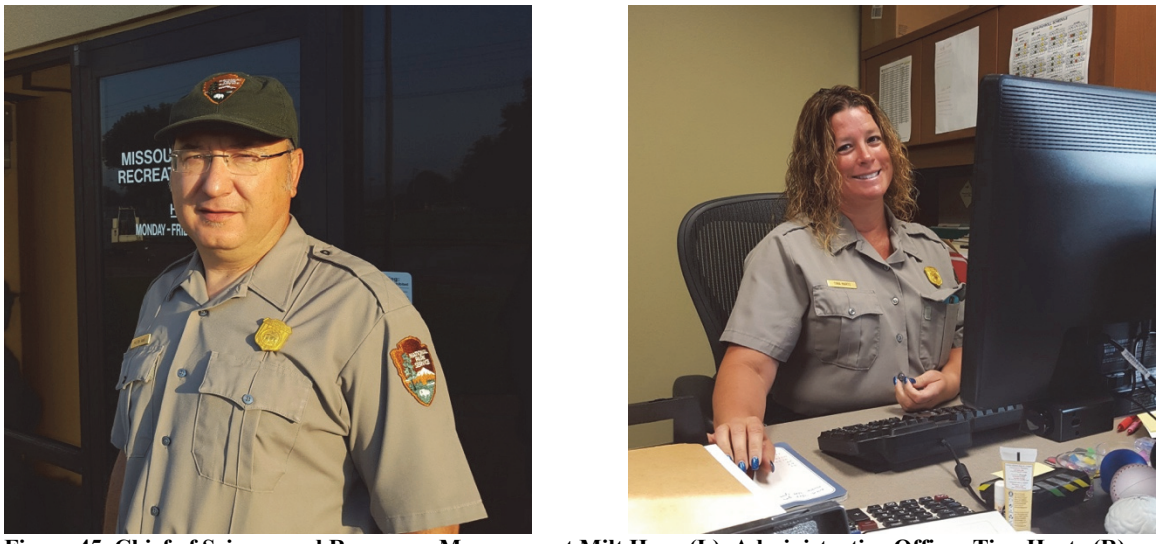


Figure 45. Chief of Science and Resources Management Milt Haar (L), Administrative Officer Tina Hartz (R), 2016. Photo provided by Missouri NRR.

pay greater attention to the river in the late 1980s and early 1990s, but did not establish a presence there until late 1991, after it was tasked with planning for management of four different sections of rivers in addition to the existing 59-mile segment of the Missouri NRR. Throughout the planning process that lasted from 1991 until 1999, the administrative status of the different sections of the Missouri and Niobrara Rivers remained undefined, and was clarified only in the late 1990s. For a NPS unit that was created nearly forty years ago, the Missouri NRR remains a relatively new park, continuing to protect and share the remarkable values of the Mighty Mo for generations to come.

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Note on Sources

This Administrative History of the Missouri National Recreational River relied principally on two sources for archival materials.

The first source is the Missouri National Recreational River Headquarters Office, located in Yankton, South Dakota. The Headquarters has retained all records pertaining to the Missouri National Recreational River from 1978 to the present, including correspondence, clippings, reports, and other materials. The Principal Investigator conducted research in these files in November 2014 and again in October 2015. In the period between the first and second research trips, archival staff from the National Park Service's Midwest Regional Office initiated a process of cataloguing and reorganizing this extensive archival collection. All documents used in this Administrative History include references to the then-existing mix of classification systems. It is unclear whether these references will be maintained following the reorganization of the files.

The second source for archival materials was the National Archives and Records Administration's Federal Records Center in Lenexa, Kansas. The National Park Service's Midwest Regional Office provided a list of boxes and files that pertain to the Missouri National Recreational River. These files also contained information on the National Park Service's earlier involvement on the Missouri River in the vicinity of what became the Missouri National Recreational River. The Project Historian conducted research in these files, from which the Principal Investigator selected for use in this Administrative History. These files contain a wealth of information on the history of various federal agencies' involvement with the Missouri River during and after the completion of the Pick-Sloan Plan from the late 1940s to the early 1960s, and can serve as a solid basis for future research into this topic.

The following secondary sources, reports, and Congressional Documents provided additional background and context for the discussion of the Missouri National Recreational River's history.

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U.S. Congress, Senate. 101st Congress, 1st Sess., Hearing no. 43, to accompany S. 85, 1989.

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Appendix A: Legislation

Public Law 95-625
95th Congress

An Act

To authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho.

Nov. 10, 1978
[S. 791]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Parks and Recreation Act of 1978.

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "National Parks and Recreation Act of 1978". 16 USC 1 note.

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DEFINITION

SEC. 2. As used in this Act, except as otherwise specifically provided, the term "Secretary" means the Secretary of the Interior.

AUTHORIZATION OF APPROPRIATIONS

Effective date.

SEC. 3. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1978. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

TITLE I—DEVELOPMENT CEILING INCREASES

SPECIFIC INCREASES

Appropriation authorizations.

SEC. 101. The limitations on funds for development within certain units of the National Park System and affiliated areas are amended as follows:

16 USC 431 note.

(1) Agate Fossil Beds National Monument, Nebraska: Section 4 of the Act of June 5, 1965 (79 Stat. 123), is amended by changing "$1,842,000" to "$2,012,000".

(2) Andersonville National Historic Site, Georgia: Section 4 of the Act of October 16, 1970 (84 Stat. 989), is amended by changing "$1,605,000" to "$2,205,000 for development.", and by deleting "(March 1969 prices), for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuation in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.".

(3) Andrew Johnson National Historic Site, Tennessee: Section 3 of the Act of December 11, 1963 (77 Stat. 350) is amended by changing "$266,000" to "$286,000".

16 USC 450qq-4

(4) Biscayne National Monument, Florida: Section 5 of the Act of October 18, 1968 (82 Stat. 1188), is amended by changing "$2,900,000" to "$6,565,000".

(5) Capitol Reef National Park, Utah: Section 7 of the Act of December 18, 1971 (85 Stat. 739), is amended by changing "$1,052,700 (April 1970 prices)" to "$1,373,000 for development.", and by deleting "for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein.". 16 USC 273f.

(6) Carl Sandburg Home National Historic Site, North Carolina: Section 3 of the Act of October 17, 1968 (82 Stat. 1154), is amended by changing "$952,000" to "$1,662,000".

(7) Cowpens National Battlefield Site, South Carolina: Section 402 of the Act of April 11, 1972 (86 Stat. 120), is amended by changing "$3,108,000" to "$5,108,000".

(8) De Soto National Memorial, Florida: Section 3 of the Act of March 11, 1948 (62 Stat. 78), as amended, is further amended changing "$3,108,000" to "$5,108,000". 16 USC 450dd note.

(9) Fort Bowie National Historic Site, Arizona: Section 4 of the Act of August 30, 1964 (78 Stat. 681), is amended by deleting "$550,000 to carry out the purposes of this Act.", and inserting in lieu thereof: "$85,000 for land acquisition and $1,043,000 for development".

(10) Frederick Douglass Home, District of Columbia: Section 4 of the Act of September 5, 1962 (76 Stat. 435), is amended by changing "$413,000" to "$1,350,000".

(11) Grant Kohrs Ranch National Historic Site, Montana: Section 4 of the Act of August 25, 1972 (86 Stat. 632), is amended to read as follows: "SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed $752,000 for land acquisition and not to exceed $2,075,000 for development."; the additional sums herein authorized for land acquisition may be used to acquire the fee simple title to lands over which the United States has acquired easements or other less than fee interests.

(12) Guadalupe Mountains National Park, Texas: Section 6 of the Act of October 15, 1966 (80 Stat. 920), is amended by changing "$10,362,000" to "$24,715,000", and by adding the following new sentence at the end of the section: "No funds appropriated for development purposes pursuant to this Act may be expended for improvements incompatible with wilderness management within the corridor of the park leading to the summit of Guadalupe Peak.". 16 USC 283e.

(13) Gulf Islands National Seashore, Florida-Mississippi: Section 11 of the Act of January 8, 1971 (84 Stat. 1967), is amended by changing "$17,774,000" to "$24,224,000", and by deleting the phrase "(June 1970 prices) for development, plus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering costs indices applicable to the types of construction involved herein.", and inserting in lieu thereof "for development.". 16 USC 4592h-10.

(14) Harper's Ferry National Historical Park, Maryland-West Virginia: Section 4 of the Act of June 30, 1944 (58 Stat. 645), is amended further by changing "$8,690,000" to "$12,385,000". 16 USC 450bb note.

(15) Hubbell Trading Post National Historic Site, Arizona: Section 3 of the Act of August 28, 1965 (79 Stat. 584), is amended by changing "$952,000" to "$977,000". 16 USC 461 note.

16 USC 460u-9.

(16) Indiana Dunes National Lakeshore, Indiana: Section 10 of the Act of November 5, 1966 (80 Stat. 1312), is amended by changing "$8,500,000" to "$9,440,000".

(17) John Muir National Historic Site, California: Section 3 of the Act of August 31, 1964 (78 Stat. 753), is amended by striking out "$300,000 for land acquisition and restoration of the buildings thereon." and inserting in lieu thereof "$224,000 for land acquisition and $1,285,000 for development".

(18) For the preservation and protection of certain lands in Prince Georges and Charles Counties, Maryland: Section 4 of the joint resolution of October 4, 1961 (75 Stat. 783) is amended by inserting "(a)" after "SEC. 4." and by adding the following new subsection (b) at the end thereof:

75 Stat. 782.

"(b) In addition to such other sums as have been appropriated for such purposes, there is authorized $2,000,000 for development.".

(19) Longfellow National Historic Site, Massachusetts: Section 4 of the Act of October 9, 1972 (86 Stat. 791), is amended by changing $586,000 (May 1971 prices)" to "$682,000 for development.", and by deleting "of the area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.".

(20) Pecos National Monument, New Mexico: Section 3 of the Act of June 28, 1965 (79 Stat. 195), is amended by changing "$500,000" to "$2,375,000".

16 USC 433c note.

(21) Perry's Victory and International Peace Memorial, Ohio: Section 4 of the Act of October 26, 1972 (86 Stat. 1181), is amended by changing "$5,177,000" to "$9,327,000".

16 USC 282c.

(22) San Juan Island National Historical Park, Washington: Section 4 of the Act of September 9, 1966 (80 Stat. 737), is amended by changing "$3,542,000" to "$5,575,000".

(23) Sitka National Historical Park, Alaska: Section 3 of the Act of October 18, 1972 (86 Stat. 904), is amended by changing "$691,000 (June 1971 prices)" to "$1,571,000", by changing the comma following "development" to a period, and by deleting the remainder of the sentence following said period.

(24) Statue of Liberty National Monument, New York-New Jersey: Section 1 of the joint resolution of August 17, 1965 (79 Stat. 543), is amended by changing "$6,000,000" to "$24,000,000."

(25) Thaddeus Kosciuszko Home National Historic Site, Pennsylvania: Section 3 of the Act of October 21, 1972 (86 Stat. 1046), is amended by changing "$592,000" to "$742,000".

(26) Tuskegee Institute National Historic Site, Alabama: Section 104(e) of the Act of October 26, 1974 (88 Stat. 1463), is amended by changing "$2,722,000" to "$2,862,000".

16 USC 460q-9.

(27) Whiskeytown-Shasta-Trinity National Recreation Area, California: Section 10 of the Act of November 8, 1965 (79 Stat. 1295), is amended by changing "$22,700,000" to "$24,649,000".

(28) William Howard Taft National Historic Site, Ohio: Section 3 of the Act of December 2, 1969 (83 Stat. 273), is amended by changing "$318,000" to "$1,888,000".

16 USC 430mm.

(29) Wilson's Creek National Battlefield, Missouri: Section 3 of the Act of December 16, 1970 (84 Stat. 1441), is amended by changing "$2,285,000 (March 1969 prices)," to "$5,640,000.", and deleting the remaining portion of the sentence following the period.

TITLE II—ACQUISITION CEILING INCREASES

ACQUISITION CEILINGS

SEC. 201. The limitations on appropriations for the acquisition of lands and interests therein within certain units of the National Park System are amended as follows: Appropriation authorizations.

(1) Big Cypress National Preserve, Florida: Section 8 of the Act of October 11, 1974 (88 Stat. 1258), is amended by changing "$116,000,000" to "$156,700,000". 16 USC 698m.

(2) Buffalo National River, Arkansas: Section 7 of the Act of March 1, 1972 (86 Stat. 44), is amended by changing "$30,071,500" to "$39,948,000". 16 USC 460m-14.

(3) Cumberland Island National Seashore, Georgia: Section 10 of the Act of October 23, 1972 (86 Stat. 1066), is amended by changing "$10,500,000" to "$28,500,000". 16 USC 459i-9.

SAWTOOTH NATIONAL RECREATION AREA

SEC. 202. Section 13 of the Act of August 22, 1972 (86 Stat. 612), is amended by changing "$19,802,000" to "$47,802,000". 16 USC 460aa-12.

TITLE III—BOUNDARY CHANGES

REVISION OF BOUNDARIES

SEC. 301. The boundaries of the following units of the National Park System are revised as follows, and there are authorized to be appropriated such sums as may be necessary, but not exceed the amounts specified in the following paragraphs for acquisitions of lands and interests in lands within areas added by reason of such revisions: Appropriation authorizations.

(1) Bent's Old Fort National Historic Site, Colorado: To add approximately six hundred and twenty-two acres as generally depicted on the map entitled "Boundary Map, Bent's Old Fort National Historic Site, Colorado", numbered 417-80,007-A, and dated June 1976: $842,000.

(2) Cape Cod National Seashore, Massachusetts: To add approximately thirteen acres and to delete approximately sixteen acres as generally depicted on the map entitled "Cape Cod National Seashore Boundary Map", numbered 609-60,015 and dated February 1978.

(3) Chiricahua National Monument, Arizona: To add approximately four hundred and forty acres as generally depicted on the map entitled "Boundary Map, Chiricahua National Monument, Arizona", numbered 145-80,002, and dated August 1977: $294,000.

(4) Coronado National Memorial, Arizona: To add approximately three thousand and forty acres and delete approximately twelve hundred acres as generally depicted on the map entitled "Land Status Map 01, Coronado National Memorial, Cochise County, Arizona", numbered 8630/80,001, and dated October 1977: $1,410,000.

(5) Eisenhower National Historic Site, Pennsylvania: To add approximately one hundred ninety-five and eighty-three one-hundredths acres as generally depicted on the map entitled "Boundary Map, Eisenhower National Historic Site, Adams

County, Pennsylvania", numbered 446–40,001B, and dated April 1978: $166,000.

(6) Fort Caroline National Memorial, Florida: To add approximately ten acres as generally depicted on the map entitled "Boundary Map, Fort Caroline National Memorial, Florida", numbered 5310/80,000–A, and dated April 1978: $170,000.

(7) George Washington Birthplace National Monument, Virginia: To add approximately eighty-two and twenty-five one-hundredths acres as generally depicted on the map entitled "Boundary Map, George Washington Birthplace National Memorial, Virginia", numbered 332–30,000–B and dated September 1978: $450,000.

(8) Great Sand Dunes National Monument, Colorado: To add approximately one thousand one hundred and nine acres as generally depicted on the map entitled "Boundary Map, Great Sand Dunes National Monument, Colorado", numbered 140–80,001–A, and dated November 1974: $166,000.

(9) Gulf Islands National Seashore, Mississippi-Florida: To add approximately six hundred acres as generally depicted on the map entitled "Boundary Map, Gulf Islands National Seashore, Mississippi-Florida", numbered 20,006, and dated April 1978: $300,000.

(10) Hawaii Volcanoes National Park, Hawaii: To add approximately two hundred sixty-nine acres as generally depicted on the map entitled "Boundary Map, Hawaii Volcanoes National Park, Hawaii", numbered 80,000, and dated August 1975: $562,000.

(11) John Day Fossil Beds National Monument, Oregon: To add approximately one thousand four hundred and eleven acres, and to delete approximately one thousand six hundred and twenty acres as generally depicted on the map entitled "Boundary Map, John Day Fossil Beds National Monument, Oregon", numbered 177–30,000–B, and dated May 1978: $3,500,000. The Act of October 26, 1974 (88 Stat. 1461), which designates the John Day Fossil Beds National Monument is amended by deleting the second proviso of section 101(a)(2). Furthermore, not withstanding any other provision of law to the contrary, the Secretary may, if he determines that to do so will not have a substantial adverse effect on the preservation of the fossil and other resources within the remainder of the monument, convey approximately sixty acres acquired by the United States for purposes of the monument in exchange for non-Federal lands within the boundaries of the monument, and, effective upon such conveyance, the boundaries of the monument are hereby revised to exclude the lands conveyed.

Land conveyance.

(12) Monocacy National Battlefield, Maryland: To add approximately five hundred and eighty-seven acres as generally depicted on the map entitled, "Boundary Map, Monocacy National Battlefield", numbered 894–40,001, and dated May 1978: $3,500,000.

(13) Montezuma Castle National Monument, Arizona: To add approximately thirteen acres, and to delete approximately five acres as generally depicted on the map entitled "Montezuma Castle National Monument, Arizona", numbered 20,006, and dated April 1978.

(14) Oregon Caves National Monument, Oregon: To add approximately eight acres as generally depicted on the map entitled "Oregon Cave, Oregon", numbered 20,000, and dated April 1978: $107,000.

(15) Salem Maritime National Historic Site, Massachusetts: To add approximately fifteen one-hundredths of an acre as generally depicted on the map entitled "Salem Maritime National Historic Site Boundary Map", numbered 373-80,010, and dated February 1978: $67,500.

(16) Theodore Roosevelt National Memorial Park, North Dakota: To add approximately one hundred and forty-six acres, and delete approximately one hundred and sixty acres as generally depicted on map entitled "Boundary Map Theodore Roosevelt National Memorial Park-North Unit McKenzie County/North Dakota", numbered 387/80,020, and dated July 1977.

(17) Tumacacori National Monument, Arizona: To add approximately seven acres, and delete approximately eleven-hundredths of an acre as generally depicted on the map entitled "Boundary Map, Tumacacori National Monument, Arizona", numbered 311-80,009-A, and dated March 1978: $24,000.

(18)(A) Tuzigoot National Monument, Arizona: To add approximately seven hundred and ninety-one acres as generally depicted on the map entitled "Master Proposal, Tuzigoot National Monument", numbered 378-30,000D, and dated January 1973: $1,350,000.

Land acquisitions.

(B) The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, exchange or otherwise and subject to such terms, reservations, conditions applied to the acquired lands as he may deem satisfactory, the lands and interests in lands that are included within the boundaries of the Tuzigoot National Monument as revised by this paragraph. When so acquired, they shall be administered in accordance with provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535).

Administration.

16 USC 1 *et seq.*

Property conveyance.

(C) In exercising his authority to acquire such lands and interests in lands by exchange, the Secretary may accept title to any non-Federal property within the boundaries of the national monument and in exchange therefor he may convey to the grantor of such property any federally owned property under his jurisdiction in the State of Arizona. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(19) White Sands National Monument, New Mexico: To add approximately three hundred and twenty acres, and delete approximately seven hundred and sixty acres as generally depicted on the map entitled "Boundary Map, White Sands, National Monument, New Mexico", numbered 142/20,010-A, and dated November 1973.

(20) William Howard Taft National Historic Site, Ohio: To add approximately three acres as generally depicted on the map entitled "Boundary Map, William Howard Taft National Historic Site, Ohio", numbered 448-40,021, and dated January 1977.

(21) Wind Cave National Park, South Dakota: To add approximately two hundred and twenty-eight acres as generally depicted on the map entitled "Boundary Map, Wind Cave National Park, South Dakota", numbered 108-80,008, and dated July 1977: $227,000.

MAPS AND DESCRIPTIONS

Publication in Federal Register.

SEC. 302. Within twelve months after the date of the enactment of this Act, the Secretary shall publish in the Federal Register a detailed map or other detailed description of the lands added or excluded from any area pursuant to section 301.

ACQUISITION AND DISPOSAL OF LANDS

SEC. 303. (a) Within the boundaries of the areas as revised in accordance with section 301, the Secretary is authorized to acquire lands and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency. Lands and interests therein so acquired shall become part of the area to which they are added, and shall be subjected to all laws, rules, and regulations applicable thereto. When acquiring any land pursuant to this title, the Secretary may acquire any such land subject to the retention of a right of use and occupancy for a term not to exceed twenty-five years or for the life of the owner or owners. Lands owned by a State or political subdivision thereof may be acquired only by donation.

(b) (1) Lands and interests therein deleted from any area pursuant to section 301 may be exchanged for non-Federal lands within the revised boundaries of such area, or transferred to the jurisdiction of any other Federal agency or to a State or political subdivision thereof, without monetary consideration, or be administered as public lands by the Secretary, as the Secretary may deem appropriate.

(2) In exercising the authority contained in this section with respect to lands and interests therein deleted from any such area which were acquired from a State, the Secretary may, on behalf of the United States, transfer to such State exclusive or concurrent legislative jurisdiction over such lands, subject to such terms and conditions as he may deem appropriate, to be effective upon acceptance thereof by the State.

(c) It is the established policy of Congress that wilderness, wildlife conservation, and park and recreation values of real property owned by the United States be conserved, enhanced, and developed. It is further declared to be the policy of Congress that unutilized, underutilized, or excess Federal real property be timely studied as to suitability for wilderness, wildlife conservation, or park and recreation purposes. To implement this policy, the Secretary, the Administrator of General Services, and the Director of the Office of Management and Budget shall establish a system with appropriate procedures to permit the Secretary full and early opportunity to make such studies and propose appropriate recommendations to disposing agencies for consideration in connection with determinations of further utilization or disposal of such property under existing law. Each affected executive agency is authorized and directed to provide to the Secretary such advice and information relating to such studies as the Secretary may request.

Studies and recommendations system, establishment.

OTHER AUTHORITIES

SEC. 304. The authorities in this title are supplementary to any other authorities available to the Secretary with respect to the acquisition, development, and administration of the areas referred to in section 301.

NAME CHANGE; CITY OF REFUGE NATIONAL HISTORICAL PARK

SEC. 305. The Act of July 21, 1955 (69 Stat. 376) is hereby amended to redesignate the City of Refuge National Historical Park as the Puuhonua o Honaunau National Historical Park. 16 USC 397–397b, 397d.

BLACK HAMMOCK ISLAND

SEC. 306. The lot on Black Hammock Island, identified by warranty deed numbered 70–56,903, recorded among the land records of Duval County, Florida, on November 23, 1970, owned by the Federal Government, shall, pursuant to the Act of December 18, 1967 (81 Stat. 656; 16 U.S.C. 19g, 19h), be deeded to the National Park Foundation to be sold at fair market value. The proceeds of such sale shall be remitted to the National Park Service for land acquisition and development of the Fort Caroline National Memorial.

ALLEGHENY PORTAGE RAILROAD NATIONAL HISTORIC SITE AND JOHNSTOWN FLOOD NATIONAL MEMORIAL

SEC. 307. (a) The Secretary is authorized to revise the boundaries of the Allegheny Portage Railroad National Historic Site and the Johnstown Flood National Memorial in Pennsylvania to add approximately five hundred and twenty-six acres and sixty-seven acres respectively. Sections 302 and 303 of this Act shall be applicable to such boundary revision. Boundary revisions.

(b) In addition to amounts otherwise available for such purposes there are authorized to be appropriated not more than $2,743,000 for land acquisition and $4,280,000 for development to carry out the purposes of this section. Appropriation authorization.

FORT LARAMIE NATIONAL HISTORIC SITE

SEC. 308. (a) The first section of the Act entitled "An Act to revise the boundaries and change the name of the Fort Laramie National Monument, Wyoming, and for other purposes", approved April 29, 1960 (74 Stat. 83), is amended to read as follows: "That in order to preserve the sites of historic buildings and roads associated with Fort Laramie, the boundaries of the Fort Laramie National Historic Site shall hereafter comprise the area generally depicted on the map entitled 'Boundary Map, Fort Laramie National Historic Site', numbered 375–90,001, and dated September 1977. The map shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior". 16 USC 426k.

(b) The first sentence of section 2 of such Act is amended by inserting between the words "boundary" and "described" the phrase "as depicted on the map.".

FORT UNION TRADING POST NATIONAL HISTORIC SITE

SEC. 309. (a) The first section of the Act entitled "An Act to authorize establishment of the Fort Union Trading Post National Historic Site, North Dakota and Montana, and for other purposes", approved June 20, 1966 (80 Stat. 211), is amended by deleting "located in Williams County, North Dakota, and such additional lands and interests in lands in Williams County, North Dakota, and Roosevelt County, Montana," and inserting in lieu thereof "located in the

States of North Dakota and Montana," and by deleting "400 acres" and inserting in lieu thereof "450 acres as generally depicted on the map entitled 'Fort Union Trading Post, Montana-North Dakota', numbered 436-80,025, and dated February 1977".

80 Stat. 211.

(b) Section 4 of such Act is amended by deleting "$613,000 for the acquisition of lands and interests in lands and for the development" and inserting in lieu thereof "$280,000 for the acquisition of lands and $4,416,000 for development: *Provided further*, That the Secretary is directed to study the possible reconstruction of the historic remains of Fort Union, and the Secretary is further directed to transmit to the Congress, within one year of the enactment of this Act, a recommendation on the reconstruction of the fort based on historic documentation.".

Study and recommendation to Congress.

ADDITION OF DORCHESTER HEIGHTS TO THE BOSTON NATIONAL HISTORICAL PARK

SEC. 310. (a) Section 2(a) of the Boston National Historical Park Act of 1974 (88 Stat. 1184) is amended—

16 USC 410z.

(1) in paragraph (6) by striking out "and" at the end thereof;

(2) in paragraph (7) by striking out the period and inserting in lieu thereof "; and"; and

(3) by inserting at the end thereof the following new paragraph:

"(8) Dorchester Heights, Boston.".

16 USC 410z-1.

(b) Section 3(a) of such Act is amended—

(1) in paragraph (3) by inserting "and" after the semicolon;

(2) by striking out "(4) Dorchester Heights; and"; and

(3) by striking out "(5)" and inserting in lieu thereof "(4)".

Appropriation authorization. 16 USC 410z note.

(c) There are authorized to be appropriated such sums as may be necessary for the acquisition of lands or interests in lands designated by subsection (a) of this section as a component of the Boston National Historical Park, and for the development of such component.

Easements and rights-of-way grants.

(d) Section 2(d) of such Act is amended by deleting the period at the end of the last sentence and inserting: "and the Secretary is authorized to grant, in accordance with such terms and conditions as he deems necessary and consistent with the purposes of this Act, easements and rights-of-way to the Commonwealth of Massachusetts or any political subdivision thereof including the Boston Redevelopment Authority for purposes of the vehicular, pedestrian and utility access to that portion of the Boston Navy Yard outside the boundaries of the Park. Such grants of easements and rights-of-way shall be upon the express condition that the grantee convey to the United States the property known as Building No. 107, being a part of the Boston Navy Yard and owned by the Boston Redevelopment Authority.".

FORT CLATSOP NATIONAL MEMORIAL

Land and improvements, designation.

SEC. 311. Section 2 of the Act of May 29, 1958 (72 Stat. 153; 16 U.S.C. 450mm-1), is amended to read as follows:

"SEC. 2. The Secretary of the Interior shall designate for inclusion in Fort Clatsop National Memorial land and improvements thereon located in Clatsop County, Oregon, which are associated with the winter encampment of the Lewis and Clark Expedition, known as Fort Clatsop, including the site of the salt cairn (specifically, lot number 18, block 1, Cartwright Park Addition of Seaside, Oregon) utilized by that expedition and adjacent portions of the old trail which led

overland from the fort to the coast: *Provided*, That the total area so designated shall contain no more than one hundred and thirty acres.".

ADAMS NATIONAL HISTORIC SITE, MASSACHUSETTS

SEC. 312. (a) In order to preserve for the benefit, education, and inspiration of present and future generations the birthplaces of John Adams and John Quincy Adams, the Secretary is authorized to accept the conveyance, without monetary consideration, of the property known as the John Adams Birthplace at 133 Franklin Street, and the property known as the John Quincy Adams Birthplace at 141 Franklin Street, in Quincy, Massachusetts, together with such adjacent real property as may be desirable, for administration as part of the Adams National Historic Site in Quincy, Massachusetts. Together with, or following such conveyance, the Secretary is authorized to accept the conveyance, without monetary consideration, of furnishings and personal property relating to such birthplaces, after consultation with appropriate officials of the city of Quincy and with the owner or owners of such furnishings and personal property. Property conveyance.

(b) The Secretary shall administer the properties acquired pursuant to subsection (a) of this section as part of the Adams National Historic Site in accordance with this section and the provisions of law generally applicable to national historic sites, including the Act of August 25, 1916 (39 Stat. 535) and the Act of August 21, 1935 (49 Stat. 666). Administration. 16 USC 1 *et seq.* 16 USC 461 note.

ADDITION OF EPPES MANOR TO PETERSBURG NATIONAL BATTLEFIELD

SEC. 313. (a) The Secretary is authorized to acquire the historic Eppes Manor, and such other lands adjacent thereto, not to exceed twenty-one acres, for addition to the Petersburg National Battlefield, as generally depicted on the map entitled "Petersburg National Battlefield, Virginia", numbered APMA 80,001, and dated May 1978. Land acquisition.

(b) There are hereby authorized to be appropriated not to exceed $2,200,000 to carry out the purposes of this section. Appropriation authorization.

ADDITION OF MINERAL KING VALLEY TO SEQUOIA NATIONAL PARK

SEC. 314. (a) It is the purpose of this section to— 16 USC 45f.

(1) assure the preservation for this and future generations of the outstanding natural and scenic features of the area commonly known as the Mineral King Valley and previously designated as the Sequoia National Game Refuge; and

(2) enhance the ecological values and public enjoyment of such area by adding such area to the Sequoia National Park.

(b) (1) In order to add to the Sequoia National Park (hereinafter in this section referred to as the "park") a certain area known as Mineral King Valley possessing unique natural and scenic values, there is hereby established as part of such park all lands, waters, and interests therein, constituting approximately sixteen thousand two hundred acres designated before the date of the enactment of this Act as the Sequoia National Game Refuge and as depicted on the drawing entitled "Boundary Map, Sequoia-Kings Canyon National Park", numbered 102-90,000 and dated April 1975. A copy of such drawing shall be on file and available for public inspection in the office of the Director, National Park Service, Department of the Interior. After advising the Committee on Interior and Insular Affairs of the United Drawing copy, availability. Boundary revisions, publication in Federal Register and advisement to congressional committees.

States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate in writing, the Secretary is authorized to make minor revisions of the boundaries of the park when necessary by publication of a revised drawing or other boundary description in the Federal Register.

Sequoia National Game Refuge, abolition.

(2) The Sequoia National Game Refuge is hereby abolished and the Secretary of Agriculture shall transfer, without consideration, to the administrative jurisdiction of the Secretary, the area constituting such refuge, and any unexpended funds available for purposes of management of the refuge shall be available for purposes of management of the park.

Lands and interests, acquisitions.

(c)(1) Within the boundaries of the area added to the park pursuant to this section, the Secretary may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from other Federal departments or agencies.

Use and occupancy rights, reteution.

(2) Where the private use of any property acquired pursuant to this subsection would, in the judgment of the Secretary, be compatible with the purposes of this section, the Secretary may, as a condition of such acquisition, permit the owner or owners of such property to retain for themselves and their successors or assigns rights of use and occupancy. Such rights of use and occupancy shall be for not more than twenty-five years or for a term ending at the death of the owner or his or her spouse, whichever is later. The owner shall reserve such rights and elect the term to be reserved on the date of acquisition of the property. Except for so much of the property as is donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner.

Fair market value.

Termination, notification.

(3) A right of use and occupancy retained pursuant to paragraph (2) may be terminated by the Secretary upon his determination that the property or any portion thereof is being used in a manner which is incompatible with the purposes of this section. Such right shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired as of the date of such tender. In the case of any property which was used for noncommercial purposes during the ten calendar years immediately preceding the enactment of this Act, the commercial use of such property subsequent to the enactment of this Act shall be treated as incompatible with the purposes of this section. In the case of any property which was used for commercial purposes at any time during the ten calendar years immediately preceding the enactment of this Act, any substantial change or expansion of such commercial use subsequent to the enactment of this Act without the express approval of the Secretary shall be treated as incompatible with such purposes.

(4) In exercising his authority to acquire property under this section, the Secretary shall give prompt and careful consideration to any offer made by an individual owning property within the park to sell such property if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship. Nothing in this section, or in any other provision of law, shall prevent the Secretary from exercising his authority to acquire property referred to in this subsection at any time after the date of the enactment of this Act.

(5) If any individual tract or parcel of land acquired is partly inside and partly outside the boundaries of the park the Secretary may, in

order to minimize the payment of severance damages, acquire the whole of the tract or parcel.

Area acquisition.

(6) If the management plan prepared under subsection (e) provides for improved access to the area added to the park under this section, the Secretary is authorized to acquire, by donation, purchase with donated or appropriated funds, exchange or transfer from other Federal departments or agencies, the area comprising the road from State Route 198 to, and within, the Mineral King Valley together with a right-of-way for such road of a width sufficient to include improvements to the road and all bridges, ditches, cuts, and fills appurtenant thereto, but not exceeding a maximum average width of two hundred feet. Property acquired from the State or any political subdivision thereof may be acquired by donation only. With regard to routes of access to and within the Mineral King Valley, the Secretary shall take such measures as are necessary to protect against the effects of siltation on the ecosystem of the park.

Report to congressional committees.

(7) The Secretary shall report to the committees of the Congress named in subsection (b)(1) the action taken by him pursuant to this subsection. Such report shall contain information sufficient to inform such committees of—

(A) the acquisitions made by him pursuant to this subsection during the period covered by such report;

(B) his reasons why all of such property authorized to be acquired and not so acquired as of the date of such report, if any, have not been acquired; and

(C) his schedule of a timetable for the acquisition of such property referred to in subparagraph (B).

Such report shall be submitted before the expiration of the second fiscal year beginning after the date on which the comprehensive management plan is submitted to the committees of Congress pursuant to subsection (e).

Administration.

(d)(1) The area added to the park by this section shall be administered in accordance with this section and the provisions of law generally applicable to units of the National Park System including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. and following) and the Act of September 25, 1890 (26 Stat. 478; 16 U.S.C. 41 and following). Any other statutory authority available to the Secretary for the conservation and management of wildlife, wildlife habitat, and natural resources may be utilized to the extent he finds such authority will further the purposes of this section.

(2)(A) Except in the case of a lease or permit which the Secretary determines to be incompatible with the administration of the park pursuant to this section, any lease or permit on Federal land within the area added to the park under this section which is in effect immediately before the enactment of this Act shall continue in effect pursuant to its terms and conditions following the expansion of the park under this section.

Leases or permits, renewals or extensions, review.

(B) In the case of a lease or permit which is continued under subparagraph (A), upon notice to the Secretary by the lessee or permittee of his intention to seek renewal or extension of such lease or permit, the lease or permit shall be reviewed by the Secretary, and may be renewed or extended for an additional period of five years. Any such lease or permit shall be reviewed at the end of such renewal or extension period and may also be renewed or extended in the same manner for additional five-year periods thereafter. Any renewals or extensions of leases or permits shall be granted only to those persons who were

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lessees or permittees of record on the date of enactment of this Act, and any such lease or permit shall provide that the lease or permit may be terminated by the Secretary at any time if the Secretary determines that such lease or permit is incompatible with the administration of the park pursuant to this section or that the land is needed for park purposes.

(3) The Act of December 14, 1974 (88 Stat. 1660) is amended by inserting the following new section after section 4:

16 USC 45a-1 note.

"SEC. 5. Notwithstanding any other provision of law, any federally owned lands incorporated within the boundaries of Sequoia National Park subsequent to the date of enactment of this Act, which entail project works, developments, lands, or facilities which are components of Federal Power Commission Project Numbered 298, shall be subject to all provisions of this Act.".

Comprehensive management, plan, submittal to congressional committees.
16 USC 45f.

(e)(1) Within two years from the date of enactment of this Act, the Secretary, in cooperation with the State of California, shall develop and submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive management plan for the area added to the park under this section. In the preparation of such plan, the Secretary shall give appropriate consideration to the need for the development of additional recreational opportunities and other public uses which are consistent with sound environmental management of the area and the policies of the National Park Service.

Public participation.

(2)(A) In preparing the comprehensive management plan required by this subsection and in preparing any subsequent revision of such plan, the Secretary shall provide for full public participation and shall consider the comments and views of all interested agencies, organizations, and individuals.

(B) For purposes of insuring such full public participation, the Secretary shall provide reasonable advance notice to State and local governments, interested Federal agencies, private organizations, and the general public of hearings, workshops, meetings, and other opportunities available for such participation. Such notice shall be published in newspapers of general circulation in the localities affected by the development and management of the park, published in the Federal Register, and communicated by other appropriate means. The Western Regional Advisory Committee of the National Park Service (or a subcommittee thereof) shall also be utilized for purposes of facilitating public involvement.

Advance notice, publication in Federal Register and newspapers.

Cooperation.

(C) The Secretaries or Directors of all Federal departments, agencies, and commissions having a relevant expertise are hereby authorized and directed to cooperate with the Secretary in his development of such plan and to make such studies as the Secretary may request on a cost reimbursable basis.

(D) In preparing the comprehensive management plan required by this subsection, the Secretary shall consider technical information and other pertinent data assembled or produced by field studies or investigations conducted separately or jointly by the technical and administrative personnel of the Federal and State agencies involved in order to insure the permanent conservation of wildlife within the area added to the park by this section. Except in emergencies, rules and regulations pertaining to the management of wildlife within the area added to the park by this section shall be put into effect only after consultation with the State of California.

Consultation.

(f) There are hereby authorized to be appropriated such sums as may be necessary for the acquisition of land and interests therein described in this section. Appropriation authorization.

(g) Effective upon the transfer referred to in subsection (b)(2), Public Law 85-648 (72 Stat. 604; 16 U.S.C. 45a-3) and section 6 of the Act of July 3, 1926 (44 Stat. 821; 16 U.S.C. 688) are hereby repealed. The repeal of such section 6 shall not be construed to prohibit or prevent the Secretary from exercising any authority applicable to the national parks respecting the protection of birds, game, or other wild animals. Repeals. 16 USC 688 note.

(h) The Congress recognizes that the Mineral King Valley area has outstanding potential for certain year-round recreational opportunities, but the development of permanent facilities for downhill skiing within the area would be inconsistent with the preservation and enhancement of its ecological values. Skiing. 16 USC 45f.

CUYAHOGA VALLEY NATIONAL RECREATION AREA

SEC. 315. (a) Section 2(a) of the Act of December 27, 1974, entitled "An Act to provide for the establishment of the Cuyahoga Valley National Recreation Area" (88 Stat. 1784) is amended by striking out "Boundary Map, Cuyahoga Valley National Recreation Area, Ohio, numbered 90,000-A, and dated September 1976," and inserting in lieu thereof "Boundary Map, Cuyahoga Valley National Recreation Area, Ohio, numbered 90,001-A, and dated May 1978,". 16 USC 460ff-1.

(b) Section 6(a) of such Act is amended by striking out "$41,100,000" and inserting in lieu thereof "$70,100,000". 16 USC 460ff-5.

(c) The first sentence of section 6(b) of such Act is amended to read as follows: "For the development of the recreation area, including improvements of properties acquired for purposes of this Act, there is authorized to be appropriated not more than $13,000,000". Appropriation authorization.

(d) Section 2(e) of such Act is amended by adding the following at the end thereof: "In applying this subsection with respect to lands and interests therein added to the recreation area by action of the Ninety-fifth Congress, the date 'January 1, 1978,' shall be substituted for the date 'January 1, 1975,' in each place it appears.".

(e) Section 4(f) of such Act is amended by inserting "(or intergovernmental organization)" after "local government" in each place it appears and by adding the following new sentence at the end thereof: "Assistance under this subsection may include payments for technical aid.". 16 USC 460ff-3.

(f) Section 2(a) is further amended by striking the period at the end thereof and adding the following, ": *Provided*, That with respect to the property known as the Hydraulic Brick Company located in Independence, Ohio, the Secretary shall have the first right of refusal to purchase such property for a purchase price not exceeding the fair market value of such property on the date it is offered for sale. When acquired such property shall be administered as part of the recreation area, subject to the laws and regulations applicable thereto.". Land acquisition.

DELAWARE WATER GAP NATIONAL RECREATION AREA

SEC. 316. Section 2(a) of the Act entitled "An Act to authorize establishment of the Delaware Water Gap National Recreation Area, and for other purposes", approved September 1, 1965 (79 Stat. 612) is amended by adding the following at the end thereof: "Beginning on the date of the enactment of the National Parks and Recreation Act Lands, acquisition. 16 USC 460o-1.

of 1978, the Secretary of the Interior is authorized to acquire for purposes of the recreation area established under this Act all lands and interests therein within the exterior boundaries of the area depicted on the drawing referred to in this subsection (including any lands within such exterior boundaries designated for acquisition by the Secretary of the Army in connection with the project referred to in this subsection). In exercising such authority, the Secretary of the Interior may permit the retention of rights of use and occupancy in the same manner as provided in the case of acquisitions by the Secretary of the Army under subsection (d). On the date of enactment of the National Parks and Recreation Act of 1978, the acquisition authorities of any other Federal agency contained in this subsection shall terminate and the head of any other Federal agency shall transfer to the Secretary of the Interior jurisdiction over all lands and interests therein acquired by said agency under the authority of this Act, or any other authority of law which lands are within the exterior boundaries of the area depicted on the drawing referred to in this subsection. On the date of enactment of the National Parks and Recreation Act of 1978, all unexpended balances available to any other Federal agency for acquisition of land within the exterior boundaries referred to in the preceding sentence shall be transferred to the Secretary of the Interior to be used for such purposes. In carrying out his acquisition authority under this section the Secretary shall give priority to the following:

Use and occupancy rights, retention.

Authority, termination and transfer.

Funds, transfer.

Acquisition priorities.

"(1) completion of acquisition of lands for which condemnation proceedings have been started pursuant to the authorization of the project referred to in this subsection;

"(2) acquisition of lands of beneficial owners, not being a corporation, who in the judgment of the Secretary would suffer hardship if acquisition of their lands were delayed;

"(3) acquisition of lands on which, in the judgment of the Secretary, there is an imminent danger of development that would be incompatible with the purposes of the recreation area;

"(4) acquisition of lands of beneficial owners, not being a corportion, who are willing to sell their lands provided they are able to continue to use it for noncommercial residential purposes for a limited period of time which will not, in the judgment of the Secretary, unduly interfere with the development of public use facilities for such national recreation area, pursuant to the authorization for such area;

"(5) acquisition of scenic easements when, in the judgment of the Secretary, such easements are sufficient to carry out the purposes for which such national recreation area was authorized; and

"(6) acquisition of lands necessary to preserve the integrity of the recreation area.".

GOLDEN GATE NATIONAL RECREATION AREA

Composition and boundaries. 16 USC 460bb-1.

SEC. 317. (a) Subsection 2(a) of the Act of October 27, 1972 (86 Stat. 1299), as amended (16 U.S.C. 459), is further amended to read as follows: "(a) The recreation area shall comprise the lands, waters, and submerged lands generally depicted on the map entitled: 'Revised Boundary Map, Golden Gate National Recreation Area', numbered NRA-GG-80,003-K and dated October 1978. The authority of the Secretary to acquire lands in the tract known as San Francisco Assessor's Block number 1592 shall be limited to an area of not more

than one and nine-tenths acres. Notwithstanding any other provision of this Act, the Secretary shall not acquire the Marin County Assessor's parcels numbered 199-181-01, 199-181-06, 199-181-08, 199-181-13, and 199-181-14, located in the Muir Beach portion of the recreation area.".

(b) Section 3(i) of such Act is amended to read as follows:

New construction, limitation. 16 USC 460bb-2. *Ante*, p. 3484.

"(i) New construction and development within the boundaries described in section 2(a) on lands under the administrative jurisdiction of a department other than that of the Secretary is prohibited, except that improvements on lands which have not been transferred to his administrative jurisdiction may be reconstructed or demolished. Any such structure which is demolished may be replaced with an improvement of similar size, following consultation with the Secretary or his designated representative, who shall conduct a public hearing at a location in the general vicinity of the area, notice of which shall be given at least one week prior to the date thereof. The foregoing limitation on construction and development shall not apply to expansion of those facilities known as Letterman General Hospital or the Western Medical Institute of Research.".

Notice and public hearing.

Exception.

(c) Subsection 3(j) of such Act is amended to read as follows:

Use and occupancy right, retention.

"(j) The owner of improved residential property or of agricultural property on the date of its acquisition by the Secretary under this Act may, as a condition of such acquisition, retain for himself and his or her heirs and assigns a right of use and occupancy for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his or her spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partly donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his or her determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him or her an amount equal to the fair market value of that portion of the right which remains unexpired. Where appropriate in the discretion of the Secretary, he or she may lease federally owned land (or any interest therein) which has been acquired by the Secretary under this Act, and which was agricultural land prior to its acquisition. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this Act. Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land or who was a leaseholder thereon immediately before its acquisition by the United States.".

Payment.

Termination and notification.

Federally-owned land, lease.

(d) In subsection 3(k) of such Act, following "June 1, 1971." insert "or, in the case of areas added by action of the Ninety-fifth Congress, October 1, 1978."; and at the end of the subsection, add the following new sentence: "The term 'agricultural property' as used in this Act means lands which are in regular use for agricultural, ranching, or dairying purposes as of January 1, 1978, together with residential and other structures related to the above uses of the property as such structures exist on said date."

"Agricultural property."

(e) Section 3 of such Act is amended by adding the following at the end thereof:

Management.

"(n) The Secretary shall accept and shall manage in accordance with this Act, any land and improvements adjacent to the recreation area which are donated by the State of California or its political subdivisions. The boundaries of the recreation area shall be changed to include such donated lands.

Payment deferral, scheduling, and interest rate.

"(o) In acquiring those lands authorized by the Ninety-fifth Congress for the purposes of this Act, the Secretary may, when agreed upon by the landowner involved, defer payment or schedule payments over a period of ten years and pay interest on the unpaid balance at a rate not exceeding that paid by the Treasury of the United States for borrowing purposes.".

16 USC 460bb–3.

(f) Section 4 of such Act is amended by adding the following at the end thereof:

Fees or admission charges.

"(e) No fees or admission charges shall be levied for admission of the general public to the recreation area except to portions under lease or permit for a particular and limited purpose authorized by the Secretary. The Secretary may authorize reasonable charges for public transportation and, for a period not exceeding five years from the date of enactment of this legislation, for admission to the sailing vessel Balclutha.

Certain rental proceeds, crediting.

"(f) Notwithstanding any other provisions of law, in the administration of those parcels of property known as Haslett Warehouse, Cliff House Properties and Louis' Restaurant, the Secretary shall credit any proceeds from the rental of space in the aforementioned properties to the appropriation, if any, bearing the cost of their administration, maintenance, repair and related expenses and also for the maintenance, repair and related expenses of the vessels and the adjacent piers comprising the National Maritime Museum, for major renovation and park rehabilitation of those buildings included in the Fort Mason Foundation Cooperative Agreement, and for a coordinated public and private access system to and within the recreation area and other units of the national park system in Marin and San Francisco Counties: *Provided*, That surplus funds, if any, will be deposited into the Treasury of the United States: *Provided further*, That notwithstanding any other provision of law, in the administration of said parcels the Secretary may, if he deems appropriate, enter into a contract for the management of said parcels of property with such terms and conditions as will protect the Government's interest, with excess funds being used as set forth above.".

Management contract.

16 USC 460bb–4.

(g) Section 5(b) of such Act is amended by changing the word "fifteen" to "seventeen".

POINT REYES NATIONAL SEASHORE

Area description.
16 USC 459c–1.

SEC. 318. (a) Section 2(a) of the Act of September 13, 1962 (76 Stat. 538) as amended (16 U.S.C. 459) is further amended as follows:

"SEC. 2. (a) The Point Reyes National Seashore shall consist of the lands, waters, and submerged lands generally depicted on the map entitled 'Boundary Map, Point Reyes National Seashore', numbered 612–80,008–E and dated May 1978.

Map, availability.

"The map referred to in this section shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior, Washington, District of Columbia. After advising the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and

Natural Resources of the United States Senate in writing, the Secretary may make minor revisions of the boundaries of the Point Reyes National Seashore when necessary by publication of a revised drawing or other boundary description in the Federal Register.".

(b) Section 5(a) of such Act is amended to read as follows:

Use and occupancy rights, retention. 16 USC 459c-5.

"SEC. 5. (a) The owner of improved property or of agricultural property on the date of its acquisition by the Secretary under this Act may, as a condition of such acquisition, retain for himself and his or her heirs and assigns a right of use and occupancy for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his or her spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partly donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his or her determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him or her an amount equal to the fair market value of that portion of the right which remains unexpired. Where appropriate in the discretion of the Secretary, he or she may lease federally owned land (or any interest therein) which has been acquired by the Secretary under this Act, and which was agricultural land prior to its acquisition. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this Act. Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land or was a leaseholder thereon immediately before its acquisition by the United States.".

Payment.

Termination and notification.

Federally-owned lands, lease.

(c) In subsection 5(b) of such Act, following "September 1, 1959," insert "or, in the case of areas added by action of the Ninety-fifth Congress, May 1, 1978,"; and at the end of the subsection, add the following new sentence: "The term 'agricultural property' as used in this Act means lands which were in regular use for, or were being converted to agricultural, ranching, or dairying purposes as of May 1, 1978, together with residential and other structures related to the above uses of the property.".

"Agricultural property."

(d) Section 5 of such Act is amended by adding the following new subsection (c) to read as follows:

Payment deferral, scheduling, and interest rate.

"(c) In acquiring those lands authorized by the Ninety-fifth Congress for the purposes of this Act, the Secretary may, when agreed upon by the landowner involved, defer payment or schedule payments over a period of ten years and pay interest on the unpaid balance at a rate not exceeding that paid by the Treasury of the United States for borrowing purposes.".

(e) Section 8 of such Act is renumbered section 9 and the following new section is inserted after section 7:

16 USC 459c-7.

Cooperation. 16 USC 459c-6b.

"SEC. 8. The Secretary shall cooperate with the Bolinas Public Utilities District to protect and enhance the watershed values within the seashore. The Secretary may, at his or her discretion, permit the use and occupancy of lands added to the seashore by action of the Ninety-fifth Congress by the utilities district for water supply purposes, subject to such terms and conditions as the Secretary deems are consistent with the purposes of this Act.".

Land use and occupancy, terms and conditions.

ANTIETAM NATIONAL BATTLEFIELD

Scenic easements, acquisition.
16 USC 430oo note.

SEC. 319. (a) In furtherance of the purposes of the Act entitled "An Act to provide for the protection and preservation of the Antietam Battlefield in the State of Maryland", approved April 22, 1960 (74 Stat. 79), and other Acts relative thereto, the Secretary is hereby authorized to acquire only scenic easements over the additional lands generally depicted on the map entitled "Boundary Map, Antietam National Battlefield, Washington County, Maryland," numbered 302-80,005-A and dated June 1977.

Site, redesignation.
16 USC 430nn note.
Boundary revision.

(b) The Antietam National Battlefield Site established pursuant to such Act of April 22, 1960, including only scenic easements acquired pursuant to subsection (a) of this section, is hereby redesignated the "Antietam National Battlefield". The boundaries of such battlefield are hereby revised to include the area generally depicted on the map referenced in subsection (a) of this section, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK

16 USC 410y-6.
Boundary revision.
16 USC 410y-1a.

SEC. 320. Section 8(b) of the Act of January 8, 1971 (84 Stat. 1978) is amended by changing "$20,400,000" to "$28,400,000". The boundaries of the park are revised to include approximately 600 additional acres: *Provided, however*, That such additions shall not include any properties located between 30th Street and Thomas Jefferson Street in the northwest section of the District of Columbia.

ALIBATES FLINT QUARRIES AND TEXAS PANHANDLE PUEBLO CULTURE NATIONAL MONUMENT

Description.

SEC. 321. (a) The first section of the Act of August 31, 1965 (79 Stat. 587) is amended by adding at the end thereof the following: "The national monument shall comprise the area generally depicted on the map entitled 'Boundary Map Alibates Flint Quarries', numbered 432-80,021, and dated November 1976. Minor boundary adjustments may be made from time to time by the Secretary.".

(b) Section 3 of such Act is amended by deleting "$260,000" and inserting "$4,291,000" in lieu thereof.

Redesignation.
16 USC 431 note.

(c) The Act of August 31, 1965 (79 Stat. 587) is hereby amended to redesignate the Alibates Flint Quarries and Texas Panhandle Pueblo Culture National Monument as the Alibates Flint Quarries National Monument.

FIRE ISLAND NATIONAL SEASHORE

Boundaries.
16 USC 459e.

SEC. 322. (a) Subsection 1(b) of the Act of September 11, 1964 (78 Stat. 928), as amended, is further amended to read as follows:

"(b) The boundaries of the national seashore shall extend from the easterly boundary of the main unit of Robert Moses State Park eastward to Moriches Inlet and shall include not only Fire Island proper, but also such islands and marshlands in the Great South Bay, Bellport Bay, and Moriches Bay adjacent to Fire Island as Sexton Island, West Island, Hollins Island, Ridge Island, Pelican Island, Pattersquash Island, and Reeves Island and such other small and adjacent islands, marshlands, and wetlands as would lend themselves to contiguity and reasonable administration within the national sea-

shore and, in addition, the waters surrounding said area to distances of one thousand feet in the Atlantic Ocean and up to four thousand feet in Great South Bay and Moriches Bay and, in addition, mainland terminal and headquarters sites, not to exceed a total of twelve acres, on the Patchogue River within Suffolk County, New York, all as delineated on a map identified as 'Fire Island National Seashore', numbered OGP-0004, dated May 1978. The Secretary shall publish said map in the Federal Register, and it may also be examined in the offices of the Department of the Interior.". Map, publication in Federal Register.

(b) Section 2 of such Act is amended by adding the following new subsection at the end thereof: Undeveloped tracts and property. 16 USC 459e-1.

"(g) The authority of the Secretary to condemn undeveloped tracts within the Dune District as depicted on map entitled 'Fire Island National Seashore' numbered OGP-0004 dated May, 1978, is suspended so long as the owner or owners of the undeveloped property therein maintain the property in its natural state. Undeveloped property within the Dune District that is acquired by the Secretary shall remain in its natural state.".

(c) Section 7(b) of such Act is amended by striking the phrase "Brookhaven town park at", and inserting in lieu thereof: "Ocean Ridge portion of". 16 USC 459e-6.

(d) Section 10 of such Act is amended by striking "$18,000,000". and inserting in lieu thereof "$23,000,000". 16 USC 459e-9.

CUMBERLAND ISLAND NATIONAL SEASHORE

SEC. 323. Section 1 of the Act of October 23, 1972 (86 Stat. 1066), is amended by changing the phrase "numbered CUIS-40,000B, and dated June 1971,", to read "numbered CUIS 40,000D, and dated January 1978,". 16 USC 459i.

TITLE IV—WILDERNESS

DESIGNATION OF AREAS

SEC. 401. The following lands are hereby designated as wilderness in accordance with section 3(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c)), and shall be administered by the Secretary in accordance with the applicable provisions of the Wilderness Act: Administration. 16 USC 1132 note. 16 USC 1131 note.

(1) Buffalo National River, Arkansas, wilderness comprising approximately ten thousand five hundred and twenty-nine acres and potential wilderness additions comprising approximately twenty-five thousand four hundred and seventy-one acres depicted on a map entitled "Wilderness Plan, Buffalo National River, Arkansas", numbered 173-20,036-B and dated March 1975, to be known as the Buffalo National River Wilderness.

(2) Carlsbad Caverns National Park, New Mexico, wilderness comprising approximately thirty-three thousand one hundred and twenty-five acres and potential wilderness additions comprising approximately three hundred and twenty acres, depicted on a map entitled "Wilderness Plan, Carlsbad Caverns National Park, New Mexico," numbered 130-20,003-B and dated January 1978, to be known as the Carlsbad Caverns Wilderness. By January 1, 1980, the Secretary shall review the remainder of the park and shall report to the President, in accordance with section 3 (c) and (d) of the Wilderness Act (78 Stat. 891; 16 U.S.C. 1132 (c) and (d)), his recommendations as to the suitability or nonsuitability of any additional areas within the park for preservation as wilder- Report to President.

ness, and any designation of such areas as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

16 USC 1131 note.

(3) Everglades National Park, Florida, wilderness comprising approximately one million two hundred and ninety-six thousand five hundred acres and potential wilderness additions comprising approximately eighty-one thousand nine hundred acres, depicted on a map entitled "Wilderness Plan, Everglades National Park, Florida", numbered 160-20,011 and dated June 1974, to be known as the Everglades Wilderness.

(4) Guadalupe Mountains National Park, Texas, wilderness comprising approximately forty-six thousand eight hundred and fifty acres, depicted on a map entitled "Wilderness Plan, Guadalupe Mountains National Park, Texas", numbered 166-20,006-B and dated July 1972, to be known as the Guadalupe Mountains Wilderness.

(5) Gulf Islands National Seashore, Florida, and Mississippi, wilderness comprising approximately one thousand eight hundred acres and potential wilderness additions comprising approximately two thousand eight hundred acres, depicted on a map entitled "Wilderness Plan, Gulf Islands National Seashore, Mississippi, Florida", numbered 635-20,018-A and dated March 1977, to be known as the Gulf Islands Wilderness.

(6) Hawaii Volcanoes National Park, Hawaii, wilderness comprising approximately one hundred and twenty-three thousand one hundred acres and potential wilderness additions comprising approximately seven thousand eight hundred and fifty acres, depicted on a map entitled "Wilderness Plan, Hawaii Volcanoes National Park, Hawaii", numbered 124-20,020 and dated April 1974, to be known as the Hawaii Volcanoes Wilderness.

(7) Organ Pipe Cactus National Monument, Arizona, wilderness comprising approximately three hundred and twelve thousand six hundred acres and potential wilderness additions comprising approximately one thousand two hundred and forty acres, depicted on a map entitled "Wilderness Plan, Organ Pipe Cactus National Monument, Arizona", numbered 157-20,001-B and dated October 1978, to be known as the Organ Pipe Cactus Wilderness.

(8) Theodore Roosevelt National Memorial Park, North Dakota, wilderness comprising approximately twenty-nine thousand nine hundred and twenty acres, depicted on maps entitled "Theodore Roosevelt National Memorial Park, North Dakota" (North Unit and South Unit) numbered 387-20,007-E and dated January 1978, to be known as the Theodore Roosevelt Wilderness.

MAP AND DESCRIPTION

Public availability.

SEC. 402. A map and description of the boundaries of the areas designated in this title shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the Office of the Superintendent of each area designated in this title. As soon as practicable after this Act takes effect, maps of the wilderness areas and descriptions of their boundaries shall be filed with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and such maps and descriptions shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such maps and descriptions may be made.

Filing with congressional committees.

CESSATION OF CERTAIN USES

SEC. 403. Any lands which represent potential wilderness additions in this title, upon publication in the Federal Register of a notice by the Secretary that all uses thereon prohibited by the Wilderness Act have ceased, shall thereby be designated wilderness. Lands designated as potential wilderness additions shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated as wilderness.

Designation notice, publication in Federal Register. 16 USC 1131 note. Management.

ADMINISTRATION

SEC. 404. The areas designated by this Act as wilderness shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and, where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

SAVINGS PROVISIONS

SEC. 405. Nothing in this title shall be construed to diminish the authority of the Coast Guard, pursuant to sections 2 and 81 of title 14, United States Code, and title 1 of the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221), or the Federal Aviation Administration to use the areas designated wilderness by this Act within the Everglades National Park, Florida; and the Gulf Islands National Seashore, Florida and Mississippi, for navigational and maritime safety purposes.

TITLE V—ESTABLISHMENT OF NEW AREAS AND ADDITIONS TO NATIONAL TRAILS SYSTEM

Subtitle A—Parks, Seashores, Etc.

GUAM NATIONAL SEASHORE

SEC. 501. (a) The Secretary through the Director of the National Park Service, shall revise and update the National Park Service study of the Guam National Seashore and, after consultation with the Secretary of the Department of Defense and the Governor of Guam, shall transmit the revised study within two years to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives including his recommendations and a series of options for congressional consideration each of which—

Study revision, transmittal to congressional committees.

(1) will encompass the area from Ajayan Bay to Nimitz Beach including Cocos and Anac Islands and extending inland as far as the Fena Valley Reservoir and Mount Sasalaguan, and

(2) if implemented, will afford protection to the natural and historic resources of the area as well as providing visitor access and interpretive services.

(b) The Secretary, and the Secretary of the Department of Defense, shall take such actions as they may deem appropriate within their existing authorities to protect the resource values of the submerged lands within the area of the study referred to in subsection (a) of this section.

Submerged lands resource values, protection.

PINE BARRENS AREA, NEW JERSEY

16 USC 471i.

SEC. 502. (a) The Congress finds that—

(1) the Pinelands area in New Jersey, containing approximately 1,000,000 acres of pine-oak forest, extensive surface and ground water resources of high quality, and a wide diversity of rare plant and animal species, provides significant ecological, natural, cultural, recreational, educational, agricultural, and public health benefits;

(2) there is a national interest in protecting and preserving these benefits for the residents of and visitors to the area;

(3) a primary responsibility for protecting and enhancing these benefits resides with the State of New Jersey and the various local units of government having jurisdiction over the area;

(4) in view of the longstanding Federal practice of assisting the States in creating, protecting, preserving, and enhancing areas of significant regional and urban importance, and in view of the national significance of this resource, the Federal Government has an interest in assisting the State of New Jersey and its local units of government in fulfilling their responsibilities and in avoiding adverse Federally approved or assisted impacts before these responsibilities can be undertaken;

(5) the State of New Jersey and its local units of government have authority to prevent or minimize adverse uses of the land and water resources of the Pinelands area and can, to a great extent, protect the health, safety, and general welfare by the use of such authority; and

(6) there is a demonstrated need to protect, preserve and enhance the land and water resources of the Pinelands area through a new program which combines the capabilities and resources of the local, State and Federal governments and the private sector and provides an alternative to large-scale direct Federal acquisition and management in cases where such acquisition and management is inappropriate.

(b) The purposes of this section are—

(1) to protect, preserve and enhance the significant values of the land and water resources of the Pinelands area;

(2) to encourage and assist the State of New Jersey and its units of local government in the development of a comprehensive management plan for the Pinelands area in order to assure orderly public and private development in the area consistent with the findings of this section;

(3) to provide, during the development of this comprehensive plan, Federal financial assistance for the acquisition of lands in the Pinelands area that have critical ecological values which are in immediate danger of being adversely affected or destroyed;

(4) to encourage and assist the State and its units of local government in developing a governmental mechanism to implement this comprehensive plan, and to provide Federal financial assistance for the acquisition of lands consistent with the comprehensive plan;

(5) to encourage adequate coordination of all government programs affecting the land and water resources of the Pinelands area.

Pinelands National Reserve. Establishment.

(c) There is hereby established the Pinelands National Reserve which shall consist of the approximately 1,000,000-acre area generally depicted on the map entitled "Pinelands National Reserve Boundary

Map" numbered NPS/80,011 A and dated September 1978. Within the Pinelands National Reserve, there is hereby established the Federal Project Review Area, which shall consist of the approximately 486,000 acre area also depicted on the map. The map shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, and in the offices of the State of New Jersey planning entity established pursuant to subsection (d), and in locations throughout the Pinelands National Reserve as determined by the planning entity.

Federal Project Review Area. Establishment.

Map, availability.

(d) Within thirty days after the date of enactment of this section, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall request the Governor of the State of New Jersey to establish, within ninety days of such request, a planning entity to develop a comprehensive management plan for the Pinelands National Reserve. In order to carry out the purposes of this section, such planning entity shall be composed of fifteen members to be appointed as follows: one member appointed by the Secretary; one member from each of the seven counties in the Pinelands National Reserve to be appointed by the respective governing bodies of each county; and seven members to be appointed by the Governor. The membership of the planning entity shall include residents of the Pinelands National Reserve who represent economic activities such as agriculture in the area, as well as residents of New Jersey who represent conservation interests. The Secretary shall provide technical assistance and grants to the State for the development of the plan or revisions thereof: *Provided*, That such grants shall not exceed 75 percent of the cost of developing the plan, shall be made only upon application of the Governor, on behalf of the planning entity, and shall be subject to such other conditions as the Secretary may deem appropriate to assure State and local interim protection of the area.

Comprehensive management plan.

Planning entity, membership.

Assistance and grants to States.

(e) During the development of the management plan, the planning entity shall:

Consultations.

(1) consult with appropriate officials of any local government or State or Federal agency which has jurisdiction over lands and waters within the area;

(2) consult with the officials of any local government which has jurisdiction over lands and waters within areas delineated in accordance with subsection (f)(2)(B);

(3) consult with interested professional, scientific and citizen organizations;

(4) consult with a citizens advisory committee which may be established by the Governor; and

(5) conduct public hearings at places within the area, and at such other places as may be appropriate, for the purpose of providing interested persons with an opportunity to express their views with respect to matters covered by the management plan.

Public hearings.

(f) The comprehensive management plan for the Pinelands National Reserve shall include, but need not be limited to—

(1) A resource assessment which:

Resource assessment.

(A) determines the amount and type of human development and activity which the ecosystem can sustain while still maintaining the overall ecological values described in this section with special reference to (i) ground and surface water supply and quality; (ii) natural hazards, including fire; (iii) endangered, unique and unusual plants and animals and biotic communities; (iv) ecological factors relating to

the protection and enhancement of blueberry and cranberry production and other agricultural activity; (v) air quality; and (vi) other appropriate considerations affecting the ecological integrity of the area; and

(B) includes an assessment of scenic, aesthetic, cultural, open space, and outdoor recreation resources of the area together with a determination of overall policies required to maintain and enhance these resources.

Boundary map, delineations.

(2) A map showing the detailed boundary of the Pinelands National Reserve, such map to delineate:

(A) major areas within the boundary which are of critical ecological importance;

(B) major areas and resources adjacent to the boundary that have significance to the ecological integrity of the Pinelands National Reserve; and

(C) areas of scenic, open space, cultural and recreational significance.

Land use map and policy statement.

(3) A land use capability map and a comprehensive statement of policies for land use management of the area which:

(A) consider and detail the application of a variety of land and water protection and management techniques, including but not limited to, zoning and regulation derived from State and local police powers, development and use standards and permit systems, acquisition of conservation easements and other interests in land, public access agreements with private landowners, purchase of land for resale or lease-back, fee acquisition of public recreation sites and ecologically sensitive areas and any other method of land and water protection and management which will help meet the goals and carry out the policies of the management plan;

(B) include a policy for the use of State and local police power responsibilities to the greatest extent practicable to regulate the use of land and water resources in a manner consistent with the purposes of this section; and

(C) recognize existing economic activities within the area and provide for the protection and enhancement of such activities as farming, forestry, proprietary recreational facilities, and those indigenous industries and commercial and residential developments which are consistent with the findings and purposes of this section.

Coordination.

(4) A coordination and consistency component which details the ways in which local, State and Federal programs and policies may best be coordinated to promote the goals and policies of the management plan, and which details how land, water and structures managed by governmental or nongovernmental entities in the public interest within the area may be integrated into the management plan.

(5) A public use component including, among other items, a detailed program to educate the public concerning appropriate uses of the area.

Financial component.

(6) A financial component, together with a cash flow timetable, which:

(A) details the cost of implementing the management plan, including, but not limited to, payments in lieu of taxes, general administrative costs, and any anticipated extraordinary or continuing costs; and

(B) details the sources of revenue for covering such costs, including, but not limited to, grants, donations and loans from local, State, and Federal departments and agencies, and from the private sector.

(7) A program to provide for the maximum feasible local government and public participation in the management of the Pinelands National Reserve. Programs.

(8) A program for State and local governmental implementation of the comprehensive management plan in a manner that will insure the continued, uniform, consistent protection of this area in accord with the purposes of this section.

(9) In conjunction with existing State programs and planning processes, a plan to implement the provisions of the Clean Water Act and the Safe Drinking Water Act which pertain to the surface and ground waters of the Pinelands National Reserve. Implementation plan. 33 USC 1251 note.

(g) (1) The State of New Jersey, through the planning entity, shall adopt and submit to the Secretary a comprehensive management plan within eighteen months after the date that funds are first provided for its preparation under subsection (d). In the event the State fails to submit the plan within such time period, the Secretary may obtain reimbursement or offset from the State of all Federal funds previously granted under this section. The Secretary shall, within ninety days after the date the plan is submitted to him, either approve or disapprove the plan. Should the Secretary fail to act on the proposed plan within ninety days, the plan shall be regarded as approved. Upon approval, the Secretary shall submit the plan to the Congress for a period of ninety days prior to implementation. 42 USC 201 note. Comprehensive management plan approval and submittal to Congress.

(2) In determining whether or not to approve the management plan, the Secretary shall consider whether: Approval considerations.

(A) the planning entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation and review of the plan, and whether such review and comment thereon were considered in the plan or revision as presented to him;

(B) he has received adequate assurances from appropriate State officials that the recommended implementation program identified in the plan will be initiated within a reasonable time after the date of approval of the plan and such program will insure effective implementation of the State and local aspects of the plan;

(C) provision is made for the participation of a Federal representative in the implementation program;

(D) the plan requires the exercise of police power responsibilities to the greatest extent practicable to regulate the use of land and water resources in a manner consistent with the purposes of this section;

(E) the plan, if implemented, would adequately protect the significant natural, ecological, agricultural, scenic, cultural and recreational resources of the Pinelands National Reserve and, consistent with such protection, provide adequate and appropriate outdoor recreational opportunities and economic activities within the area;

(F) the plan provides for the Governor of the State of New Jersey to exercise effective and continuing oversight over its implementation; and

(G) after consultation with the Secretary of Defense, the national defense mission of the military installations within, contiguous or adjacent to the Pinelands National Reserve has been adequately provided for.

Plan disapproval and revision recommendations, notification. Plan resubmittal and consideration.

(3) If the Secretary disapproves the management plan or a revision thereof, he shall, within sixty days after the date of such disapproval, advise the planning entity in writing of the reasons therefor, together with his recommendations for revision. The State of New Jersey, through the planning entity shall, within one hundred and twenty days after receipt by the planning entity of notification of such disapproval, revise and resubmit the plan to the Secretary who shall approve or disapprove a proposed revision within sixty days after the date it is submitted to him. Should the Secretary fail to act on a proposed revision within sixty days, the revision shall be considered as approved.

(4) The Secretary shall consider a plan revision in accordance with the procedure set forth in paragraph (2). Such revisions must be consistent with the purposes of this section.

Federal assistance, termination and reimbursement.

(5) In the event that the planning entity fails to obtain approval of the plan by the Secretary within thirty-six months after the date funds are first provided under subsection (d) for development of the plan, the Secretary shall terminate all Federal assistance for and participation in the development of such plan, and may obtain reimbursement or offset from the State of New Jersey of all Federal funds previously granted under this section.

(6) The Secretary shall provide technical assistance for and monitor at periodic intervals the implementation of the approved management plan. A local jurisdiction or the State shall obtain the approval of the Secretary prior to any modification of the approved plan. The Secretary shall consider a plan revision in accordance with the procedure set forth in paragraph (2). Such revisions must be consistent with the purposes of this section. Any jurisdiction that implements changes to the approved management plan, or adopts or acquiesces in changes to laws, regulations, or policies adopted to implement such plan, without approval of the Secretary, may be liable for reimbursement or offset of all Federal funds previously granted to it under this section without regard to such additional terms and conditions or other requirements of law that may be applicable to such grants.

Plan modifications and revisions.

Grants.

(h)(1)(A) During the development of the management plan, the Secretary is authorized to make grants to the State of New Jersey for the acquisition of lands and waters or interests therein within the Pinelands National Reserve that he determines, in consultation with the State planning entity, have critical ecological values which are in immediate danger of being adversely affected or destroyed.

(B) The grants authorized by subsection (h)(1)(A) together with the grants made under paragraph (4) of this subsection, shall (i) be made in a manner consistent with the requirements of the Land and Water Conservation Fund Act; (ii) not exceed 75 percent of the total cost of all property acquired by the State pursuant to this subsection; (iii) be supplemental to any other Federal financial assistance for any other program; and (iv) be subject to such additional terms and conditions as the Secretary may deem necessary to effectuate the purposes of this section.

16 USC 460*l*–4 note.

Lands, waters, and interests, acquisition.

(2) In the event the State elects not to make acquisitions as authorized under subsection (h)(1), the Secretary, during the development of the management plan, is authorized to acquire such lands, waters

or interests therein by donation, purchase with donated or appropriated funds, exchange, or otherwise, and to administer such property under the laws generally applicable to units of the National Park System or National Wildlife Refuge System in a manner to carry out the purposes of this section.

(3) After his approval of the management plan, the Secretary (A) is authorized to convey property acquired pursuant to subsection (h)(2) to State or local authorities in accordance with the management plan, under such terms and conditions as he may deem appropriate, which shall include (i) a requirement that where the Secretary transfers land acquired with appropriated funds, the State or local government shall repay not less than 25 percent of the cost of such lands to the Secretary under such terms and conditions as he may deem appropriate, and (ii) a retention of a right of reversion of title to the United States, and (B) shall accept from the State those lands acquired pursuant to subsection (h)(1), which are identified in the management plan as being appropriate for Federal ownership and management: *Provided*, That the Secretary shall reimburse to the State such sums as are necessary to (i) cover 100 percent of the original cost of acquisition as to each parcel of land so transferred and (ii) assure that as to the remainder of lands acquired pursuant to subsection (h)(1) not transferred under this subsection, the total Federal land acquisition cost does not exceed 75 percent of the purchase price of such lands.

Property conveyance, terms and conditions.

State reimbursement.

(4) Upon approval of the management plan, the Secretary is authorized to make grants for the acquisition within the Pinelands National Reserve of lands and waters or interests therein in a manner consistent with the management plan. All applications for such grants shall be made within ten years from the date of implementation of the management plan.

Grants.

(i) During the development of the management plan for the Pinelands National Reserve, all applications for Federal assistance under programs covered by Part I of OMB Circular A-95 and direct Federal actions covered by Part II of OMB Circular A-95 within the Federal Project Review Area generally depicted on the map referred to in subsection (c) which involve the construction of housing, industrial parks, highways, or sewage or water treatment facilities shall be reviewed by the planning entity, upon receipt from the New Jersey State A-95 Clearinghouse (hereinafter referred to as the Clearinghouse). If the planning entity finds that such application or proposed action would have no adverse impact on the resources and ecological values of the Federal Project Review Area, the planning entity shall so notify the Clearinghouse. If the planning entity does not so find, Congress authorizes the planning entity to notify the Clearinghouse and other affected parties that such application or proposed action shall not proceed pending further review, and the planning entity shall forward such application or notice of proposed action to the Secretary. Any such application or proposed action which the Secretary determines would be significantly adverse to the purposes of this section shall not proceed while the management plan is being developed. The review process established under this subsection shall begin upon the appropriation of funds under subsection (k).

Applications, review.

Notifications.

(j) Nothing in this section shall be construed to limit or prohibit any Federal action ordered by a court of competent jurisdiction or directed by a Federal agency as essential for the protection of public health or safety, for national security or defense, or for the main-

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tenance of environmental values within the Pinelands National Reserve or the Federal Project Review Area.

Appropriation authorization.

(k) There is authorized to be appropriated not to exceed $26 million to carry out the provisions of this section. Not to exceed $3 million shall be available for planning: *Provided*, That any funds not used for planning shall be available for land acquisition; *Provided further*, That $23,000,000 shall be made available for land acquisition, as authorized by this section. Such appropriations may be made from the general fund of the Treasury or from revenues due and payable to the United States under the Outer Continental Shelf Lands Act, as amended, which would otherwise be credited to miscellaneous receipts.

43 USC 331 note.

EDGAR ALLAN POE NATIONAL HISTORIC SITE

Establishment. 16 USC 461 note.

SEC. 503. (a) In recognition of the literary importance attained by Edgar Allan Poe, there is hereby authorized to be established the Edgar Allan Poe National Historic Site.

Lands and buildings, acquisition.

(b) The Secretary is authorized to acquire by donation, purchase or exchange the lands and buildings within the area described in subsection (c). The lands and buildings acquired by the Secretary under this section shall comprise the Edgar Allan Poe National Historic Site and shall be administered by the Secretary through the National Park Service. The Secretary shall administer, maintain, protect, and develop the site subject to the provisions of law generally applicable to national historic sites.

Description.

(c) The lands and buildings specified in subsection (b) comprise that area of Philadelphia, Pennsylvania, known as the Poe House complex and includes the house at the rear of 530 North Seventh Street, the adjoining three-story brick residence on the front of the land backing up to and including the building at 532 North Seventh Street, and the North Garden of approximately seven thousand and eighty square feet and the South Garden of approximately nine thousand three hundred and fifty square feet.

Notice, publication in Federal Register.

(d) As soon as the Secretary finds that a substantial portion of the acquisition authorized under subsection (b) has been completed, he shall establish the Edgar Allan Poe National Historic Site by publication of notice thereof in the Federal Register.

Appropriation authorization.

(e) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this section.

SAINT PAUL'S CHURCH, EASTCHESTER

Property acquisition. 16 USC 461 note.

SEC. 504. (a) In order to preserve and protect Saint Paul's Church, Eastchester, in Mount Vernon, New York, for the benefit of present and future generations, the Secretary may accept any gift or bequest of any property or structure which comprises such church and any other real or personal property located within the square bounded by South Columbus Avenue, South Third Avenue, Edison Avenue, and South Fulton Avenue, in Mount Vernon, New York, including the cemetery located within such square and any real property located within such square which was at any time a part of the old village green, now in Mount Vernon, New York.

Administration.

(b) Any property acquired under subsection (a) shall be administered by the Secretary acting through the National Park Service, in accordance with this section and provisions of law generally applicable to units of the National Park System, including the Act approved August 25, 1916 (16 U.S.C. 1 and following) and the Act approved

August 21, 1935. The Secretary, in carrying out the provisions of such Acts (i) shall give particular attention to assuring the completion of such structural and other repairs as he considers necessary to restore and preserve any property acquired in accordance with this section, and (ii) may enter into cooperative agreements with other public or private entities for the management, protection, development, and interpretation, in whole or in part, of the property so acquired. 16 USC 461 note.

KALOKO-HONOKOHAU NATIONAL HISTORICAL PARK

SEC. 505. (a) In order to provide a center for the preservation, interpretation, and perpetuation of traditional native Hawaiian activities and culture, and to demonstrate historic land use patterns as well as to provide a needed resource for the education, enjoyment, and appreciation of such traditional native Hawaiian activities and culture by local residents and visitors, there is established the Kaloko-Honokohau National Historical Park (hereinafter in this section referred to as the "park") in Hawaii comprising approximately one thousand three hundred acres as generally depicted on the map entitled "Kaloko-Honokohau National Historical Park," numbered KHN-80,000, and dated May 1978, which shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior. Establishment and description. 16 USC 396d.

(b) Except for any lands owned by the State of Hawaii or its subdivisions, which may be acquired only by donation, the Secretary is authorized to acquire the lands described above by donation, exchange, or purchase through the use of donated or appropriated funds, notwithstanding any prior restriction of law. Land acquisition.

(c) The Secretary shall administer the park in accordance with this section and the provisions of law generally applicable to units of the national park system, including the Acts approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 461–467), and August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.), and generally in accordance with the guidelines provided in the study report entitled "Kaloko-Honokohau" prepared by the Honokohau Study Advisory Commission and the National Park Service, May 1974, GPO 690-514. Administration.

(d)(1) In administering the park the Secretary may provide traditional native Hawaiian accommodations.

(2) The Secretary shall consult with and may enter into a cooperative management agreement with the State of Hawaii for the management of the submerged lands within the authorized park boundary, following the marine management policies of the State of Hawaii. Cooperative management agreement.

(3) Commercial, recreational, and subsistence fishing and shoreline food gathering activities as well as access to and from the Honokohau small boat harbor by motor boats and other water craft shall be permitted wherever such activities are not inconsistent with the purposes for which the park is established, subject to regulation by the Secretary.

(4) The Secretary shall consult with and may enter into agreements with other governmental entities and private landowners to establish adequate controls on air and water quality and the scenic and esthetic values of the surrounding land and water areas. In consulting with and entering into any such agreements, the Secretary shall to the maximum extent feasible utilize the traditional native Hawaiian Ahupua's concept of land and water management. Agreements, consultation.

(e) In carrying out the purposes of this section the Secretary is authorized and directed as appropriate to employ native Hawaiians.

Native Hawaiians.

For the purposes of this section, native Hawaiians are defined as any lineal descendants of the race inhabiting the Hawaiian Islands prior to the year 1778.

Kaloko-Honokohau Na Hoa Pili O Kaloko-Honokohau. Establishment. Membership.

(f)(1) There is hereby established the Kaloko-Honokohau Na Hoa Pili O Kaloko-Honokohau (The Friends of Kaloko-Honokohau), an Advisory Commission for the park. The Commission shall be composed of nine members, appointed by the Secretary, at least five of whom shall be selected from nominations provided by native Hawaiian organizations. All members of the Commission shall be residents of the State of Hawaii, and at least six members shall be native Hawaiians. Members of the Commission shall be appointed for five-year terms except that initial appointment(s) shall consist of two members appointed for a term of five years, two for a term of four years, two for a term of three years, two for a term of two years, and one for a term of one year. No member may serve more than one term consecutively.

Chairman.

(2) The Secretary shall designate one member of the Commission to be Chairman. Any vacancy in the Commission shall be filled by appointment for the remainder of the term.

Compensation and expenses.

(3) Members of the Commission shall serve without compensation. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this section on vouchers signed by the Chairman.

(4) The Superintendent of the park, the National Park Service State Director, Hawaii, a person appointed by the Governor of Hawaii, and a person appointed by the mayor of the county of Hawaii, shall serve as ex officio nonvoting members of the Commission.

Duties.

(5) The Commission shall advise the Director, National Park Service, with respect to the historical, archeological, cultural, and interpretive programs of the park. The Commission shall afford particular emphasis to the quality of traditional native Hawaiian culture demonstrated in the park.

Meetings.

(6) The Commission shall meet not less than twice a year. Additional meetings may be called by the Chairman.

Termiuation.

(7) The Advisory Commission shall terminate ten years after the date of enactment of this Act.

Appropriation authorization.

(g) There are hereby authorized to be appropriated not to exceed $25,000,000 for acquisition and $1,000,000 for development.

PALO ALTO BATTLEFIELD NATIONAL HISTORIC SITE

Establishment. 16 USC 461 note.

SEC. 506. (a) In order to preserve and commemorate for the benefit and enjoyment of present and future generations an area of unique historical significance as one of only two important battles of the Mexican War fought on American soil, the Secretary is authorized to establish the Palo Alto Battlefield National Historic Site in the State of Texas.

Lands and interests, acquisition.

(b) For the purposes of this section, the Secretary is authorized to acquire by donation, purchase, or exchange, not to exceed fifty acres of lands and interests therein, comprising the initial unit, in the vicinity of the site of the battle of Palo Alto, at the junction of Farm Roads 1847 and 511, 6.3 miles north of Brownsville, Texas. The Secretary shall complete a study and recommend to the Congress such additions as are required to fully protect the historic integrity of the battlefield by June 30, 1979. The Secretary shall establish the historic site by publication of a notice to that effect in the Federal

Study and recommendations to Congress.

Publication in Federal Register.

Register at such time as he determines that sufficient property to constitute an administrable unit has been acquired. Pending such establishment and thereafter, the Secretary shall administer the property acquired pursuant to this section in accordance with this section and provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535) and the Act of August 21, 1935 (49 Stat. 666).

Administration.

16 USC 1 *et seq.*
16 USC 461 note.

(c) There are authorized to be appropriated such sums as may be necessary for lands and interests in lands and $200,000 for development to carry out the provisions of this section.

Appropriation authorizations.

SANTA MONICA MOUNTAINS NATIONAL RECREATION AREA

SEC. 507. (a) The Congress finds that—

16 USC 460kk.

(1) there are significant scenic, recreational, educational, scientific, natural, archeological, and public health benefits provided by the Santa Monica Mountains and adjacent coastline area;

(2) there is a national interest in protecting and preserving these benefits for the residents of and visitors to the area; and

(3) the State of California and its local units of government have authority to prevent or minimize adverse uses of the Santa Monica Mountains and adjacent coastline area and can, to a great extent, protect the health, safety, and general welfare by the use of such authority.

(b) There is hereby established the Santa Monica Mountains National Recreation Area (hereinafter referred to as the "recreation area"). The Secretary shall manage the recreation area in a manner which will preserve and enhance its scenic, natural, and historical setting and its public health value as an airshed for the Southern California metropolitan area while providing for the recreational and educational need of the visiting public.

Establishment.

Management.

(c)(1) The recreation area shall consist of the lands and waters and interests generally depicted as the recreation area on the map entitled "Boundary Map, Santa Monica Mountains National Recreation Area, California, and Santa Monica Mountains Zone", numbered SMM-NRA 80,000, and dated May 1978, which shall be on file and available for inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia, and in the offices of the General Services Administration in the Federal Office Building in West Los Angeles, California, and in the main public library in Ventura, California. After advising the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, in writing, the Secretary may make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register.

Description.

Boundary revisions, notice to congressional committees and publication in Federal Register.

(2) Not later than ninety days after the date of enactment of this Act, the Secretary, after consultation with the Governor of the State of California, the California Coastal Commission, and the Santa Monica Mountains Comprehensive Planning Commission, shall commence acquisition of lands, improvements, waters, or interests therein within the recreation area. Such acquisition may be by donation, purchase with donated or appropriated funds, transfer from any Federal agency, exchange, or otherwise. Any lands or interests therein owned by the State of California or any political subdivision thereof (including any park district or other public entity) may be acquired only by

Lands, waters, and interests, acquisition and consultation.

donation, except that such lands acquired after the date of enactment of this section by the State of California or its political subdivisions may be acquired by purchase or exchange if the Secretary determines that the lands were acquired for purposes which further the national interest in protecting the area and that the purchase price or value on exchange does not exceed fair market value on the date that the State acquired the land or interest: *Provided, however*, That the value of any lands acquired by the Secretary under the exception in this sentence shall be deducted from the amount of moneys available for grants to the State under subsection (n) of this section. Notwithstanding any other provision of law, any Federal property located within the boundaries of the recreation area shall, with the concurrence of the head of the agency having custody thereof, be transferred without cost, to the administrative jurisdiction of the Secretary for the purposes of the recreation area.

Federal property, transferral.

Site transferral.

(3) The Administrator of the General Services Administration is hereby authorized and directed to transfer the site generally known as Nike Site 78 to the Secretary for inclusion in the recreation area: *Provided*, That the county of Los Angeles shall be permitted to continue to use without charge the facilities together with sufficient land as in the determination of the Secretary shall be necessary to continue to maintain and operate a fire suppression and training facility and shall be excused from payment for any use of the land and facilities on the site prior to the enactment of this Act. At such time as the county of Los Angeles, California, relinquishes control of such facilities and adjacent land or ceases the operation of the fire suppression and training facility, the land and facilities shall be managed by the Secretary as a part of the recreation area.

Lands, waters, and interests, identification.

(d) (1) Within six months after the date of enactment of this Act, the Secretary shall identify the lands, waters, and interests within the recreation area which must be acquired and held in public ownership for the following critical purposes: preservation of beaches and coastal uplands; protection of undeveloped inland stream drainage basins; connection of existing State and local government parks and other publicly owned lands to enhance their potential for public recreation use; protection of existing park roads and scenic corridors, including such right-of-way as is necessary for the protection of the Mulholland Scenic Parkway Corridor; protection of the public health and welfare; and development and interpretation of historic sites and recreation areas in connection therewith, to include, but not be limited to, parks, picnic areas, scenic overlooks, hiking trails, bicycle trails, and equestrian trails. The Secretary may from time to time revise the identification of such areas, and any such revisions shall become effective in the same manner as herein provided for revisions in the boundaries of the recreation area.

Revisions.

Plan, submittal to congressional committees.

(2) By January 1, 1980, the Secretary shall submit, in writing, to the committees referred to in subsection (c) and to the Committees on Appropriations of the United States Congress a detailed plan which shall indicate—

(A) the lands and areas identified in paragraph (1),

(B) the lands which he has previously acquired by purchase, donation, exchange, or transfer for the purpose of this recreation area,

(C) the annual acquisition program (including the level of funding) recommended for the ensuing five fiscal years, and

(D) the final boundary map for the recreation area.

(e) With respect to improved properties, as defined in this section, fee title shall not be acquired unless the Secretary finds that such lands are being used, or are threatened with uses, which are detrimental to the purposes of the recreation area, or unless each acquisition is necessary to fulfill the purposes of this section. The Secretary may acquire scenic easements to such improved property or such other interests as, in his judgment are necessary for the purposes of the recreation area. Improved properties, acquisition. Scenic easements.

(f) For the purposes of this section, the term "improved property" means— Definition.

(1) a detached single-family dwelling, the construction of which was begun before January 1, 1976 (hereafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated as is in the same ownership as the dwelling and as the Secretary designates to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, and

(2) property developed for agricultural uses, together with any structures accessory thereto as were used for agricultural purposes on or before January 1, 1978.

In determining when and to what extent a property is to be treated as "improved property" for purposes of this section, the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1978, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed prior to such date. Designation.

(g) The owner of an improved property, as defined in this section, on the date of its acquisition, as a condition of such acquisition, may retain for herself or himself, her or his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential or agriculture purposes, as the case may be, for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of her or his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this section, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired. Use and occupancy rights, retention. Payment. Termination, notification.

(h) In exercising the authority to acquire property under this section, the Secretary shall give prompt and careful consideration to any offer made by an individual owning property within the recreation area to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship.

(i) The Secretary shall administer the recreation area in accordance with this Act and provisions of laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.). In the administration of the recreation area, the Secretary may utilize such statutory authority Administration.

available for the conservation and management of wildlife and natural resources as appropriate to carry out the purpose of this section. The fragile resource areas of the recreation area shall be administered on a low-intensity basis, as determined by the Secretary.

Cooperative agreements.

(j) The Secretary may enter into cooperative agreements with the State of California, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

Donations.

(k) Notwithstanding any other provision of law, the Secretary is authorized to accept donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of land acquisition and providing services and facilities which the Secretary deems consistent with the purposes of this section.

Report.

(l) By January 1, 1981, the Santa Monica Mountains National Recreation Area Advisory Commission, established by this section, shall submit a report to the Secretary which shall—

(1) assess the capability and willingness of the State of California and the local units of government to manage and operate the recreation area,

(2) recommend any changes in ownership, management, and operation which would better accomplish the purposes of this section, and

(3) recommend any conditions, joint management agreements, or other land use mechanisms to be contingent on any transfer of land.

Report to congressional committees.

(m) The Secretary, after giving careful consideration to the recommendations set forth by the Advisory Commission, shall, by January 1, 1982, submit a report to the Committees referred to in subsection (c) which shall incorporate the recommendations of the Advisory Commission as well as set forth the Secretary's recommendations. Such report shall—

(1) assess the benefits and costs of continued management as a unit of the National Park System,

(2) assess the capability and willingness of the State of California and the local units of government to manage and operate the recreation area, and

(3) recommend any changes in ownership, management, and operation which would better accomplish the purposes of this section.

Comprehensive plan.

(n)(1) The Secretary shall request the Santa Monica Mountains Comprehensive Planning Commission to submit a comprehensive plan, prepared in accord with this section and title 7.75 of the California Government Code (commencing with section 67450), for the Santa Monica Mountains Zone generally depicted on the map referred to in subsection (c) of this section for approval.

(2) The comprehensive plan shall include, in addition to the requirements of California State law—

(A) an identification and designation of public and private uses which are compatible with and which would not significantly impair the significant scenic, recreational, educational, scientific, natural, archeological, and public health benefits present in the zone and which would not have an adverse impact on the recreation area or on the air quality of the south coast air basin;

(B) a specific minimum land acquisition program which shall include, but not be limited to, fee and less than fee acquisition

of strategic and critical sites not to be acquired by the Federal Government for public recreational and other related uses; and a program for the complementary use of State and local authority to regulate the use of lands and waters within the Santa Monica Mountains Zone to the fullest extent practicable consistent with the purposes of this section; and

(C) a recreation transportation system which may include but need not be limited to existing public transit.

(3) No plan submitted to the Secretary under this section shall be approved unless the Secretary finds the plan consistent with paragraph (2) and finds that—

(A) the planning commission has afforded adequate opportunity, including public hearings, for public involvement in the preparation and review of the plan, and public comments were received and considered in the plan or revision as presented to him;

(B) the State and local units of government identified in the plan as responsible for implementing its provisions have the necessary authority to implement the plan and such State and local units of government have indicated their intention to use such authority to implement the plan;

(C) the plan, if implemented, would preserve significant natural, historical, and archeological benefits and, consistent with such benefits, provide increased recreational opportunities for persons residing in the greater Los Angeles-southern California metropolitan area; and

(D) implementation of the plan would not have a serious adverse impact on the air quality or public health of the greater Los Angeles region.

Consultation with EPA.

Before making his findings on the air quality and public health impacts of the plan, the Secretary shall consult with the Administrator of the Environmental Protection Agency.

(4) Following approval of the plan with respect to the Santa Monica Mountains Zone, upon receipt of adequate assurances that all aspects of that jurisdiction's implementation responsibilities will be adopted and put into effect, the Secretary shall—

Grants.

(A) provide grants to the State and through the State to local governmental bodies for acquisition of lands, waters, and interests therein identified in paragraph (2)(B), and for development of essential public facilities, except that such grants shall be made only for the acquisition of lands, waters, and interests therein, and related essential public facilities, for park, recreation, and conservation purposes; and

Funds.

(B) provide, subject to agreements that in the opinion of the Secretary will assure additional preservation of the lands and waters of the zone, such funds as may be necessary to retire bonded indebtedness for water and sewer and other utilities already incurred by property owners which in the opinion of the Secretary would if left outstanding contribute to further development of the zone in a manner inconsistent with the approved plan developed by the planning commission.

Assurance requirements.

No grant for acquisition of land may be made under subparagraph (A) unless the Secretary receives satisfactory assurances that such lands acquired under subparagraph (A) shall not be converted to other than park, recreation, and conservation purposes without the approval of the Secretary and without provision for suitable replacement land.

Grant requirements.

(5) Grants under this section shall be made only upon application of the recipient State and shall be in addition to any other Federal financial assistance for any other program, and shall be subject to such terms and conditions as the Secretary deems necessary to carry out the purposes of this section. Any jurisdiction that implements changes to the approved plan which are inconsistent with the purposes of this section, or adopts or acquiesces in changes to laws regulations or policies necessary to implement or protect the approved plan, without approval of the Secretary, may be liable for reimbursement of all funds previously granted or available to it under the terms of this section without regard to such additional terms and conditions or other requirements of law that may be applicable to such grants. During the life of the planning commission, changes to the plan must be submitted by the planning commission to the Secretary for approval. No such application for a grant may be made after the date five years from the date of the Secretary's approval of the plan.

Plan changes.

Comments.

(o) The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in the lands and waters within the Santa Monica Mountains Zone, generally depicted on the map referred to in subsection (c), and the head of any Federal agency having authority to license or permit any undertaking in such lands and waters shall, prior to the approval of the expenditure of any Federal funds on such undertaking or prior to the issuance of any license or permit, as the case may be, afford the Secretary a reasonable opportunity to comment with regard to such undertaking and shall give due consideration to any comments made by the Secretary and to the effect of such undertaking on the "findings" and purposes of this section.

(p) The Secretary shall give full consideration to the recommendations of the California Department of Parks and Recreation, the Santa Monica Mountains Comprehensive Planning Commission, and the California Coastal Commission.

Santa Monica Mountains National Recreation Area Advisory Commission. Establishment. Membership.

(q)(1) There is hereby established the Santa Monica Mountains National Recreation Area Advisory Commission (hereinafter referred to as the "Advisory Commission"). The Advisory Commission shall terminate ten years after the date of establishment of the recreation area.

(2) The Advisory Commission shall be composed of the following members to serve for terms of five years as follows:

(A) one member appointed by the Governor of the State of California;

(B) one member appointed by the mayor of the city of Los Angeles;

(C) one member appointed by the Board of Supervisors of Los Angeles County;

(D) one member appointed by the Board of Supervisors of Ventura County; and

(E) five members appointed by the Secretary, one of whom shall serve as the Commission Chairperson.

Meetings. Notice, publication in newspapers.

(3) The Advisory Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area. Commission meetings shall be held at locations and in such a manner as to insure adequate public involvement. Such locations shall be in the region of the Santa Monica Mountains and no more than twenty-five miles from it.

(4) Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairperson. Compensation and expenses.

(5) The Secretary, or his or her designee, shall from time to time but at least semiannually, meet and consult with the Advisory Commission on matters relating to the development of this recreation area and with respect to carrying out the provisions of this section. Consultation.

(r) There are authorized to be appropriated such sums as may be necessary for acquisition of lands and interests in land within the boundaries of the recreation area established under this section, but not more than $15,000,000 for fiscal year 1979, $40,000,000 for fiscal year 1980, $45,000,000 for fiscal year 1981, $10,000,000 for fiscal year 1982, and $15,000,000 for fiscal year 1983, such sums to remain available until expended. For grants to the State pursuant to subsection (n) there are authorized to be appropriated not more than $10,000,000 for fiscal year 1979, $10,000,000 for fiscal year 1980, $5,000,000 for fiscal year 1981, and $5,000,000 for fiscal year 1982, such sums to remain available until expended. For the authorizations made in this subsection, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years. Appropriation authorization.

(s) For the development of essential public facilities in the recreation area there are authorized to be appropriated not more than $500,000. The Congress expects that, at least until assessment of the report required by subsection (t), any further development of the area shall be accomplished by the State of California or local units of government, subject to the approval of the Director, National Park Service.

(t) Within two years from the date of establishment of the recreation area pursuant to this section, the Secretary shall, after consulting with the Advisory Commission, develop and transmit to the Committees referred to in subsection (c) a general management plan for the recreation area consistent with the objectives of this section. Such plan shall indicate— Management plan, transmittal to Congress.

(1) a plan for visitor use including the facilities needed to accommodate the health, safety, education and recreation needs of the public;

(2) the location and estimated costs of all facilities;

(3) the projected need for any additional facilities within the area;

(4) any additions or alterations to the boundaries of the recreation area which are necessary or desirable to the better carrying out of the purposes of this section; and

(5) a plan for preservation of scenic, archeological and natural values and of fragile ecological areas.

EBEY'S LANDING NATIONAL HISTORICAL RESERVE

SEC. 508. (a) There is hereby established the Ebey's Landing National Historical Reserve (hereinafter referred to as the "reserve"), in order to preserve and protect a rural community which provides an unbroken historical record from nineteenth century exploration and settlement in Puget Sound to the present time, and to commemorate— Establishment. 16 USC 461 note.

(1) the first thorough exploration of the Puget Sound area, by Captain George Vancouver, in 1792;

(2) settlement by Colonel Isaac Neff Ebey who led the first permanent settlers to Whidbey Island, quickly became an important figure in Washington Territory, and ultimately was killed by Haidahs from the Queen Charlotte Islands during a period of Indian unrest in 1857;

(3) early active settlement during the years of the Donation Land Law (1850–1855) and thereafter; and

9 Stat. 496; 10 Stat. 158, 305.

(4) the growth since 1883 of the historic town of Coupeville.

The reserve shall include the area of approximately eight thousand acres identified as the Central Whidbey Island Historic District.

Comprehensive plan.

(b)(1) To achieve the purpose of this section, the Secretary, in cooperation with the appropriate State and local units of general government, shall formulate a comprehensive plan for the protection, preservation, and interpretation of the reserve. The plan shall identify those areas or zones within the reserve which would most appropriately be devoted to—

(A) public use and development;

(B) historic and natural preservation; and

(C) private use subject to appropriate local zoning ordinances designed to protect the historical rural setting.

Transmittal to President of the Senate and Speaker of the House.

(2) Within eighteen months following the date of enactment of this section, the Secretary shall transmit the plan to the President of the Senate and the Speaker of the House of Representatives.

(c) At such time as the State or appropriate units of local government having jurisdiction over land use within the reserve have enacted such zoning ordinances or other land use controls which in the judgment of the Secretary will protect and preserve the historic and natural features of the area in accordance with the comprehensive plan, the Secretary may, pursuant to cooperative agreement—

Management and administration.

(1) transfer management and administration over all or any part of the property acquired under subsection (d) of this section to the State or appropriate units of local government;

Assistance.

(2) provide technical assistance to such State or unit of local government in the management, protection, and interpretation of the reserve; and

Grants.

(3) make periodic grants, which shall be supplemental to any other funds to which the grantee may be entitled under any other provision of law, to such State or local unit of government for the annual costs of operation and maintenance, including but not limited to, salaries of personnel and the protection, preservation, and rehabilitation of the reserve except that no such grant may exceed 50 per centum of the estimated annual cost, as determined by the Secretary, of such operation and maintenance.

Lands and interests, acquisition.

(d) The Secretary is authorized to acquire such lands and interests as he determines are necessary to accomplish the purposes of this section by donation, purchase with donated funds, or exchange, except that the Secretary may not acquire the fee simple title to any land without the consent of the owner. The Secretary shall, in addition, give prompt and careful consideration to any offer made by an individual owning property within the historic district to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship.

Administration.

Lands and interests therein so acquired shall, so long as responsibility for management and administration remains with the United States, be administered by the Secretary subject to the provisions of

the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and in a manner consistent with the purpose of this section. 16 USC 1 *et seq.*

(e) If, after the transfer of management and administration of any lands pursuant to subsection (c) of this section, the Secretary determines that the reserve is not being managed in a manner consistent with the purposes of this section, he shall so notify the appropriate officers of the State or local unit of government to which such transfer was made and provide for a ninety-day period in which the transferee may make such modifications in applicable laws, ordinances, rules, and procedures as will be consistent with such purposes. If, upon the expiration of such ninety-day period, the Secretary determines that such modifications have not been made or are inadequate, he shall withdraw the management and administration from the transferee and he shall manage such lands in accordance with the provisions of this section. Determination and notification. Withdrawal.

(f) There is hereby authorized to be appropriated not to exceed $5,000,000 to carry out the provisions of this section. Appropriation authorization.

FRIENDSHIP HILL NATIONAL HISTORIC SITE

SEC. 509. (a) The Secretary is authorized to establish the Friendship Hill National Historic Site in the State of Pennsylvania, including the former home of Albert Gallatin, as depicted on the map entitled "FRHI–80000" dated February 1978. Said map shall be on file and available for public inspection in the offices of the Director, National Park Service, Washington, District of Columbia. The Secretary is authorized to acquire such land, improvements, and any personal property of cultural and historical value thereon by donation, purchase with donated or appropriated funds, or exchange. Establishment. 16 USC 461 note. Acquisitions.

(b) Pending establishment of the site and thereafter the Secretary shall administer property acquired pursuant to this section in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467), as amended. Administration.

(c)(1) There are hereby authorized to be appropriated from the Land and Water Conservation Fund, such sums as may be necessary to carry out the purposes of this section. Appropriation authorization.

(2) For the development of essential facilities there are authorized to be appropriated for the fiscal year ending September 30, 1980, and for succeeding fiscal years, such sums as may be necessary to carry out the purposes of this section, but not to exceed $100,000. Within three years from the effective date of this section, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a general management plan for the use and development of the site consistent with the purposes of this section, indicating— General management plan, transmittal to congressional committees.

(A) the lands and interests in lands adjacent or related to the site which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this section and the estimated cost thereof;

(B) the number of visitors and types of public use within the site which can be accommodated in accordance with the protection of its resources; and

(C) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses.

THOMAS STONE NATIONAL HISTORIC SITE

Home and grounds, acquisition.

SEC. 510. (a) The Secretary is authorized to acquire by donation, exchange, or purchase with donated or appropriated funds, the Thomas Stone home and grounds, known as Habre-de-Venture, located on Rose Hill Road near La Plata in Charles County, Maryland, for establishment as the Thomas Stone National Historic Site.

Notice, publication in Federal Register.

Administration.

(b) The national historic site shall be established by the Secretary by the publication of notice to that effect in the Federal Register at such time that he determines he has sufficient ownership to constitute an administrable unit. After such publication, the site shall be administered by the Secretary pursuant to the provisions of this section and the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

Appropriation authorization.

(c) To carry out the purposes of this section, there is hereby authorized to be appropriated not to exceed $600,000 for the acquisition of lands and interests therein and not to exceed $400,000 for development.

MAGGIE L. WALKER NATIONAL HISTORIC SITE

Establishment. 16 USC 461 note.

SEC. 511. (a) The Secretary is authorized to establish the Maggie L. Walker National Historic Site (hereinafter in this section referred to as the "historic site") in the city of Richmond, Virginia.

Description.

(b) The historic site shall comprise the area extending east from the western boundary of the Maggie L. Walker House at 113 East Leigh Street in Richmond, Virginia, to Third Street and extending north from an east-west line which coincides with the front property line of such house to an east-west line which coincides with the north side of the alleyway immediately at the rear of such house. Following timely notice in writing to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of his intention to do so, the Secretary may make minor revisions in the boundaries of the historic site by publication of a map or other revised boundary description in the Federal Register.

Boundary revisions, notice to congressional committees and publication in Federal Register.

(c) Within the boundaries of the historic site, the Secretary may acquire lands and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency. Any property within such boundaries owned by the State of Virginia or any political subdivision thereof may be acquired only by donation.

Notice, publication in Federal Register.

Administration.

(d) When the Secretary determines that lands and interests therein have been acquired in an amount sufficient to constitute an administerable unit, he shall establish the historic site by publication of a notice to that effect in the Federal Register. Pending such establishment and thereafter, the Secretary shall administer the historic site in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1, 2–4), and the Act of August 21, 1935 (49 Stat. 666), as amended (16 U.S.C. 461 et seq.). Funds available for the historic site shall be available for restoration and rehabilitation of properties therein in accordance with cooperative agreements entered into pursuant to section 2(e) of the Act of August 21, 1935, supra.

Appropriation authorization.

(e)(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not more than $795,000 for acquisition of lands and interests in land and not more than $500,000 for the development of essential facilities.

(2) Within three complete fiscal years from the date of enactment of this section, the Secretary shall develop and transmit to the Committees referred to in subsection (b) a general management plan for the historic site consistent with the purposes of this section. Such plan shall indicate— Plan, transmittal to congressional committees.

(i) facilities needed to accommodate the health, safety, and educational needs of the public;

(ii) the location and estimated cost of all facilities; and

(iii) the projected need for any additional facilities.

CROW CREEK VILLAGE ARCHEOLOGICAL SITE

SEC. 512. (a) The Secretary shall prepare and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives within two years from the date of enactment, a feasibility/suitability study of the Crow Creek Village archeological site, Buffalo County, South Dakota, as a unit of the National Park System. The study shall include cost estimates for any necessary acquisition, development, operation and maintenance, as well as any feasibile alternatives for the administration and protection of the area, including, but not limited to, Federal financial and technical assistance to the State of South Dakota, Buffalo County or other suitable entity. Feasibility/suitability study, transmittal to congressional committees. 16 USC 1a-5 note. Cost estimates.

(b) Notwithstanding any other provision of law, the Secretary of the Army is directed to take such actions as may be necessary to preserve and protect such site from any adverse impact on the site and to refrain from any activities which might cause such impact until two years from the date of submission of the study by the Secretary. Site preservation.

Subtitle B—Trails

SEC. 551. The National Trails System Act (82 Stat. 919; 16 U.S.C. 1241), as amended, is further amended as follows:

(1) In section 2(a) after "promote" insert "the preservation of,"; and after "outdoor areas" insert "and historic resources". 16 USC 1241.

(2) In section 2(a) delete "(ii)" and the remainder of the sentence and insert "(ii) secondarily, within scenic areas and along historic travel routes of the Nation, which are often more remotely located.".

(3) In section 2(b) delete "and scenic" and insert ", scenic and historic".

(4) In section 3 redesignate subsection "(c)" as "(d)", and insert a new subsection (c) as follows: National historic trails.

"(c) National historic trails, established as provided in section 5 of this Act, which will be extended trails which follow as closely as possible and practicable the original trails or routes of travel of national historical significance. Designation of such trails or routes shall be continuous, but the established or developed trail, and the acquisition thereof, need not be continuous onsite. National historic trails shall have as their purpose the identification and protection of the historic route and its historic remnants and artifacts for public use and enjoyment. Only those selected land and water based components of an historic trail which are on federally owned lands and which meet the national historic trail criteria established in this Act, are established as initial Federal protection components of a national historic trail. The appropriate Secretary may subsequently certify other lands as protected segments of an historic trail upon application from State or local governmental agencies or private interests involved 16 USC 1242. 16 USC 1244. Proteeted segments, certification.

if such segments meet the national historic trail criteria established in this Act and such criteria supplementary thereto as the appropriate Secretary may prescribe, and are administered by such agencies or interests without expense to the United States.".

Ante, p. 3511.
16 USC 1242.

(5) In the new section 3(d) delete "or national scenic" and insert ", national scenic or national historic".

(6) Change the title of section 5 to read "NATIONAL SCENIC AND NATIONAL HISTORIC TRAILS".

Establishments.
16 USC 1244.

(7) In section 5(a), insert in the first sentence after the word "scenic" the words "and national historic" and change the second sentence to read: "There are hereby established the following National Scenic and National Historic Trails:".

(8) In section 5(a)(1), in the first sentence, after the word "Appalachian", insert "National Scenic", and in section 5(a)(2), in the first sentence, after "Pacific Crest", insert "National Scenic".

(9) In section 5(a), delete paragraph (3) and insert in lieu the following new paragraphs:

Oregon National Historic Trail.

"(3) The Oregon National Historic Trail, a route of approximately two thousand miles extending from near Independence, Missouri, to the vicinity of Portland, Oregon, following a route as depicted on maps identified as 'Primary Route of the Oregon Trail 1841–1848', in the Department of the Interior's Oregon Trail study report dated April 1977, and which shall be on file and available for public inspection in the office of the Director of the National Park Service. The trail shall be administered by the Secretary of the Interior.

Mormon Pioneer National Historic Trail.

"(4) The Mormon Pioneer National Historic Trail, a route of approximately one thousand three hundred miles extending from Nauvoo, Illinois, to Salt Lake City, Utah, following the primary historical route of the Mormon Trail as generally depicted on a map, identified as, 'Mormon Trail Vicinity Map, figure 2' in the Department of the Interior Mormon Trail study report dated March 1977, and which shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.

Continental Divide National Scenic Trail.

"(5) The Continential Divide National Scenic Trail, a trail of approximately thirty-one hundred miles, extending from the Montana-Canada border to the New Mexico-Mexico border, following the approximate route depicted on the map, identified as 'Proposed Continental Divide National Scenic Trail' in the Department of the Interior Continental Divide Trail study report dated March 1977 and which shall be on file and available for public inspection in the office of the Chief, Forest Service, Washington, D.C. The Continental Divide National Scenic Trail shall be administered by the Secretary of Agriculture in consultation with the Secretary of the Interior. Notwithstanding the provisions of section 7(c), the use of motorized vehicles on roads which will be designated segments of the Continental Divide National Scenic Trail shall be permitted in accordance with regulations prescribed by the appropriate Secretary.

16 USC 1246.

Lewis and Clark National Historic Trail.

"(6) The Lewis and Clark National Historic Trail, a trail of approximately three thousand seven hundred miles, extending from Wood River, Illinois, to the mouth of the Columbia River in Oregon, following the outbound and inbound routes of the Lewis and Clark Expedition depicted on maps identified as, 'Vicinity Map, Lewis and Clark Trail' study report dated April 1977. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.

"(7) The Iditarod National Historic Trail, a route of approximately two thousand miles extending from Seward, Alaska, to Nome, Alaska, following the routes as depicted on maps identified as 'Seward-Nome Trail', in the Department of the Interior's study report entitled 'The Iditarod Trail (Seward-Nome Route) and other Alaskan Gold Rush Trails' dated September 1977. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.". Iditarod National Historic Trail.

(10) In section 5(b) after "national scenic" wherever it appears insert "or national historic"; in the first sentence after the phrase "Secretary of the Interior," insert "through the agency most likely to administer such trail,"; delete the third sentence; and delete that portion of the fourth sentence which precedes the numerical listing, and insert in lieu the following: "The studies listed in subsection (c) of this section shall be completed and submitted to the Congress, with recommendations as to the suitability of trail designation, not later than three complete fiscal years from the date of enactment of their addition to this subsection, or from the date of enactment of this sentence, whichever is later. Such studies, when submitted, shall be printed as a House or Senate document, and shall include, but not be limited to:". 16 USC 1244. Studies, submittal to Congress.

(11) In section 5(b)(3) after the semicolon add "and in the case of national historic trails the report shall include the recommendation of the Secretary of the Interior's National Park System Advisory Board as to the national historic significance based on the criteria developed under the Historic Sites Act of 1935 (49 Stat. 666; U.S.C. 461);". Recommendations, inclusion.

(12) In section 5(b)(8) delete the word "and" at the end of the sentence; in section 5(b)(9) change the period at the end of the sentence to a semicolon; and at the end of section 5(b) add the following new paragraphs: Additional trails proposals and report, provisions.

"(10) the anticipated impact of public outdoor recreation use on the preservation of a proposed national historic trail and its related historic and archeological features and settings, including the measures proposed to ensure evaluation and preservation of the values that contribute to their national historic significance; and

"(11) to qualify for designation as a national historic trail, a trail must meet all three of the following criteria:

"(A) It must be a trail or route established by historic use and must be historically significant as a result of that use. The route need not currently exist as a discernible trail to qualify, but its location must be sufficiently known to permit evaluation of public recreation and historical interest potential. A designated trail should generally accurately follow the historic route, but may deviate somewhat on occasion of necessity to avoid difficult routing through subsequent development, or to provide some route variation offering a more pleasurable recreational experience. Such deviations shall be so noted on site. Trail segments no longer possible to travel by trail due to subsequent development as motorized transportation routes may be designated and marked onsite as segments which link to the historic trail.

"(B) It must be of national significance with respect to any of several broad facets of American history, such as

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Nationally significant, qualifications.

trade and commerce, migration and settlement, or military campaigns. To qualify as nationally significant, historic use of the trail must have had a far-reaching effect on broad patterns of American culture. Trails significant in the history of native Americans may be included.

"(C) It must have significant potential for public recreational use or historical interest based on historic interpretation and appreciation. The potential for such use is generally greater along roadless segments developed as historic trails, and at historic sites associated with the trail. The presence of recreation potential not related to historic appreciation is not sufficient justification for designation under this category.".

16 USC 1244.

(13) In section 5(c), add the following at the end thereof:

"(20) Overmountain Victory Trail, extending from the vicinity of Elizabethton, Tennessee, to Kings Mountain National Military Park, South Carolina.".

Trail advisory councils, establishments.

(14) In section 5 delete subsection (d), and insert a new section 5(d) to read as follows:

"(d) The Secretary charged with the administration of each respective trail shall, within one year of the date of the addition of any national scenic or national historic trail to the System, and within sixty days of the enactment of this sentence for the Appalachian and Pacific Crest National Scenic Trails, establish an advisory council for each such trail, each of which councils shall expire ten years from the date of its establishment. The appropriate Secretary shall consult with such council from time to time with respect to matters relating to the trail, including the selection of rights-of-way, standards for the erection and maintenance of markers along the trail, and the administration of the trail. The members of each advisory council, which shall not exceed thirty-five in number, shall serve for a term of two years and without compensation as such, but the Secretary may pay, upon vouchers signed by the chairman of the council, the expenses reasonably incurred by the council and its members in carrying out their responsibilities under this section.

Term and compensation.

Membership.

Members of each council shall be appointed by the appropriate Secretary as follows:

"(i) a member appointed to represent each Federal department or independent agency administering lands through which the trail route passes, and each appointee shall be the person designated by the head of such department or agency;

"(ii) a member appointed to represent each State through which the trail passes, and such appointments shall be made from recommendations of the Governors of such States;

"(iii) one or more members appointed to represent private organizations, including corporate and individual landowners and land users, which in the opinion of the Secretary, have an established and recognized interest in the trail, and such appointments shall be made from recommendations of the heads of such organizations: *Provided*, That the Appalachian Trail Conference shall be represented by a sufficient number of persons to represent the various sections of the country through which the Appalachian Trail passes; and

Chairman.

"(iv) the Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.".

(15) In section 5 add two new subsections (e) and (f) as follows:

16 USC 1244. Comprehensive plan, consultation and submittal to congressional committees.

"(e) Within two complete fiscal years of the date of enactment of legislation designating a national scenic trail, except for the Continental Divide National Scenic Trail, as part of the system, and within two complete fiscal years of the date of enactment of this subsection for the Pacific Crest and Appalachian Trails, the responsible Secretary shall, after full consultation with affected Federal land managing agencies, the Governors of the affected States, the relevant advisory council established pursuant to section 5(d), and the Appalachian Trail Conference in the case of the Appalachian Trail, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan for the acquisition, management, development, and use of the trail, including but not limited to, the following items:

Ante, p. 3514.

"(1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved (along with high potential historic sites and high potential route segments in the case of national historic trails), details of anticipated cooperative agreements to be consummated with other entities, and an identified carrying capacity of the trail and a plan for its implementation;

"(2) an acquisition or protection plan, by fiscal year, for all lands to be acquired by fee title or lesser interest, along with detailed explanation of anticipated necessary cooperative agreements for any lands not to be acquired; and

"(3) general and site-specific development plans including anticipated costs.

Comprehensive plan, consultation and submittal to congressional committees.

"(f) Within two complete fiscal years of the date of enactment of legislation designating a national historic trail or the Continental Divide National Scenic Trail as part of the system, the responsible Secretary shall, after full consultation with affected Federal land managing agencies, the Governors of the affected States, and the relevant Advisory Council established pursuant to section 5(d) of this Act, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan for the management, and use of the trail, including but not limited to, the following items:

"(1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved, details of any anticipated cooperative agreements to be consummated with State and local government agencies or private interests, and for national scenic or national recreational trails an identified carrying capacity of the trail and a plan for its implementation; and

"(2) the process to be followed by the appropriate Secretary to implement the marking requirements established in section 7(c) of this Act.".

16 USC 1246.

(16) In section 6 in the first sentence delete "or national scenic," and insert ", national scenic or national historic", and in the second sentence delete "or scenic" and insert ", national scenic, or national historic".

16 USC 1245.

(17) In section 7(a) in the first sentence delete "National Scenic Trails" and insert "national scenic and national historic trails"; in two instances in subsection (b), and in the first sentence of subsection

(c), after "scenic", insert "or national historic"; in subsection (c) in the second proviso, after "recreation" delete "or scenic" and insert ", national scenic, or national historic"; and in the fifth sentence after "recreation" delete "and scenic" and insert ", national scenic, and national historic"; in subsection (d) after "recreation" delete "or scenic" and insert ", national scenic, or national historic"; in subsection (e) after "scenic" in both instances where it appears insert "or national historic"; in subsection (h) in the first sentence after "recreation" delete "or scenic" and insert ", national scenic, or national historic", and in the second sentence after "scenic" insert "or national historic"; in subsection (i) after "recreation" delete "or scenic" and insert ", national scenic, or national historic".

Trail markers.
16 USC 1246.

(18) In section 7(c) at the end of the fourth sentence insert the following: "Where a national historic trail follows existing public roads, developed rights-of-way or waterways, and similar features of man's nonhistorically related development, approximating the original location of a historic route, such segments may be marked to facilitate retracement of the historic route, and where a national historic trail parallels an existing public road, such road may be marked to commemorate the historic route.".

16 USC 1246 note.

Other uses along the historic trails and the Continental Divide National Scenic Trail, which will not substantially interfere with the nature and purposes of the trail, and which, at the time of designation, are allowed by administrative regulations, including the use of motorized vehicles, shall be permitted by the Secretary charged with the administration of the trail.

(19) In section 7(e), in the first proviso, delete "within two years".

(20) In section 7(g), delete the second proviso entirely.

(21) At the end of subsection 7(g) add the following new sentence: "For national historic trails, direct Federal acquisition for trail purposes shall be limited to those areas indicated by the study report or by the comprehensive plan as high potential route segments or high potential historic sites.".

16 USC 1246 note.

No land or site located along a designated national historic trail or along the Continental Divide National Scenic Trail shall be subject to the provisions of section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)) unless such land or site is deemed to be of historical significance under appropriate historical site criteria such as those for the National Register of Historic Places.

16 USC 1247.

(22) In section 8 in the first sentence of subsection (a) after "establishing park, forest, and other recreation" insert "and historic" and after "administered by States, and recreation" insert "and historic"; and at the end of the first sentence insert the following: "The Secretary is also directed to encourage States to consider, in their comprehensive statewide historic preservation plans and proposals for financial assistance for State, local, and private projects submitted pursuant to the Act of October 15, 1966 (80 Stat. 915), as amended, needs and opportunities for establishing historic trails.".

16 USC 470 note.

(23) In section 10, strike "(a) (1)" and insert in lieu thereof "(a)"; strike "the subsequent fiscal year" and insert in lieu thereof "subsequent fiscal years"; strike the paragraph numbered "(2)" in its entirety; and add a new "subsection (c)" as follows: 16 USC 1249.

"(c) There is hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this Act relating to the trails designated by paragraphs 5(a) (3), (4), (5), (6), and (7): *Provided*, That no such funds are authorized to be appropriated prior to October 1, 1979: *And provided further*, That notwithstanding any other provisions of this Act or any other provisions of law, no funds may be expended for the acquisition of lands or interests in lands for the Continental Divide National Scenic Trail, the Oregon National Historic Trail, the Mormon Pioneer National Historic Trail, the Lewis and Clark National Historic Trail, and the Iditarod National Historic Trail.". Appropriation authorization.

TITLE VI—MISCELLANEOUS PROVISIONS

FACILITIES AT YELLOWSTONE NATIONAL PARK

SEC. 601. (a) The Secretary is hereby authorized to acquire and upgrade the concession facilities owned by the Yellowstone Park Company at Yellowstone National Park in the State of Wyoming.

(b) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section. Appropriation authorization.

RIDGELANDS AREA STUDY

SEC. 602. (a) In order to consider preserving in their natural condition appropriate segments of the Ridgelands east of San Francisco Bay for protection of the area's unique ecology and topography and for public outdoor recreation, the Secretary shall study, investigate, and formulate recommendations on the feasibility and desirability of establishing such area as a unit of the National Park System. The Secretary shall consult with the Secretary of Agriculture, the Chief of Engineers, Department of the Army, and any other appropriate Federal agencies, as well as with the East Bay Regional Park District, the Association of Bay Area Governments, and other State and local bodies and officials involved, and shall coordinate the study with applicable local and State plans and planning activities relating to the Ridgelands. Federal departments and agencies are authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to furnish such statistics, data, reports, and other material as the Secretary may deem necessary for purposes of the study. 16 USC 1a-5 note. Consultation and coordination.

(b) The Secretary shall submit to the President and the Congress of the United States, within one year after the date of enactment of Report to President and Congress.

this Act, a report of his findings and recommendations. The report of the Secretary shall contain, but not be limited to, findings with respect to—

(1) the scenic, scientific, historic, natural, and outdoor recreation values of the Ridgelands, including their use for walking, hiking, horseback riding, bicycling, swimming, picnicking, camping, forest management, fish and wildlife management, educational exhibiting, and scenic and historic site preservation;

(2) the type of Federal, State, and local programs that are feasible and desirable in the public interest to preserve, develop, and make accessible for public use the values identified;

(3) the relationship of any recommended national park, recreation area, or wilderness area to existing or proposed Federal, State, and local programs to manage in the public interest the natural resources of the entire San Francisco Bay area;

(4) alternative means of restoring and preserving the values inherent in the area under present ownership patterns; and

(5) the development of public land policies consistent with the protection of private open space land.

Appropriation authorization.

(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

PRESERVATION OF HISTORICAL AND ARCHAEOLOGICAL DATA

SEC. 603. (a) The Act of June 27, 1960 (74 Stat. 220) as amended May 24, 1974 (88 Stat. 174, 176; 16 U.S.C. 469) is amended as follows:

16 USC 469c.

(b) In section 7(b), delete the "and" following "1977;", change the period at the end of the sentence to a semicolon; and add the following words: "$500,000 in fiscal year 1979; $1,000,000 in fiscal year 1980; $1,500,000 in fiscal year 1981; $1,500,000 in fiscal year 1982; and $1,500,000 in fiscal year 1983.".

(c) In section 7(c), delete the "and" following "1977;", change the period at the end of the sentence to a semicolon, and add the following words: "$3,000,000 in fiscal year 1979; $3,000,000 in fiscal year 1980; $3,500,000 in fiscal year 1981; $3,500,000 in fiscal year 1982; and $4,000,000 in fiscal year 1983.".

(d) Add the following new subsection "(d)" to section 7:

"(d) Beginning fiscal year 1979, sums appropriated for purposes of section 7 shall remain available until expended.".

NEW AREA STUDIES, GENERAL MANAGEMENT PLANS, AND CONTRACTS

SEC. 604. The Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the System, and for other purposes" (84 Stat. 825) is amended as follows:

Appropriation authorization.
16 USC 1a-5.

(1) At the end of section 8 add the following: "For the purposes of carrying out the studies for potential new Park System units and for monitoring the welfare of those resources, there are authorized to be appropriated annually not to exceed $1,000,000. For the purposes of monitoring the welfare and integrity of the national landmarks, there are authorized to be appropriated annually not to exceed $1,500,000.".

16 USC 463.

(2) In section 9, change "eleven" to "twelve".

16 USC 1a-7.

(3) Delete section 12(b) and insert in lieu the following:

General management plans.

"(b) General management plans for the preservation and use of each unit of the National Park System, including areas within the national capital area, shall be prepared and revised in a timely manner by the Director of the National Park Service. On January 1 of each year, the Secretary shall submit to the Congress a list indicating the

List, submittal to Congress.

current status of completion or revision of general management plans for each unit of the National Park System. General management plans for each unit shall include, but not be limited to:

"(1) measures for the preservation of the area's resources;

"(2) indications of types and general intensities of development (including visitor circulation and transportation patterns, systems and modes) associated with public enjoyment and use of the area, including general locations, timing of implementation, and anticipated costs;

"(3) identification of and implementation commitments for visitor carrying capacities for all areas of the unit; and

"(4) indications of potential modifications to the external boundaries of the unit, and the reasons therefor.".

(4) In section 12(c) delete "or exceeding five years" and insert "or of five years or more". 16 USC 1a-7.

OAK CREEK CANYON AND CHIRICAHUA NATIONAL MONUMENT STUDIES

SEC. 605. (a) In recognition of the need for and desirability of protecting the Oak Creek Canyon, Yavapai, and Soldiers Wash-Mormon Canyon areas in Arizona as a unit or units of the National Park System, the Secretary, in cooperation with the Secretary of Agriculture where national forest lands are involved, shall conduct a study to determine a suitable boundary for such unit or units of the System, including the areas referred to herein together with such lands as may be appropriate to provide for their protection and administration as a national monument or other unit of the National Park System. Such study shall be conducted in consultation with appropriate units of local government concerned and the Sedona-Oak Creek Canyon Interagency Task Force. Such study shall take into account existing patterns of use and activities in the area and the possible adverse impacts a National Monument designation in the area would have on multiple use activities important to the local economy. Boundary determinations. 16 USC 1a-5 note. Consultation.

(b) The Secretary, in cooperation with the Secretary of Agriculture where national forest lands are involved, shall conduct a study of the boundary of Chiricahua National Monument, Arizona, to determine the appropriate location of a boundary line for additions to the monument which includes such highly scenic features as Cochise Head and which is located to the extent practicable on natural topographic features.

(c) A report of each study conducted pursuant to subsections (a) and (b) of this section shall be submitted by the Secretary to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than one year following the date on which funds are appropriated for the purpose of the study. Each report shall include a map or other description of the boundary determined as a result of the study, a description of the natural, scenic, and cultural features within the boundary, and the recommendation of the Secretary with respect to such further legislation as may be appropriate. Report to congressional committees. Legislative recommendations.

LAND AND WATER CONSERVATION FUND ACCOMPLISHMENTS REPORTING DATE

SEC. 606. (a) The first sentence of section 6(f)(7) of the Land and Water Conservation Fund Act (78 Stat. 897) is amended by inserting ", so as to be received by the Secretary no later than December 31," after the word "transmit". 16 USC 460*l*-8.

16 USC 460*l*-8.

(b) The third sentence of such section 6(f)(7) of such Act is amended by striking out the period and inserting in lieu thereof "by no later than March 1 of each year.".

HELLS CANYON NATIONAL RECREATION AREA

16 USC 460gg.

SEC. 607. The words "September 1975" in section 1(b) of the Act of December 31, 1975 (Public Law 94-199), are deleted and replaced with the words "May 1978," to clarify that the boundary between Saulsberry and Freezeout Saddles is the hydrologic divide.

IRVINE COAST-LAGUNA, CALIFORNIA STUDY

16 USC 1a-5 note.

SEC. 608. (a) In order to consider preserving in its natural condition, the Irvine Coast-Laguna area, California from Newport Beach to Laguna Beach as generally depicted on the map entitled "Irvine Coast-Laguna Study Area", numbered IRV-90,000, and dated June 1978, and in order to consider protection of the area's unique ecology and topography, its watershed and marine environment, and public outdoor recreation opportunities, the Secretary shall study, investigate, and formulate recommendations on the feasibility and desirability of establishing such area as a unit of the National Park System, such as a park, recreation area, or seashore. The Secretary shall consult with other appropriate Federal agencies, as well as with the appropriate State and local bodies and officials involved, and shall coordinate the study with applicable local and State plans and planning activities relating to the area. Federal departments and agencies are authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to furnish such statistics, data, reports, and other material as the Secretary may deem necessary for purposes of the study.

Consultation and coordination.

Report to President and Congress.

(b) The Secretary shall submit to the President and the Congress of the United States, within six months after the date of enactment of this section, a report of his findings and recommendations. The report of the Secretary shall contain, but not be limited to, findings with respect to—

(1) the scenic, scientific, natural, and outdoor recreation values of the Irvine Coast-Laguna area;

(2) the type of Federal, State, and local programs that are feasible and desirable in the public interest to preserve, develop, and make accessible for public use the values identified; and

(3) the relationship of any recommended national park, recreation area, or seashore area to existing or proposed Federal, State, and local programs to manage in the public interest the natural resources of the entire Irvine Coast-Laguna area.

Appropriation authorization.

(c) There is hereby authorized to be appropriated $50,000 to carry out the provisions of this section.

THEODORE ROOSEVELT INAUGURAL NATIONAL HISTORIC SITE

80 Stat. 1101.

SEC. 609. The first section of the Act entitled "An Act to provide for the acquisition and preservation of the real property known as the Ansley Wilcox House in Buffalo, New York, as a national historic site", approved November 2, 1966 (Public Law 89-708), is amended by striking out "at no expense to the United States" and inserting in lieu thereof "at no direct operating expense to the Department of the Interior,".

THEODORE ROOSEVELT NATIONAL PARK

SEC. 610. The area formerly known as the "Theodore Roosevelt National Memorial Park", established by the Act of April 25, 1947 (61 Stat. 52), shall henceforth be known as the "Theodore Roosevelt National Park". 16 USC 241g. 16 USC 241 *et seq.*

BADLANDS NATIONAL PARK

SEC. 611. The area formerly known as the "Badlands National Monument", established by Presidential Proclamation of January 25, 1939 (53 Stat. 2521), shall henceforth be known as the "Badlands National Park". 16 USC 441e-1.

ALBERT EINSTEIN MEMORIAL

SEC. 612. The Secretary of the Interior is authorized to convey for nominal consideration to the National Academy of Sciences, United States Reservation 332A, located on the south side of Square Numbered 88 between 21st Street, 22d Street and Constitution Avenue in the District of Columbia to erect and maintain a Memorial to Albert Einstein. The title to said property shall remain with the National Academy of Sciences so long as the property is used for access. At such time as the property is no longer used for memorial purposes or public access is restricted, title to said property shall revert to the United States. Property, conveyance and title. 16 USC 431 note.

PEARSON-SKUBITZ BIG HILL LAKE

SEC. 613. The project for flood protection on Big Hill Creek, Kansas, authorized by the Flood Control Act of 1962, Public Law 87-874, shall hereafter be known and designated as the "Pearson-Skubitz Big Hill Lake". Any reference in a law, map, regulation, document, or record, or other paper of the United States to such project shall be held to be a reference to the "Pearson-Skubitz Big Hill Lake". Designation. 76 Stat. 1180.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SEC. 614. Section 212(a) of the Act of October 15, 1966 (80 Stat. 915), as amended (16 U.S.C. 470), is further amended by adding the following at the end thereof: Appropriation authorization. 16 USC 470t.

"There are authorized to be appropriated not to exceed $2,250,000 in fiscal year 1980.".

TITLE VII—WILD AND SCENIC RIVERS ACT AMENDMENTS

Subtitle A—Addition of Segments

ADDITION OF PERE MARQUETTE SEGMENT

SEC. 701. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof: Bouudaries, description. 16 USC 1274.

"(16) PERE MARQUETTE, MICHIGAN.—The segment downstream from the junction of the Middle and Little South Branches to its junction with United States Highway 31 as generally depicted on the boundary map entitled 'Proposed Boundary Location, Pere Marquette Wild and Scenic River,'; to be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public, the Secretary shall take such action as is provided for under subsection (b) with respect to the segment Consnltation.

Plan, provisions and regulations.

referred to in this paragraph within one year from the date of enactment of this paragraph. Any development or management plan prepared pursuant to subsection (b) shall include (a) provisions for the dissemination of information to river users and (b) such regulations relating to the recreational and other uses of the river as may be necessary in order to protect the area comprising such river (including lands contiguous or adjacent thereto) from damage or destruction by reason of overuse and to protect its scenic, historic, esthetic and scientific values. Such regulations shall further contain procedures and means which shall be utilized in the enforcement of such development and management plan. For the purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated not more than $8,125,000 for the acquisition of lands or interests in lands and $402,000 for development.".

Appropriation authorization.

ADDITION OF RIO GRANDE SEGMENT

Description. 16 USC 1274.

SEC. 702. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(17) RIO GRANDE, TEXAS.—The segment on the United States side of the river from river mile 842.3 above Mariscal Canyon downstream to river mile 651.1 at the Terrell-Val Verde County line; to be administered by the Secretary of the Interior. The Secretary shall, within two years after the date of enactment of this paragraph, take such action with respect to the segment referred to in this paragraph as is provided for under subsection (b). The action required by such subsection (b) shall be undertaken by the Secretary, after consultation with the United States Commissioner, International Boundary and Water Commission, United States and Mexico, and appropriate officials of the State of Texas and its political subdivisions. The development plan required by subsection (b) shall be construed to be a general management plan only for the United States side of the river and such plan shall include, but not be limited to, the establishment of a detailed boundary which shall include an average of not more than 160 acres per mile. Nothing in this Act shall be construed to be in conflict with—

Consultation.

Plan and provisions.

"(A) the commitments or agreements of the United States made by or in pursuance of the treaty between the United States and Mexico regarding the utilization of the Colorado and Tijuana Rivers and of the Rio Grande, signed at Washington, February 1944 (59 Stat. 1219), or

"(B) the treaty between the United States and Mexico regarding maintenance of the Rio Grande and Colorado River as the international boundary between the United States and Mexico, signed November 23, 1970.

23 UST 371.

Appropriation authorization.

For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated such sums as may be necessary, but not more than $1,650,000 for the acquisition of lands and interests in lands and not more than $1,800,000 for development.".

ADDITION OF SKAGIT SEGMENTS

Boundaries.

SEC. 703. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(18) SKAGIT, WASHINGTON.—The segment from the pipeline crossing at Sedro-Woolley upstream to and including the mouth of Bacon

Creek; the Cascade River from its mouth to the junction of its North and South Forks; the South Fork to the boundary of the Glacier Peak Wilderness Area; the Suiattle River from its mouth to the boundary of the Glacier Peak Wilderness Area at Milk Creek; the Sauk River from its mouth to its junction with Elliott Creek; the North Fork of the Sauk River from its junction with the South Fork of the Sauk to the boundary of the Glacier Peak Wilderness Area; as generally depicted on the boundary map entitled 'Skagit River—River Area Boundary'; all segments to be administered by the Secretary of Agriculture. Riprapping related to natural channels with natural rock along the shorelines of the Skagit segment to preserve and protect agricultural land shall not be considered inconsistent with the values for which such segment is designated. After consultation with affected Federal agencies, State and local government and the interested public, the Secretary shall take such action as is provided for under subsection (b) with respect to the segments referred to in this paragraph within one year from the date of enactment of this paragraph; as part of such action, the Secretary of Agriculture shall investigate that portion of the North Fork of the Cascade River from its confluence with the South Fork to the boundary of the North Cascades National Park and if such portion is found to qualify for inclusion, it shall be treated as a component of the Wild and Scenic Rivers System designated under this section upon publication by the Secretary of notification to that effect in the Federal Register. For the purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph there are authorized to be appropriated not more than $11,734,000 for the acquisition of lands or interest in lands and not more than $332,000 for development.".

Consultation.

Investigation and publication in Federal Register.

Appropriation authorization.

ADDITION OF UPPER DELAWARE SEGMENT; SPECIAL PROVISIONS

SEC. 704. (a) Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

Boundaries. 16 USC 1274.

"(19) UPPER DELAWARE RIVER, NEW YORK AND PENNSYLVANIA.—The segment of the Upper Delaware River from the confluence of the East and West branches below Hancock, New York, to the existing railroad bridge immediately downstream of Cherry Island in the vicinity of Sparrow Bush, New York, as depicted on the boundary map entitled 'The Upper Delaware Scenic and Recreational River', dated April 1978; to be administered by the Secretary of the Interior. Subsection (b) of this section shall not apply, and the boundaries and classifications of the river shall be as specified on the map referred to in the preceding sentence, except to the extent that such boundaries or classifications are modified pursuant to section 705(c) of the National Parks and Recreation Act of 1978. Such boundaries and classifications shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph there are authorized to be appropriated such sums as may be necessary.".

Publicatiou in Federal Register.

Appropriation authorization.

(b)(1) Notwithstanding any requirement to the contrary contained in section 6(c) of the Wild and Scenic Rivers Act, within one hundred and eighty days after the date of enactment of this Act, the Secretary shall publish in the Federal Register general guidelines for land and

Guidelines, publication in Federal Register. 16 USC 1274 note. 16 USC 1277.

water use control measures to be developed and implemented by the appropriate officials of the States of New York and Pennsylvania (hereinafter referred to as the "directly affected States"), by the local political subdivisions, and by the Delaware River Basin Commission (hereinafter referred to as the "Commission"). The Secretary shall provide for participation in the development of the said general guidelines by all levels of State, county, and local government, and concerned private individuals and organizations, and also shall seek the advice of the Upper Delaware Citizens Advisory Council established in subsection (f) (hereinafter referred to as the "Advisory Council"). In each of the directly affected States, prior to publication of such general guidelines, public hearings shall be conducted by the Secretary or his designee, in the region of the Upper Delaware River designated by subsection (a) (hereinafter in this section referred to as the "Upper Delaware River").

Participation.

Public hearings.

(2) The Secretary may from time to time adopt amended or revised guidelines and shall do so in accordance with the provisions of paragraph (1) hereof.

(c)(1) Within three years from the date of the enactment of this Act, the Secretary, in cooperation with the Commission, the Advisory Council, the directly affected States and their concerned political subdivisions and other concerned Federal agencies, shall develop, approve, and submit to the Governors of the directly affected States a management plan (hereinafter in this section referred to as the "management plan" or "the plan") for the Upper Delaware River which shall provide for as broad a range of land and water uses and scenic and recreational activities as shall be compatible with the provisions of this section, the Wild and Scenic Rivers Act, and the general guidelines for land and water use controls promulgated by the Secretary under the provisions of subsection (b).

Management plan, submittal to State Governors. 16 USC 1274 note.

16 USC 1271 note.

(2) The plan shall apply to the Upper Delaware River and shall set forth—

Map.

(A) a map showing detailed final landward boundaries, and upper and lower termini of the area and the specific segments of the river classified as scenic and recreational, to be administered in accordance with such classifications;

(B) a program for management of existing and future land and water use, including the application of available management techniques;

Analysis.

(C) an analysis of the economic and environmental costs and benefits of implementing the management plan including any impact of the plan upon revenues and costs of local government;

(D) a program providing for coordinated implementation and administration of the plan with proposed assignment of responsibilities to the appropriate governmental unit at the Federal, regional, State, and local levels; and

(E) such other recommendations or provisions as shall be deemed appropriate to carry out the purposes of this section.

Interim programs.

(3) Immediately following enactment of this Act, the Secretary, through the National Park Service or such other designee, shall develop and implement such interim programs as he shall deem necessary and appropriate to protect the Upper Delaware River and its environs and to protect the public health and safety. Such interim programs shall include provisions for information to river users, education and interpretation activities, and regulation of recreational use of the river.

(4) To enable the directly affected States and their political subdivisions to develop and implement programs compatible with the management plan, the Secretary shall provide such technical assistance to the said States and their political subdivisions as he deems appropriate. Technical assistance.

(5) The Secretary shall promote public awareness of and participation in the development of the management plan, and shall develop and conduct a concerted program to this end. Prior to final approval of the management plan, the Secretary shall hold two or more public hearings in the Upper Delaware River region of each directly affected State. Public hearings.

(6) Upon approval of the management plan by the Secretary, it shall be published in the Federal Register and shall not become effective until ninety days after it shall have been forwarded to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The plan shall be administered by the Secretary in accordance with the provisions of this section and the Wild and Scenic Rivers Act. The Secretary is hereby granted such authority as may be required to implement and administer said plan. Publication in Federal Register. Administration.

(d) Notwithstanding any provision of the Wild and Scenic Rivers Act, the Secretary may not acquire more than a total of four hundred and fifty acres of land and interests in land for access, development sites, the preservation of scenic qualities, or for any other purposes: *Provided*, That the Secretary may acquire additional land and interests in land for such purposes not in excess of one thousand acres if such additional acquisition is recommended and provided for in the management plan as finally approved by the Secretary. The limitations contained in this section shall not apply under the circumstances set forth in subsection (e)(4) of this section. Prior to acquisition of any land or interests in land which has been used for business purposes during the annual period immediately preceding the date of the enactment of this Act, the Secretary shall first make such efforts as he deems reasonable to acquire easements or restrictive covenants, or to enter into any other appropriate agreements or arrangements with the owners of said land, consistent with the purposes of this section. Land and interests, acquisition. 16 USC 1274 note.

(e)(1) For the purpose of protecting the integrity of the Upper Delaware River, the Secretary shall review all relevant local plans, laws, and ordinances to determine whether they substantially conform to the approved management plan provided for in subsection (c) and to the general guidelines promulgated by the Secretary pursuant to subsection (b). Additionally, the Secretary shall determine the adequacy of enforcement of such plans, laws, and ordinances, including but not limited to review of building permits and zoning variances granted by local governments, and amendments to local laws and ordinances. Local plans, laws, and ordinances, conformity, review. Determination.

(2) The purpose of such reviews shall be to determine the degree to which actions by local governments are compatible with the purposes of this section. Following the approval of the management plan and after a reasonable period of time has elapsed, but not less than two years, upon a finding by the Secretary that such plans, laws, and ordinances are nonexistent, are otherwise not in conformance with the management plan or guidelines, or are not being enforced in such manner as will carry out the purposes of this section (as determined by the Secretary), the Secretary may exercise the authority available to him under the provisions of paragraph (4) hereof.

Professional services, contracts.

(3) To facilitate administration of this section, the Secretary may contract with the directly affected States or their political subdivisions to provide, on behalf of the Secretary, professional services necessary for the review of relevant local plans, laws, and ordinances, and of amendments thereto and variances therefrom, and for the monitoring of the enforcement thereof by local governments having jurisdiction over any area in the region to which the management plan applies.

Notification.

The Secretary shall notify the appropriate State or local officials as to the results of his review under this section within forty-five days from the date he receives notice of the local government action.

Lands and interests, acquisition.

(4) In those sections of the Upper Delaware River where such local plans, laws, and ordinances, or amendments thereto or variances therefrom, are found by the Secretary not to be in conformance with the guidelines or the management plan promulgated pursuant to subsections (b) and (c) of this section, respectively, or are not being enforced in such manner as will carry out the purposes of this section (as determined by the Secretary), the Secretary is hereby authorized to acquire land or interests in land in excess of the acreage provided for in subsection (d) of this section. Land and interests in land acquired pursuant to this subsection shall be restricted to the geographical area of the local governmental unit failing to conform with the said guidelines or management plan, and shall be limited to those lands clearly and directly required, in the judgment of the Secretary, for protection of the objectives of this Act. The total acreage of land and interests in land acquired pursuant to this subsection shall not in any event exceed the limitations contained in section 6(a) of the Wild and Scenic Rivers Act. This subsection shall apply notwithstanding the first sentence of section 6(c) of the Wild and Scenic Rivers Act. Notwithstanding any limitation on amounts authorized to be appropriated for acquisition of land and interests in land which is contained in section 3(a)(21) of the Wild and Scenic Rivers Act or in any other provision of law, there are authorized to be appropriated such sums as may be necessary to carry out this subsection.

16 USC 1277.

Post, p. 3528.

Upper Delaware Citizens Advisory Council. Establishment. 16 USC 1274 note. Reports.

(f)(1) At the earliest practicable date following enactment of this Act, but no later than one hundred and twenty days thereafter, there shall be established an Upper Delaware Citizens Advisory Council. The Advisory Council shall encourage maximum public involvement in the development and implementation of the plans and programs authorized by this section. It shall report to the Commission and the Secretary from time to time during preparation of the management plan. Following completion of the management plan, it shall report to the Secretary and the Governors of the directly affected States no less frequently than once each year its recommendations, if any, for improvement in the programs authorized by this Act, or in the programs of other agencies which may relate to land or water use in the Upper Delaware River region.

Membership.

(2) Membership on the Advisory Council shall consist of seventeen members appointed as follows: there shall be—

(A) six members from each of the directly affected States appointed by the Secretary from nominations submitted by the legislatures of the respective counties and appointed such that two members shall be from each of Orange, Delaware, and Sullivan Counties, New York, and three members shall be from each of Wayne and Pike Counties, Pennsylvania (at lease one appointee from each county shall be a permanent resident of a municipality abutting the Upper Delaware River);

(B) two members appointed at large by each Governor of a directly affected State; and

(C) one member appointed by the Secretary.

The Secretary shall designate one of the aforesaid members to serve as Chairperson of the Advisory Council who shall be a permanent resident of one of the aforementioned counties. Vacancies on the Advisory Council shall be filled in the same manner in which the original appointment was made. Members of the Advisory Council shall serve without compensation as such, but the Secretary is authorized to pay expenses reasonably incurred by the Advisory Council in carrying out its responsibilities under this Act on vouchers signed by the Chairman.

Chairperson.

Compensation.

(g) With respect to the land and water in areas which are not owned by the United States but which are within the boundaries of the segment of the Delaware River designated as a wild and scenic river under subsection (a), the Secretary is authorized to enter into contracts with the appropriate State or political subdivisions thereof pursuant to which the Secretary may provide financial assistance to such State or political subdivision for purposes of—

(1) enforcing State and local laws in such areas, and

(2) removing solid waste from such areas and disposing of such waste.

Contracts.
16 USC 1274 note.

(h) Nothing in this section shall be construed as limiting the right to fish and hunt on any of the lands or waters within the boundaries of the Upper Delaware River in the manner provided in section 13 of the Wild and Scenic Rivers Act.

16 USC 1274 note.

16 USC 1284.

(i) There are hereby authorized to be appropriated to carry out the purposes of this section such sums as may be necessary.

Appropriation authorization.

(j) Where any provision of the Wild and Scenic Rivers Act is inconsistent with any provisions of this section, the provision of this section shall govern. In applying the provisions of section 6(g)(3) of the Wild and Scenic Rivers Act, with regard to "improved property", the date specified therein, shall, for purposes of the river designated in this Act, be the date of enactment of this Act (rather than January 1, 1967).

16 USC 1274 note.

16 USC 1274 note.

16 USC 1277.

ADDITION OF MIDDLE DELAWARE SEGMENT

SEC. 705. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

Boundaries.
16 USC 1274.

"(20) DELAWARE, NEW YORK, PENNSYLVANIA, AND NEW JERSEY.—The segment from the point where the river crosses the northern boundary of the Delaware Water Gap National Recreation Area to the point where the river crosses the southern boundary of such recreation area; to be administered by the Secretary of the Interior. For purposes of carrying out this Act with respect to the river designated by this paragraph, there are authorized to be appropriated such sums as may be necessary. Action required to be taken under subsection (b) of this section with respect to such segment shall be taken within one year from the date of enactment of this paragraph, except that, with respect to such segment, in lieu of the boundaries provided for in such subsection (b), the boundaries shall be the banks of the river. Any visitors facilities established for purposes of use and enjoyment of the river under the authority of the Act establishing the Delaware Water Gap National Recreation Area shall be compatible with the purposes of this Act and shall be located at an appropriate distance from the river.".

Appropriation authorization.

ADDITION OF THE AMERICAN SEGMENT

Bonndaries.
16 USC 1274.

SEC. 706. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(21) AMERICAN, CALIFORNIA.—The North Fork from a point 0.3 mile above Heath Springs downstream to a point approximately 1,000 feet upstream of the Colfax-Iowa Hill Bridge, including the Gold Run Addition Area, as generally depicted on the map entitled 'Proposed Boundary Maps' contained in Appendix I of the document dated January 1978 and entitled 'A Proposal: North Fork American Wild and Scenic River' published by the United States Forest Service, Department of Agriculture; to be designated as a wild river and to be administered by agencies of the Departments of Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President. Action required to be taken under subsection (b) shall be taken within one year after the date of the enactment of this paragraph; in applying such subsection (b) in the case of the Gold Run Addition Area, the acreage limitation specified therein shall not apply and in applying section 6(g)(3), January 1 of the calendar year preceding the calendar year in which this paragraph is enacted shall be substituted for January 1, 1967. For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated not more than $850,000 for the acquisition of lands and interests in land and not more than $765,000 for development.".

Administration.

12 USC 1277.

Appropriation authorization.

ADDITION OF MISSOURI SEGMENT

Boundaries.

SEC. 707. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(22) MISSOURI RIVER, NEBRASKA, SOUTH DAKOTA.—The segment from Gavins Point Dam, South Dakota, fifty-nine miles downstream to Ponca State Park, Nebraska, as generally depicted in the document entitled 'Review Report for Water Resources Development, South Dakota, Nebraska, North Dakota, Montana', prepared by the Division Engineer, Missouri River Division, Corps of Engineers, dated August 1977 (hereinafter in this paragraph referred to as the 'August 1977 Report'). Such segment shall be administered as a recreational river by the Secretary. The Secretary shall enter into a written cooperative agreement with the Secretary of the Army (acting through the Chief of Engineers) for construction and maintenance of bank stabilization work and appropriate recreational development. After public notice and consultation with the State and local governments, other interested organizations and associations, and the interested public, the Secretary shall take such action as is required pursuant to subsection (b) within one year from the date of enactment of this section. In administering such river, the Secretary shall, to the extent, and in a manner, consistent with this section—

Cooperative agreement.

Notice and consultation.

Administration.

"(A) provide (i) for the construction by the United States of such recreation river features and streambank stabilization structures as the Secretary of the Army (acting through the Chief of Engineers) deems necessary and advisable in connection with the segment designated by this paragraph, and (ii) for the operation and maintenance of all streambank stabilization structures constructed in connection with such segment (including both structures constructed before the date of enactment of this paragraph and structures constructed after such date, and including

Recreation river features and streambank stabilization structures, construction.

both structures constructed under the authority of this section and structures constructed under the authority of any other Act); and

"(B) permit access for such pumping and associated pipelines as may be necessary to assure an adequate supply of water for owners of land adjacent to such segment and for fish, wildlife, and recreational uses outside the river corridor established pursuant to this paragraph. Access.

The streambank structures to be constructed and maintained under subparagraph (A) shall include, but not be limited to, structures at such sites as are specified with respect to such segment on pages 62 and 63 of the August 1977 Report, except that sites for such structures may be relocated to the extent deemed necessary by the Secretary of the Army (acting through the Chief of Engineers) by reason of physical changes in the river or river area. The Secretary of the Army (acting through the Chief of Engineers) shall condition the construction or maintenance of any streambank stabilization structure or of any recreational river feature at any site under subparagraph (A)(i) upon the availability to the United States of such land and interests in land in such ownership as he deems necessary to carry out such construction or maintenance and to protect and enhance the river in accordance with the purposes of this Act. Administration of the river segment designated by this paragraph shall be in coordination with, and pursuant to the advice of a Recreational River Advisory Group which may be established by the Secretary. Such Group may include in its membership, representatives of the affected States and political subdivisions thereof, affected Federal agencies, and such organized private groups as the Secretary deems desirable. Notwithstanding the authority to the contrary contained in subsection 6(a) of this Act, no land or interests in land may be acquired without the consent of the owner: *Provided*, That not to exceed 5 per centum of the acreage within the designated river boundaries may be acquired in less than fee title without the consent of the owner, in such instance of the Secretary's determination that activities are occurring, or threatening to occur thereon which constitute serious damage or threat to the integrity of the river corridor, in accordance with the values for which this river was designated. For purposes of carrying out the provisions of this Act with respect to the river designated by this paragraph, there are authorized to be appropriated not to exceed $21,000,000, for acquisition of lands and interests in lands and for development.". Recreational River Advisory Group. Lands and interests, acquisition. 16 USC 1277. Appropriation authorization.

SEC. 708. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof: Boundaries. 16 USC 1274.

"(23) SAINT JOE, IDAHO.—The segment above the confluence of the North Fork of the Saint Joe River to Spruce Tree Campground, as a recreational river; the segment above Spruce Tree Campground to Saint Joe Lake, as a wild river, as generally depicted on the map entitled 'Saint Joe River Corridor Map' on file with the Chief of the Forest Service and dated September 1978; to be administered by the Secretary of Agriculture. Notwithstanding any other provision of law, the classification of the Saint Joe River under this paragraph and the subsequent development plan for the river prepared by the Secretary of Agriculture shall at no time interfere with or restrict the maintenance, use, or access to existing or future roads within the adjacent lands nor interfere with or restrict present use of or future construction of bridges across that portion of the Saint Joe designated as a 'recreational river' under this paragraph. Dredge or placer mining shall be prohibited within the banks or beds of the main stem of the Administration. Roads and bridges, access.

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Sand and gravel, removal.

Saint Joe and its tributary streams in their entirety above the confluence of the main stem with the North Fork of the river. Nothing in this Act shall be deemed to prohibit the removal of sand and gravel above the high water mark of the Saint Joe River and its tributaries within the river corridor by or under the authority of any public body or its agents for the purposes of construction or maintenance of roads. The Secretary shall take such action as is required under subsection (b) of this section within one year from the date of enactment of this paragraph. For the purposes of this river, there are authorized to be appropriated not more than $1,000,000 for the acquisition of lands or interest in lands.".

Appropriation authorization.

Subtitle B—Studies

DESIGNATION OF THE KERN RIVER (NORTH FORK) FOR STUDY

16 USC 1276.

SEC. 721. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(59) KERN, CALIFORNIA.—The main stem of the North Fork from its source to Isabella Reservoir excluding its tributaries.".

DESIGNATION OF THE LOXAHATCHEE RIVER FOR STUDY

SEC. 722. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(60) LOXAHATCHEE, FLORIDA.—The entire river including its tributary, North Fork.".

DESIGNATION OF THE OGEECHEE RIVER FOR STUDY

SEC. 723. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(61) OGEECHEE, GEORGIA.—The entire river.".

DESIGNATION OF CERTAIN SEGMENT OF THE SALT RIVER FOR STUDY

SEC. 724. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(62) SALT, ARIZONA.—The main stem from a point on the north side of the river intersected by the Fort Apache Indian Reservation boundary (north of Buck Mountain) downstream to Arizona State Highway 288.".

DESIGNATION OF THE VERDE RIVER FOR STUDY

SEC. 725. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(63) VERDE, ARIZONA.—The main stem from the Prescott National Forest boundary near Paulden to the vicinity of Table Mountain, approximately 14 miles above Horseshoe Reservoir, except for the segment not included in the national forest between Clarkdale and Camp Verde, North segment.".

DESIGNATION OF THE SAN FRANCISCO RIVER FOR STUDY

SEC. 726. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(64) SAN FRANCISCO, ARIZONA.—The main stem from confluence with the Gila upstream to the Arizona-New Mexico border, except for the segment between Clifton and the Apache National Forest.".

DESIGNATION OF FISH CREEK FOR STUDY

SEC. 727. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof: 16 USC 1276.
"(65) FISH CREEK, NEW YORK.—The entire East Branch.".

DESIGNATION OF BLACK CREEK FOR STUDY

SEC. 728. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:
"(66) BLACK CREEK, MISSISSIPPI.—The segment from Big Creek Landing in Forrest County downstream to Old Alexander Bridge Landing in Stone County.".

DESIGNATION OF ALLEGHENY RIVER FOR STUDY

SEC. 729. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:
"(67) ALLEGHENY, PENNSYLVANIA.—The main stem from Kinzua Dam downstream to East Brady.".

DESIGNATION OF THE CACAPON RIVER FOR STUDY

SEC. 730. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:
"(68) CACAPON, WEST VIRGINIA.—The entire river.".

DESIGNATION OF THE ESCATAWPA RIVER FOR STUDY

SEC. 731. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:
"(69) ESCATAWPA, ALABAMA AND MISSISSIPPI.—The segment upstream from a point approximately one mile downstream from the confluence of the Escatawpa River and Jackson Creek to a point where the Escatawpa River is joined by the Yellowhouse Branch in Washington County, Alabama, near the town of Deer Park, Alabama; and the segment of Brushy Creek upstream from its confluence with the Escatawpa to its confluence with Scarsborough Creek.".

DESIGNATION OF THE MYAKKA RIVER FOR STUDY

SEC. 732. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:
"(70) MYAKKA, FLORIDA.—The segment south of the southern boundary of the Myakka River State Park.".

DESIGNATION OF SOLDIER CREEK FOR STUDY

SEC. 733. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:
"(71) SOLDIER CREEK, ALABAMA.—The segment beginning at the point where Soldier Creek intersects the south line of section 31, township 7 south, range 6 east, downstream to a point on the south line of section 6, township 8 south, range 6 east, which point is 1,322 feet west of the south line of section 5, township 8 south, range 6 east in the county of Baldwin, State of Alabama.".

DESIGNATION OF RED RIVER FOR STUDY

16 USC 1276.

SEC. 734. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following paragraph at the end thereof:

"(72) RED, KENTUCKY.—The segment from Highway numbered 746 (also known as Spradlin Bridge) in Wolf County, Kentucky, downstream to the point where the river descends below seven hundred feet above sea level (in its normal flow) which point is at the Menifee and Powell County line just downstream of the iron bridge where Kentucky Highway numbered 77 passes over the river.".

AUTHORIZATION FOR STUDIES

SEC. 735. Paragraph (3) of section 5(b) of the Wild and Scenic Rivers Act is redesignated as paragraph (4) and is amended by striking out "$2,175,000" and substituting "$4,060,000". Such paragraph is further amended by adding the following at the end thereof: "There are authorized to be appropriated for the purpose of conducting the studies of the rivers named in subparagraphs (59) through (74) such sums as may be necessary.".

Appropriation authorization.

STUDY PERIOD

SEC. 736. Section 5(b) of the Wild and Scenic Rivers Act is amended by inserting the following new paragraph after paragraph (2):

"(3) The studies of the rivers named in paragraphs (59) through (72) of subsection (a) shall be completed and reports submitted thereon not later than five full fiscal years after the date of the enactment of this paragraph. The study of rivers named in paragraphs (62) through (64) of subsection (a) shall be completed and the report thereon submitted by not later than April 1981.".

Subtitle C—Authorizations for Funding

ELEVEN POINT RIVER

16 USC 1287.

SEC. 751. Section 16(a) of the Wild and Scenic Rivers Act is amended by striking out "Eleven Point, Missouri, $4,906,500" and substituting "Eleven Point, Missouri, $10,407,000".

ROGUE RIVER

SEC. 752. Section 16(a) of the Wild and Scenic Rivers Act is amended by striking out "Rogue, Oregon, $12,447,200" and substituting "Rogue, Oregon, $15,147,000".

SAINT CROIX RIVER

SEC. 753. Section 16(a) of the Wild and Scenic Rivers Act is amended by striking out "Saint Croix, Minnesota and Wisconsin, $11,768,550" and substituting "Saint Croix, Minnesota and Wisconsin, $21,769,000".

SALMON RIVER

SEC. 754. Section 16(a) of the Wild and Scenic Rivers Act is amended by striking out "Salmon, Middle Fork, Idaho, $1,237,100" and substituting "Salmon, Middle Fork, Idaho, $1,837,000".

CHATTOOGA RIVER

SEC. 755. Section 3(a)(10) of the Wild and Scenic Rivers Act (relating to the Chattooga River in North Carolina, South Carolina, and Georgia) is amended by striking out "$2,000,000" and inserting in lieu thereof "$5,200,000". 16 USC 1274.

Subtitle D—Amendments to Public Law 90-542

TECHNICAL AMENDMENTS

SEC. 761. Section 2(a) of the Wild and Scenic Rivers Act is amended by striking out "without expense to the United States" and by adding the following at the end thereof: "Upon receipt of an application under clause (ii) of this subsection, the Secretary shall notify the Federal Energy Regulatory Commission and publish such application in the Federal Register. Each river designated under clause (ii) shall be administered by the State or political subdivision thereof without expense to the United States other than for administration and management of federally owned lands. For purposes of the preceding sentence, amounts made available to any State or political subdivision under the Land and Water Conservation Act of 1965 or any other provision of law shall not be treated as an expense to the United States. Nothing in this subsection shall be construed to provide for the transfer to, or administration by, a State or local authority of any federally owned lands which are within the boundaries of any river included within the system under clause (ii).". Notification to FERC and publication in Federal Register. 16 USC 1273. 16 USC 460*l*-4 note.

FEDERAL LANDS; COOPERATIVE AGREEMENTS

SEC. 762. Section 12(a) of the Wild and Scenic Rivers Act is amended by striking out the first sentence thereof and substituting: "The Secretary of the Interior, the Secretary of Agriculture, and the head of any other Federal department or agency having jurisdiction over any lands which include, border upon, or are adjacent to, any river included within the National Wild and Scenic Rivers System or under consideration for such inclusion, in accordance with section 2(a)(ii), 3(a), or 5(a), shall take such action respecting management policies, regulations, contracts, plans, affecting such lands, following the date of enactment of this sentence, as may be necessary to protect such rivers in accordance with the purposes of this Act. Such Secretary or other department or agency head shall, where appropriate, enter into written cooperative agreements with the appropriate State or local official for the planning, administration, and management of Federal lands which are within the boundaries of any rivers for which approval has been granted under section 2(a)(ii).". 16 USC 1283. 16 USC 1273, 1274, 1276.

MISCELLANEOUS TECHNICAL AMENDMENTS

SEC. 763. (a) Section 3(b) of the Wild and Scenic Rivers Act is amended by inserting after "one year from the date of this Act" the following: "(except where a different date is provided in subsection (a))". 16 USC 1274.

(b) Section 6(g)(3) of such Act is amended by inserting after "January 1, 1967," the following "(except where a different date is specifically provided by law with respect to any particular river)". 16 USC 1277.

(c) Section 16(b) of such Act is deleted in its entirety, and section 16(a) is renumbered as section 16. 16 USC 1287.

LEASE OF FEDERAL LANDS

SEC. 764. The Wild and Scenic Rivers Act is amended by adding the following new section after section 14:

16 USC 1285a. "SEC. 14A. (a) Where appropriate in the discretion of the Secretary, he may lease federally owned land (or any interest therein) which is within the boundaries of any component of the National Wild and Scenic Rivers System and which has been acquired by the Secretary under this Act. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this Act.

"(b) Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land immediately before its acquisition by the United States.".

TITLE VIII—RECOGNITION OF THE HONORABLE WILLIAM M. KETCHUM

SEC. 801. Within the War in the Pacific National Historical Park, Guam, and the American Memorial Park, Saipan, the Secretary, acting through the Director of the National Park Service, and in consultation with the Governor of each area, is authorized to provide in each of these parks some form of appropriate recognition of the outstanding contributions and untiring commitments of the late Congressman William M. Ketchum of California toward the needs of the people of the insular areas. Fully cognizant of sacrifices that sometimes must be made in order to preserve the basic principles of democracy, Congressman Ketchum personally experienced the devastations of war, as he served with distinction in the United States military during the Second World War in the Pacific Theater and during the Korean Conflict. Congressman Ketchum, an individual of strong principle and commitment, through his leadership and active participation in the United States Congress, made substantial and invaluable contributions to the political and economic growth, development, and well-being of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands. In particular, he will be remembered for the key role he played in the passage of the historic Covenant to establish a Commonwealth of the Northern Mariana Islands in political union with the United States.

TITLE IX—JEAN LAFITTE NATIONAL HISTORICAL PARK

Establishment. 16 USC 230. SEC. 901. In order to preserve for the education, inspiration, and benefit of present and future generations significant examples of natural and historical resources of the Mississippi Delta region and to provide for their interpretation in such manner as to portray the development of cultural diversity in the region, there is authorized to be established in the State of Louisiana the Jean Lafitte National Historical Park and Preserve (hereinafter referred to as the "park").

Description. The park shall consist of (1) the area of approximately twenty thousand acres generally depicted on the map entitled "Barataria Marsh Unit-Jean Lafitte National Historical Park and Preserve" numbered 90,000B and dated April 1978, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior; (2) the area known as Big Oak

Island; (3) an area or areas within the French Quarter section of the city of New Orleans as may be designated by the Secretary of the Interior for an interpretive and administrative facility; (4) the Chalmette National Historical Park; and (5) such additional natural, cultural, and historical resources in the French Quarter and Garden District of New Orleans, forts in the delta region, plantations, and Acadian towns and villages in the Saint Martinville area and such other areas and sites as are subject to cooperative agreements in accordance with the provisions of this title.

Lands, waters and interests, acquisition. 16 USC 230a.

SEC. 902. (a) Within the Barataria Marsh Unit the Secretary is authorized to acquire not to exceed eight thousand acres of lands, waters, and interests therein (hereinafter referred to as the "core area"), as depicted on the map referred to in the first section of this title, by donation, purchase with donated or appropriated funds, or exchange. The Secretary may also acquire by any of the foregoing methods such lands and interests therein, including leasehold interests, as he may designate in the French Quarter of New Orleans for development and operation as an interpretive and administrative facility. Lands, waters, and interests therein owned by the State of Louisiana or any political subdivision thereof may be acquired only by donation. In acquiring property pursuant to this title, the Secretary may not acquire rights to oil and gas without the consent of the owner, but the exercise of such rights shall be subject to such regulations as the Secretary may promulgate in furtherance of the purposes of this title.

Guidelines or criteria, consultation.

(b) With respect to the lands, waters, and interests therein generally depicted as the "park protection zone" on the map referred to in the first section of this title, the Secretary shall, no later than six months from the date of enactment of this Act, in consultation with the affected State and local units of government, develop a set of guidelines or criteria applicable to the use and development of properties within the park protection zone to be enacted and enforced by the State or local units of government.

Values, preservation and protection.

(c) The purpose of any gnideline developed pursuant to subsection (b) of this section shall be to preserve and protect the following values within the core area:

(1) fresh water drainage patterns from the park protection zone into the core area;

(2) vegetative cover;

(3) integrity of ecological and biological systems; and

(4) water and air quality.

Authority, ceding.

(d) Where the State or local units of government deem it appropriate, they may cede to the Secretary, and the Secretary is authorized to accept, the power and authority to confect and enforce a program or set of rules pursuant to the guidelines established under subsection (b) of this section for the purpose of protecting the values described in subsection (c) of this section.

Acquisitions.

(e) The Secretary, upon the failure of the State or local units of government to enact rules pursuant to subsection (b) of this section or enforce such rules so as to protect the values enumerated in subsection (c) of this section, may acquire such lands, servitudes, or interests in lands within the park protection zone as he deems necessary to protect the values enumerated in subsection (c) of this section.

Boundaries, revision.

(f) The Secretary may revise the boundaries of the park protection zone, notwithstanding any other provision of law, to include or exclude properties, but only with the consent of Jefferson Parish.

Use and occupancy right, retention. 16 USC 230b.

SEC. 903. Within the Barataria Marsh Unit, the owner or owners of improved property used for noncommercial residential purposes on a year-round basis may, as a condition of the acquisition of such property by the Secretary, elect to retain a right of use and occupancy of such property for noncommercial residential purposes if, in the judgment of the Secretary, the continued use of such property for a limited period would not unduly interfere with the development or management of the park. Such right of use and occupancy may be either a period ending on the death of the owner or his spouse, whichever occurs last, or a term of not more than twenty-five years, at the election of the owner. Unless the property is donated, the Secretary shall pay to the owner the fair market value of the property less the fair market value of the right retained by the owner. Such right may be transferred or assigned and may be terminated by the Secretary, if he finds that the property is not used for noncommercial residential purposes, upon tender to the holder of the right an amount equal to the fair market value of the unexpired term. As used in this section, the term "improved property" means a single-family, year-round dwelling, the construction of which was begun before January 1, 1977, which serves as the owner's permanent place of abode at the time of its acquisition by the United States, together with not more than three acres of land on which the dwelling and appurtenant buildings are located which the Secretary finds is reasonably necessary for the owner's continued use and occupancy of the dwelling.

"Improved property."

Cooperative agreements. 16 USC 230c.

SEC. 904. In furtherance of the purposes of this title, and after consultation with the Commission created by section 7 of this title, the Secretary is authorized to enter into cooperative agreements with the owners of properties of natural, historical, or cultural significance, including but not limited to the resources described in paragraphs (1) through (5) of the first section of this title, pursuant to which the Secretary may mark, interpret, restore and/or provide technical assistance for the preservation and interpretation of such properties, and pursuant to which the Secretary may provide assistance including management services, program implementation, and incremental financial assistance in furtherance of the standards for administration of the park pursuant to section 906 of this title. Such agreements shall contain, but need not be limited to, provisions that the Secretary, through the National Park Service, shall have the right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public, and that no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to such agreements. The agreements may contain specific provisions which outline in detail the extent of the participation by the Secretary in the restoration, preservation, interpretation, and maintenance of such properties.

Hunting, fishing, and trapping. 16 USC 230d.

SEC. 905. Within the Barataria Marsh Unit, the Secretary shall permit hunting, fishing (including commercial fishing), and trapping in accordance with applicable Federal and State laws, except that within the core area and on those lands acquired by the Secretary pursuant to section 902(c) of this title, he may designate zones where and establish periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety. Except in emergencies, any regulations of the Secretary promulgated under this section shall be put into effect only after consultation with the appropriate fish and game agency of Louisiana.

Consultation.

SEC. 906. The Secretary shall establish the park by publication of a notice to that effect in the Federal Register at such time as he finds that, consistent with the general management plan referred to in section 908, sufficient lands and interests therein (i) have been acquired for interpretive and administrative facilities, (ii) are being protected in the core area, and (iii) have been made the subject of cooperative agreements pursuant to secton 904. Pending such establishment and thereafter the Secretary shall administer the park in accordance with the provisions of this title, the Act of August 25, 1916 (39 Stat. 535), the Act of August 21, 1935 (49 Stat. 666), and any other statutory authorities available to him for the conservation and management of natural, historical, and cultural resources.

Notice, publication in Federal Register. 16 USC 230e.

Administration.

16 USC 1 *et seq.* 16 USC 461 note.

SEC. 907. (a) There is established the Delta Region Preservation Commission (hereinafter referred to as the "Commission"), which shall consist of the following:

(1) two members appointed by the Governor of the State of Louisiana;

(2) two members appointed by the Secretary from recommendations submitted by the President of Jefferson Parish;

(3) two members appointed by the Secretary from recommendations submitted by the Jefferson Parish Council;

(4) two members appointed by the Secretary from recommendations submitted by the mayor of the city of New Orleans;

(5) one member appointed by the Secretary from recommendations submitted by the commercial fishing industry;

(6) three members appointed by the Secretary from recommendations submitted by local citizen conservation organizations in the delta region; and

(7) one member appointed by the Chairman of the National Endowment for the Arts.

Delta Region Preservation Commission, establishment and membership. 16 USC 230f.

(b) Members of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the non-Federal members of the Commission in carrying out their duties.

Compensation and expenses.

(c) The function of the Commission shall be to advise the Secretary in the selection of sites for inclusion in the park, in the development and implementation of a general management plan, and in the development and implementation of a comprehensive interpretive program of the natural, historic, and cultural resources of the region. The Commission shall inform interested members of the public, the State of Louisiana and its political subdivisions, and interested Federal agencies with respect to existing and proposed actions and programs having a material effect on the perpetuation of a high-quality natural and cultural environment in the delta region.

Functions.

(d) The Commission shall act and advise by affirmative vote of a majority of its members: *Provided*, That any recommendation of the Commission that affects the use or development, or lack thereof, of property located solely within a single parish or municipality shall have the concurrence of a majority of the members appointed from recommendations submitted by such parish or municipality.

(e) The Directors of the Heritage Conservation and Recreation Service and the National Park Service shall serve as ex officio members of the Commission and provide such staff support and technical services as may be necessary to carry out the functions of the Commission.

SEC. 908. (a) There is authorized to be appropriated, to carry out the provisions of this title, not to exceed $50,000,000 from the Land and

Appropriation authorization. 16 USC 230g.

Water Conservation Fund for acquisition of lands, waters, and interests therein and such sums as necessary for the development of essential facilities.

General management plan, submittal to congressional committees.

(b) Within three years from the date of enactment of this title, the Secretary, after consultation with the Commission, shall submit to the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate a general management plan for the park indicating—

(1) transportation alternatives for public access to the park;

(2) the number of visitors and types of public use within the park which can be accommodated in accordance with the protection of its resources;

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses; and

(4) a statement setting forth the actions which have been and should be taken to assure appropriate protection, interpretation, and management of the areas known as Big Oak Island and Couba Island.

Chalmette Unit, redesignation. 16 USC 230h.

SEC. 909. The area described in the Act of October 9, 1962 (76 Stat. 755), as the "Chalmette National Historical Park" is hereby redesignated as the Chalmette Unit of the Jean Lafitte National Historical Park. Any references to the Chalmette National Historical Park shall be deemed to be references to said Chalmette Unit.

Report to congressional committees. 16 USC 230i.

SEC. 910. By no later than the end of the first full fiscal year following the date of enactment of this section, the Secretary shall submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive report with recommendations as to sites within the Mississippi River Delta Region which constitute nationally significant examples of natural resources within that region.

Urban Park and Recreation Recovery Act of 1978.

TITLE X—URBAN PARK AND RECREATION RECOVERY PROGRAM

SHORT TITLE

16 USC 2501 note.

SEC. 1001. This title may be cited as the "Urban Park and Recreation Recovery Act of 1978".

FINDINGS

16 USC 2501.

SEC. 1002. The Congress finds that—

(a) the quality of life in urban areas is closely related to the availability of fully functional park and recreation systems including land, facilities, and service programs;

(b) residents of cities need close-to-home recreational opportunities that are adequate to specialized urban demands, with parks and facilities properly located, developed, and well maintained;

(c) the greatest recreational deficiencies with respect to land, facilites, and programs are found in many large cities, especially at the neighborhood level;

(d) inadequate financing of urban recreation programs due to fiscal difficulties in many large cities has led to the deterioration of facilities, nonavailability of recreation services, and an inability to adapt recreational programs to changing circumstances; and

(e) there is no existing Federal assistance program which fully addresses the needs for physical rehabilitation and revitalization of these park and recreation systems.

SEC. 1003. The purpose of this title is to authorize the Secretary to establish an urban park and recreation recovery program which would provide Federal grants to economically hard-pressed communities specifically for the rehabilitation of critically needed recreation areas, facilities, and development of improved recreation programs for a period of five years. This short-term program is intended to complement existing Federal programs such as the Land and Water Conservation Fund and Community Development Grant Programs by encouraging and stimulating local governments to revitalize their park and recreation systems and to make long-term commitments to continuing maintenance of these systems. Such assistance shall be subject to such terms and conditions as the Secretary considers appropriate and in the public interest to carry out the purposes of this title.

Program authorization.
16 USC 2502.

Terms and conditions.

DEFINITIONS

SEC. 1004. When used in this title the term—

16 USC 2503.

(a) "recreational areas and facilities" means indoor or outdoor parks, buildings, sites, or other facilities which are dedicated to recreation purposes and administered by public or private nonprofit agencies to serve the recreation needs of community residents. Emphasis shall be on public facilities readily accessible to residential neighborhoods, including multiple-use community centers which have recreation as one of their primary purposes, but excluding major sports arenas, exhibition areas, and conference halls used primarily for commercial sports, spectator, or display activities;

(b) "rehabilitation grants" means matching capital grants to local governments for the purpose of rebuilding, remodeling, expanding, or developing existing outdoor or indoor recreation areas and facilities, including improvements in park landscapes, buildings, and support facilities, but excluding routine maintenance and upkeep activities;

(c) "innovation grants" means matching grants to local governments to cover costs of personnel, facilities, equipment, supplies, or services designed to demonstrate innovative and cost-effective ways to augment park and recreation opportunities at the neighborhood level and to address common problems related to facility operations and improved delivery of recreation service, and which shall exclude routine operation and maintenance activities;

(d) "recovery action program grants" means matching grants to local governments for development of local park and recreation recovery action programs to meet the requirements of this title. Such grants will be for resource and needs assessment, coordination, citizen involvement and planning, and program development activities to encourage public definition of goals, and develop priorities and strategies for overall recreation system recovery;

(e) "maintenance" means all commonly accepted practices necessary to keep recreation areas and facilities operating in a state of good repair and to protect them from deterioration resulting from normal wear and tear;

(f) "general purpose local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State, including the District of Columbia, and insular areas;

(g) "special purpose local government" means any local or regional special district, public-purpose corporation or other limited political subdivision of a State, including but not limited to park authorities; park, conservation, water or sanitary districts; and school districts;

(h) "private, nonprofit agency" means a community-based, nonprofit organization, corporation, or association organized for purposes of providing recreational, conservation, and educational services directly to urban residents on either a neighborhood or communitywide basis through voluntary donations, voluntary labor, or public or private grants;

(i) "State" means any State of the United States or any instrumentality of a State approved by the Governor; the Commonwealth of Puerto Rico, and insular areas; and

(j) "insular areas" means Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

Assistance, eligibility. 16 USC 2504.

SEC. 1005. (a) Eligibility of general purpose local governments for assistance under this title shall be based upon need as determined by the Secretary. Within one hundred and twenty days after the effective date of this title, the Secretary shall publish in the Federal Register, a list of the local governments eligible to participate in this program, to be accompanied by a discussion of criteria used in determining eligibility. "Such criteria shall be based upon factors which the Secretary determines are related to deteriorated recreational facilities or systems, and physical and economic distress."

Publication in Federal Register.

(b) Notwithstanding the list of eligible local governments established in accordance with subsection (a), the Secretary is also authorized to establish eligibility, at his discretion and in accord with the findings and purpose of this title, to other general purpose local governments in standard metropolitan statistical areas as defined by the census: *Provided*, That grants to these discretionary applicants do not exceed in the aggregate 15 per centum of funds appropriated under this title for rehabilitation, innovation, and recovery action program grants.

Priority criteria for project selection and approval.

(c) The Secretary shall also establish priority criteria for project selection and approval which consider such factors as—

(1) population;

(2) condition of existing recreation areas and facilities;

(3) demonstrated deficiencies in access to neighborhood recreation opportunities, particularly for minority, and low- and moderate-income residents;

(4) public participation in determining rehabilitation or development needs;

(5) the extent to which a project supports or complements target activities undertaken as part of a local government's overall community development and urban revitalization program;

(6) the extent to which a proposed project would provide employment opportunities for minorities, youth, and low- and moderate-income residents in the project neighborhood and/or would provide for participation of neighborhood, nonprofit or tenant organizations in the proposed rehabilitation activity or in subsequent maintenance, staffing, or supervision of recreation areas and facilities; and

(7) the amount of State and private support for a project as evidenced by commitments of non-Federal resources to project construction or operation.

GRANTS TO IMPLEMENT PROGRAM

SEC. 1006. (a) The Secretary is authorized to provide 70 per centum matching rehabilitation and innovative grants directly to eligible general purpose local governments upon his approval of applications therefor by the chief executives of such governments. Grants. 16 USC 2505.

(1) At the discretion of such applicants, and if consistent with an approved application, rehabilitation and innovation grants may be transferred in whole or in part to independent special purpose local governments, private nonprofit agencies or county or regional park authorities: *Provided*, That assisted recreation areas and facilities owned or managed by them offer recreation opportunities to the general population within the jurisdictional boundaries of an eligible applicant. Transference of grants.

(2) Payments may be made only for those rehabilitation or innovative projects which have been approved by the Secretary. Such payments may be made from time to time in keeping with the rate of progress toward the satisfactory completion of a project, except that the Secretary may, when appropriate, make advance payments on approved rehabilitation and innovative projects in an amount not to exceed 20 per centum of the total project cost. Payments.

(3) The Secretary may authorize modification of an approved project only when a grantee has adequately demonstrated that such modification is necessary because of circumstances not foreseeable at the time a project was proposed.

(b) Innovation grants should be closely tied to goals, priorities, and implementation strategies expressed in local park and recreation recovery action programs, with particular regard to the special considerations listed in section 1007(b)(2). Innovation grants.

LOCAL COMMITMENTS TO SYSTEM RECOVERY AND MAINTENANCE

SEC. 1007. (a) As a requirement for project approval, local governments applying for assistance under this title shall submit to the Secretary evidence of their commitments to ongoing planning, rehabilitation, service, operation, and maintenance programs for their park and recreation systems. These commitments will be expressed in local park and recreation recovery action programs which maximize coordination of all community resources, including other federally supported urban development and recreation programs. During an initial interim period to be established by regulations under this title, this requirement may be satisfied by local government submissions of preliminary action programs which briefly define objectives, priorities, and implementation strategies for overall system recovery and maintenance and commit the applicant to a scheduled program development process. Following this interim period, all local applicants shall submit to the Secretary, as a condition of eligibility, a five-year action program for park and recreation recovery that satisfactorily demonstrate: 16 USC 2506. Recovery action programs. Five-year action programs for park and recreation recovery.

(1) systematic identification of recovery objectives, priorities, and implementation strategies;

(2) adequate planning for rehabilitation of specific recreation areas and facilities, including projections of the cost of proposed projects;

(3) capacity and commitment to assure that facilities provided or improved under this title shall thereafter continue to be adequately maintained, protected, staffed, and supervised;

(4) intention to maintain total local public outlays for park and recreation purposes at levels at least equal to those in the year preceding that in which grant assistance is sought beginning in fiscal year 1980 except in any case where a reduction in park and recreation outlays is proportionate to a reduction in overall spending by the applicant; and

(5) the relationship of the park and recreation recovery program to overall community development and urban revitalization efforts.

Where appropriate, the Secretary may encourage local governments to meet action program requirements through a continuing planning process which includes periodic improvements and updates in action program submissions to eliminate identified gaps in program information and policy development.

Action programs.

(b) Action programs shall address, but are not limited to the following considerations:

(1) Rehabilitation of existing recreational sites and facilities, including general systemwide renovation; special rehabilitation requirements for recreational sites and facilities in areas of high population concentration and economic distress; and restoration of outstanding or unique structures, landscaping, or similar features in parks of historical or architectural significance.

(2) Local commitments to innovative and cost-effective programs and projects at the neighborhood level to augment recovery of park and recreation systems, including but not limited to recycling of abandoned schools and other public buildings for recreational purposes; multiple use of operating educational and other public buildings; purchase of recreation services on a contractual basis; use of mobile facilities and recreational, cultural, and educational programs or other innovative approaches to improving access for neighborhood residents; integration of recovery program with federally assisted projects to maximize recreational opportunities through conversion of abandoned railroad and highway rights-of-way, waterfront, and other redevelopment efforts and such other federally assisted projects as may be appropriate; conversion of recreation use of street space, derelict land, and other public lands not now designated for neighborhood recreational use; and use of various forms of compensated and uncompensated land regulation, tax inducements, or other means to encourage the private sector to provide neighborhood park and recreation facilities and programs.

Publication in Federal Register.

The Secretary shall establish and publish in the Federal Register requirements for preparation, submission, and updating of local park and recreation recovery action programs.

(c) RECOVERY ACTION PROGRAM GRANTS.—The Secretary is authorized to provide up to 50 per centum matching grants to eligible local applicants for program development and planning specifically to meet the objectives of this title.

STATE ACTION INCENTIVE

Federal implementation grants, increase. 16 USC 2507.

SEC. 1008. The Secretary is authorized to increase Federal implementation grants authorized in section 1006 by providing an additional match equal to the total match provided by a State of up to 15 per centum of total project costs. In no event may the Federal matching amount exceed 85 per centum of total project cost. The Secretary shall

further encourage the States to assist him in assuring that local recovery plans and programs are adequately implemented by cooperating with the Department of the Interior in monitoring local park and recreation recovery plans and programs and in assuring consistency of such plans and programs, where appropriate, with State recreation policies as set forth in statewide comprehensive outdoor recreation plans.

MATCHING REQUIREMENTS

Non-Federal share of project costs. 16 USC 2508.

SEC. 1009. The non-Federal share of project costs assisted under this Title may be derived from general or special purpose State or local revenues. State categorical grants, special appropriations by State legislatures, donations of land, buildings, or building materials and/or in-kind construction, technical, and planning services. No moneys from the Land and Water Conservation Fund (77 Stat. 49), as amended, or from any other Federal grant program other than general revenue sharing and the community development block grant programs shall be used to match Federal grants under this program. Reasonable local costs of action program development to meet the requirements of section 1007(a) of this title may be used as part of the local match only when local applicants have not received program development grants under the authority of section 1007(c) of this title. The Secretary shall encourage States and private interests to contribute, to the maximum extent possible, to the non-Federal share of project costs.

CONVERSION OF RECREATION PROPERTY

16 USC 2509.

SEC. 1010. No property improved or developed with assistance under this title shall, without the approval of the Secretary, be converted to other than public recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the current local park and recreation recovery action program and only upon such conditions as he deems necessary to assure the provision of adequate recreation properties and opportunities of reasonably equivalent location and usefulness.

COORDINATION OF PROGRAM

16 USC 2510.

SEC. 1011. The Secretary shall (a) coordinate the urban park and recreation recovery program with the total urban recovery effort and cooperate to the fullest extent possible with other Federal departments and agencies and with State agencies which administer programs and policies affecting urban areas, including but not limited to, programs in housing, urban development, natural resources management, employment, transportation, community services, and voluntary action; (b) encourage maximum coordination of the program between appropriate State agencies and local applicants; and (c) require that local applicants include provisions for participation of community and neighborhood residents and for public-private coordination in recovery planning and project selection.

AUDIT REQUIREMENTS

Recordkeeping. 16 USC 2511.

SEC. 1012. Each recipient of assistance under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of project undertakings in connection with which assistance under this title is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will

facilitate an effective audit. The Secretary, and the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title.

AUTHORIZATION OF APPROPRIATIONS

16 USC 2512.

SEC. 1013. There are hereby authorized to be appropriated for the purposes of this title, not to exceed $150,000,000 for each of the fiscal years 1979 through 1982, and $125,000,000 in fiscal year 1983, such sums to remain available until expended. Not more than 3 per centum of the funds authorized in any fiscal year may be used for grants for the development of local park and recreation recovery action programs pursuant to sections 1007(a) and 1007(c), and not more than 10 per centum may be used for innovation grants pursuant to section 6 of this title. Grants made under this title for projects in any one State shall not exceed in the aggregate 15 per centum of the aggregate amount of funds authorized to be appropriated in any fiscal year. For the authorizations made in this subsection, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.

Notwithstanding any other provision of this Act, or any other law, or regulation, there is further authorized to be appropriated $250,000 for each of the fiscal years 1979 through 1983, such sums to remain available until expended, to each of the insular areas. Such sums will not be subject to the matching provisions of this section, and may only be subject to such conditions, reports, plans, and agreements, if any, as determined by the Secretary.

LIMITATION OF USE OF FUNDS

16 USC 2513.

SEC. 1014. No funds available under this title shall be used for the acquisition of land or interests in land.

SUNSET AND REPORTING PROVISIONS

Reports to Congress. 16 USC 2514.

SEC. 1015. (a) Within ninety days of the expiration of this authority, the Secretary shall report to the Congress on the overall impact of the urban park and recreation recovery program.

(b) On December 31, 1979, and on the same date in each year that the recovery program is funded, the Secretary shall report to the Congress on the annual achievements of the innovation grant program, with emphasis on the nationwide implications of successful innovation projects.

TITLE XI—NEW RIVER GORGE NATIONAL RIVER

Establishment and administration. 16 USC 460m-15.

SEC. 1101. For the purpose of conserving and interpreting outstanding natural, scenic, and historic values and objects in and around the New River Gorge and preserving as a free-flowing stream an important segment of the New River in West Virginia for the benefit and enjoyment of present and future generations, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall establish and administer the New River Gorge National River. The Secretary shall administer, protect, and develop the national river in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16

U.S.C. 1 et seq.), as amended and supplemented; except that any other statutory authority available to the Secretary for the preservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this title. The boundaries of the national river shall be as generally depicted on the drawing entitled "Proposed New River Gorge National River" numbered NERI-20,002, dated July 1978, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

Boundary description, availability for public inspection.

SEC. 1102. (a) Within the boundaries of the New River Gorge National River, the Secretary may acquire lands and waters or interests therein by donation, purchase with donated or appropriated funds, transfer, or exchange. Lands owned by the State of West Virginia or a political subdivision thereof may be acquired by donation only. The authority of the Secretary to condemn in fee, improved properties as defined in subsection (c) of this section shall not be invoked as long as the owner of such improved property holds and uses it in a manner compatible with the purposes of this title. The Secretary may acquire any such improved property without the consent of the owner whenever he finds that such property has undergone, since January 1, 1978, or is imminently about to undergo, changes in land use which are incompatible with the purposes of the national river. The Secretary may acquire less than fee interest in any improved or unimproved property within the boundaries of the national river.

Acquisition of lands, waters, or interests. 16 USC 460m-16.

(b) On non-federally owned lands within the national river boundaries, the Secretary is authorized to enter into cooperative agreements with organizations or individuals to mark or interpret properties of significance to the history of the Gorge area.

Non-federally owned lands.

(c) For the purposes of this Act, the term "improved property" means (i) a detached single family dwelling, the construction of which was begun before January 1, 1977 (hereafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, or (ii) property developed for agricultural uses, together with any structures accessory thereto which were so used on or before January 1, 1977, or (iii) commercial and small business properties which were so used on or before January 1, 1977, the purpose of which is determined by the Secretary to contribute to visitor use and enjoyment of the national river. In determining when and to what extent a property is to be considered an "improved property", the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1977, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed prior to such date.

"Improved property."

(d) The owner of an improved property, as defined in this title, on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential, or agricultural purposes, or the continuation of existing commercial operations, as the case may be, for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect

Right of use and occupancy, term.

39-194 O—80—pt 3——58 QL3

Fair market value.

Termination, notification.

the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value of the property on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this title, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

Plan, submittal to congressional committees. 16 USC 460m-17.

SEC. 1103. (a) Within two years from the date of enactment of this title, the Secretary shall submit, in writing, to the House Committee on Interior and Insular Affairs, the Senate Committee on Energy and Natural Resources and the Committees on Appropriations of the United States Congress, a detailed plan which shall indicate—

(i) the lands and areas which he deems essential to the protection and public enjoyment of the natural, scenic, and historic values and objects of this national river;

(ii) the lands which he has previously acquired by purchase, donation, exchange, or transfer for the purpose of this national river;

(iii) the annual acquisition program (including the level of funding) which he recommends for the ensuing four fiscal years; and

(iv) the feasibility and suitability of including within the boundaries of the national river, the section of the New River from Fayetteville to Gauley Bridge, and reasons therefor.

Zoning laws and ordinances, establishment assistance. 16 USC 460m-18.

SEC. 1104. The Secretary shall on his own initiative, or at the request of any local government having jurisdiction over land located in or adjacent to the Gorge area, assist and consult with the appropriate officials and employees of such local government in establishing zoning laws or ordinances which will assist in achieving the purposes of this title. In providing assistance pursuant to this section, the Secretary shall endeavor to obtain provisions in such zoning laws or ordinances which—

(1) have the effect of restricting incompatible commercial and industrial use of all real property in or adjacent to the Gorge area;

(2) aid in preserving the character of the Gorge area by appropriate restrictions on the use of real property in the vicinity, including, but not limited to, restrictions upon building and construction of all types; signs and billboards; the burning of cover; cutting of timber; removal of topsoil, sand, or gravel; dumping, storage, or piling of refuse; or any other use which would detract from the esthetic character of the Gorge area; and

(3) have the effect of providing that the Secretary shall receive advance notice of any hearing for the purpose of granting a variance and any variance granted under, and of any exception made to, the application of such law or ordinance.

Mining, prohibition and limitation. 16 USC 460m-19.

SEC. 1105. (a) Notwithstanding any other provision of law, no surface mining of any kind shall be permitted on federally owned lands within the boundary of the national river where the subsurface estate is not federally owned. Underground mining on such lands may be permitted by the Secretary only if—

(1) the mining operation will have no significant adverse impact on the public use and enjoyment of the national river;

(2) the mining operation will disturb the minimum amount of surface necessary to extract the mineral; and

(3) the surface is not significantly disturbed, unless there is no technologically feasible alternative.

Timber harvesting.

(b) The harvesting of timber on federally owned lands within the national river boundary is prohibited, except insofar as it is necessary for the Secretary to remove trees for river access, historic sites, primitive campgrounds, scenic vistas, or as may be necessary from time to time for reasons of public health and safety.

Recovery.

(c) The owner of a mineral estate subject to this section who believes he has suffered a loss by operation of this section, may bring an action only in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution.

Hunting and fishing zones, designation. 16 USC 460m–20.

SEC. 1106. The Secretary may permit hunting and fishing on lands and waters under his jurisdiction within the boundaries of the New River Gorge National River in accordance with applicable Federal and State laws, and he may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any rules and regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State agency responsible for hunting and fishing activities.

Rules and regulations, consultation.

New River Gorge National River, project work prohibition. 16 USC 460m–21.

SEC. 1107. The Federal Energy Regulatory Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063) as amended (16 U.S.C. 791a et seq.), on or directly affecting the New River Gorge National River, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above the New River Gorge National River or on any stream tributary thereto which will not invade the area or diminish the scenic, recreation, and fish and wildlife values present in the area on the date of this section. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary, or request appropriations to begin construction on any such project whether heretofore or hereafter authorized, without advising the Secretary in writing of its intention to do so at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this section and would effect the national river and the values to be protected by it under this section.

Advisement to Secretary and report to Congress.

New River, W. Va., tributaries study. 16 USC 1276.

SEC. 1108. Section 5(a) of the Act of October 2, 1968 (82 Stat. 910) is hereby amended to provide for study of three principal tributaries of the New River in West Virginia, by adding the following new paragraphs:

"(73) BLUESTONE, WEST VIRGINIA.—From its headwaters to its confluence with the New.

"(74) GAULEY, WEST VIRGINIA.—Including the tributaries of the Meadow and the Cranberry, from the headwaters to its confluence with the New.

"(75) GREENBRIER, WEST VIRGINIA.—From its headwaters to its confluence with the New.".

General management plan, submittal to congressional committees. 16 USC 460m-22.

SEC. 1109. Within three years from the date of enactment of this title, the Secretary shall develop and transmit to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs, a general management plan for the protection and development of the national river consistent with the purposes of this title, indicating—

(1) measures for the preservation of the area's resources;

(2) indications of types and general intensities of development (including visitor circulation and transportation patterns, systems and modes) associated with public enjoyment and use of the area, including general locations, timing of implementation, and anticipated costs;

(3) identification of and implementation commitments for visitor carrying capacities for all areas of the unit; and

(4) indications of potential modifications to the external boundaries of the unit, and the reasons therefor.

Cooperation. 16 USC 460m-23.

SEC. 1110. The Secretary of the Army shall cooperate with the Secretary of the Interior concerning the water requirements of the national river. The Secretary of the Army shall provide for release of water from the Bluestone Lake project consistent with that project's purposes and activities in sufficient quantity and in such manner to facilitate protection of biological resources and recreational use of the national river.

16 USC 460m-24. 42 USC 7470 *et seq.*

SEC. 1111. For the purposes of part C of the Clean Air Act, the State may redesignate the national river only as class I or class II.

Appropriation authorization. 16 USC 460m-25.

SEC. 1112. There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this title, but not to exceed $20,000,000 for the acquisition of lands and interests in lands, and not to exceed $500,000 for development.

TITLE XII—FORT SCOTT NATIONAL HISTORIC SITE

Land and interests, acquisition. 16 USC 461 note.

SEC. 1201. In order to commemorate the significant role played by Fort Scott in the opening of the West, as well as the Civil War and the strife in the State of Kansas that preceded it, the Secretary of the Interior may acquire by donation the land and interests in land, together with buildings and improvements thereon, known as Fort Scott, located in the city of Fort Scott, Bourbon County, Kansas: *Provided*, That the buildings so acquired shall not include the structure known as "Lunette Blair".

Establishment, publication in Federal Register.

SEC. 1202. When the site of Fort Scott has been acquired by the United States as provided in section 1 of this Act, the Secretary of the Interior shall establish such area as the Fort Scott National Historic Site, by publication of notice and boundary map thereof in the Federal Register.

Administration.

SEC. 1203. The Secretary of the Interior shall administer, protect, develop, and maintain the Fort Scott National Historic Site subject to the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535), as amended and supplemented, and the provisions of the Act entitled "An Act to provide for the preservation of historic America sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (49 Stat. 666).

16 USC 1 *et seq.*

16 USC 461 note.

Repeals.

SEC. 1204. Sections 3 and 4 of the Act entitled "An Act to provide for the commemoration of certain historical events in the State of Kansas, and for other purposes", approved August 31, 1965 (79 Stat. 588), as amended, are hereby repealed: *Provided*, That all obligations pursuant to contracts for the development and construction of Fort Scott heretofore entered into by the city of Fort Scott to be paid with funds under the authority of section 3 of the aforesaid Act, shall be assumed by the Secretary: *Provided further*, That any remaining balance of funds appropriated pursuant to section 4 of the Act of August 31, 1965, as amended, shall be available for the purposes of carrying out this Act.

Appropriation authorization.

SEC. 1205. In addition to such sums as might be made available to the historic site by the preceding section, effective October 1, 1979, there are hereby authorized to be appropriated such sums as may be necessary for the development of the Fort Scott National Historic Site, as provided in this Act.

TITLE XIII—REPORT AND BOUNDARY REVISION

BEAVERHEAD OR GALLATIN NATIONAL FORESTS

Report to congressional committees.

SEC. 1301. Within ninety days from enactment of this Act, the Secretary of Agriculture shall report to the Committee on Interior and Insular Affairs in the House of Representatives, and the Committee on Energy and Natural Resources of the Senate, the nature and extent of the progress of any proposal to exchange lands owned by the Burlington Northern Railroad on either the Beaverhead or Gallatin National Forests in the State of Montana for lands owned by the United States elsewhere in the State of Montana. Such report shall also discuss any study or appraisal work done by any agency of the Federal Government concerning the feasibility, impact, or cost of any such an exchange between the Burlington Northern Railroad and the Federal Government, including the sharing of cost of such study. The Department of Agriculture shall not proceed with the processing of any exchange of more than 6,400 acres until and unless authorized to do so by a concurrent resolution of the Congress.

Congressional authorization requirement.

HAMPTON NATIONAL HISTORIC SITE

Boundary revisions, description.

SEC. 1302. (a) In order to preserve, as part of the Hampton National Historic Site, lands and buildings historically associated with Hampton Mansion, the exterior boundaries of such historic site are hereby revised to include the following described lands:

All that certain tract or parcel of land lying and being situated in Baltimore County, Maryland, and being more particularly described as follows:

Beginning at a point on the northwest side of Hampton Lane (50 feet wide), said corner being common to the lands now or formerly of Hampton Village, Incorporated and the lands of Gertrude C. Ridgely, et al; thence, with the northern right-of-way line of said Hampton Lane, the two following courses and distances:

north 69 degrees 19 minutes 40 seconds east, 188.75 feet; and

easterly by a line curving toward the right having a radius of 408.59 feet for a distance of 196 feet (the chord bearing of north 83 degrees 04 minutes 12 seconds east, 194.12 feet); thence, leaving said Hampton Road, north 14 degrees 20 minutes 20 seconds

east, 1,095.18 feet to the westernmost corner of Lot numbered 1 as shown on Plat "D" of Hampton and filed for record in Plat Book G.L.B. numbered 20, folio 32; thence, running along the southerly line of the lots fronting on Saint Francis Road (as shown on said plat) on a line parallel to and 200 feet from said street, south 68 degrees 25 minutes 30 seconds west, 777.75 feet to a point on the easterly side of a 40 feet wide road; thence, with said road, north 21 degrees 34 minutes 30 seconds west, 200.00 feet to a point on the southerly right-of-way line of Saint Francis Road; thence, leaving said 40 feet wide road and with said Saint Francis Road, south 68 degrees 25 minutes 30 seconds west, 40.00 feet to a point on the westerly side of said 40 feet wide road; thence, leaving said Saint Francis Road and with said 40 feet wide road, south 21 degrees 34 minutes 30 seconds east, 200.00 feet to a pipe; thence, leaving said 40 foot wide road, south 68 degrees 25 minutes 30 seconds west, 200.00 feet to a corner common to said Hampton Village, Incorporated and the lands of subject owner; thence, with said Hampton Village, Incorporated, south 21 degrees 29 minutes 33 seconds east, 835.03 feet to the point of beginning.

Containing 14.02 acres, more or less.

Lands and interests, acquisition.

(b) The Secretary of the Interior (hereinafter referred to as the "Secretary") in furtherance of the purposes of this section, is authorized to acquire by donation, purchase, or exchange lands and interests in lands described in subsection (a) of this section.

Administration.

(c) The Secretary shall administer lands acquired under the authority of this section as part of the Hampton National Historic Site in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented and the Act of August 21, 1935 (49 Stat. 666).

16 USC 1 *et seq.*
16 USC 461 note.

Appropriation authorization.

(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

Approved November 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1165 accompanying H.R. 12536 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 95-514 (Comm. on Energy and National Resources).
CONGRESSIONAL RECORD:
Vol. 123 (1977): Oct. 27, considered and passed Senate.
Vol. 124 (1978): June 26, July 11, 12, H.R. 12536 considered and passed House.
Oct. 4, considered and passed House, amended.
Oct. 12, Senate concurred in House amendment with amendments.
Oct. 13, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 14, No. 45 (1978): Nov. 10, Presidential statement.

Public Law 102-50
102d Congress

An Act

May 24, 1991
[S. 248]

To amend the Wild and Scenic Rivers Act to designate certain segments of the Niobrara River in Nebraska and a segment of the Missouri River in Nebraska and South Dakota as components of the wild and scenic rivers system, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Niobrara Scenic River Designation Act of 1991.
Natural resources.
16 USC 1271 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Niobrara Scenic River Designation Act of 1991".

SEC. 2. DESIGNATION OF THE RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end thereof the following:

"( ) NIOBRARA, NEBRASKA.—(A) The 40-mile segment from Borman Bridge southeast of Valentine downstream to its confluence with Chimney Creek and the 30-mile segment from the river's confluence with Rock Creek downstream to the State Highway 137 bridge, both segments to be classified as scenic and administered by the Secretary of the Interior. That portion of the 40-mile segment designated by this subparagraph located within the Fort Niobrara National Wildlife Refuge shall continue to be managed by the Secretary through the Director of the United States Fish and Wildlife Service.

"(B) The 25-mile segment from the western boundary of Knox County to its confluence with the Missouri River, including that segment of the Verdigre Creek from the north municipal boundary of Verdigre, Nebraska, to its confluence with the Niobrara, to be administered by the Secretary of the Interior as a recreational river.

"After consultation with State and local governments and the interested public, the Secretary shall take such action as is required under subsection (b) of this section.

"( ) MISSOURI RIVER, NEBRASKA AND SOUTH DAKOTA.—The 39-mile segment from the headwaters of Lewis and Clark Lake to the Ft. Randall Dam, to be administered by the Secretary of the Interior as a recreational river.".

SEC. 3. STUDY OF 6-MILE SEGMENT.

(a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding the following at the end:

"( ) NIOBRARA, NEBRASKA.—The 6-mile segment of the river from its confluence with Chimney Creek to its confluence with Rock Creek.".

16 USC 1274 note.

(b) WATER RESOURCES PROJECT.—If, within 5 years after the date of enactment of this Act, funds are not authorized and appropriated for the construction of a water resources project on the 6-mile segment of the Niobrara River from its confluence with Chimney Creek to its confluence with Rock Creek, at the expiration of such 5-

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

year period the 6-mile segment shall be designated as a component of the National Wild and Scenic Rivers System by operation of law, to be administered by the Secretary of the Interior in accordance with sections 4 and 5 of this Act and the applicable provisions of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287). The Secretary of the Interior shall publish notification to that effect in the Federal Register.

Federal Register, publication.

SEC. 4. LIMITATIONS ON CERTAIN ACQUISITION.

16 USC 1274 note.

(a) LIMITATIONS.—In the case of the 40-mile and 30-mile segments of the Niobrara River described in the amendment to the Wild and Scenic Rivers Act made by section 2 of this Act, the Secretary of the Interior shall not, without the consent of the owner, acquire for purposes of such segment land or interests in land in more than 5 percent of the area within the boundaries of such segments, and the Secretary shall not acquire, without the consent of the owner, fee ownership of more than 2 percent of such area. The limitations on land acquisition contained in this subsection shall be in addition to, and not in lieu of, the limitations on acquisition contained in section 6 of the Wild and Scenic Rivers Act.

(b) FINDING; EXCEPTION.—The 5 percent limitation and the 2 percent limitation contained in subsection (a) of this section shall not apply if the Secretary of the Interior finds, after notice and opportunity for public comment, that State or local governments are not, through statute, regulation, ordinance, or otherwise, adequately protecting the values for which the segment concerned is designated as a component of the national wild and scenic rivers system.

SEC. 5. NIOBRARA SCENIC RIVER ADVISORY COMMISSION.

16 USC 1274 note.

(a) ESTABLISHMENT.—There is hereby established the Niobrara Scenic River Advisory Commission (hereinafter in this Act referred to as the "Commission"). The Commission shall advise the Secretary of the Interior (hereinafter referred to as the "Secretary") on matters pertaining to the development of a management plan, and the management and operation of the 40-mile and 30-mile segments of the Niobrara River designated by section 2 of this Act which lie outside the boundary of the Fort Niobrara National Wildlife Refuge and that segment of the Niobrara River from its confluence with Chimney Creek to its confluence with Rock Creek.

(b) MEMBERSHIP.—The Commission shall consist of 11 members appointed by the Secretary—

(1) 3 of whom shall be owners of farm or ranch property within the upper portion of the designated river corridor between the Borman Bridge and the Meadville;

(2) 3 of whom shall be owners of farm or ranch property within the lower portion of the designated river corridor between the Meadville Bridge and the bridge on Highway 137;

(3) 1 of whom shall be a canoe outfitter who operates within the river corridors;

(4) 1 of whom shall be chosen from a list submitted by the Governor of Nebraska;

(5) 2 of whom shall be representatives of the affected county governments or natural resources districts; and

(6) 1 of whom shall be a representative of a conservation organization who shall have knowledge and experience in river conservation.

(c) TERMS.—Members shall be appointed to the Commission for a term of 3 years. A member may serve after the expiration of his term until his successor has taken office.

(d) CHAIRPERSON; VACANCIES.—The Secretary shall designate 1 of the members of the Commission, who is a permanent resident of Brown, Cherry, Keya Paha, or Rock Counties, to serve as Chairperson. Vacancies on the Commission shall be filled in the same manner in which the original appointment was made. Members of the Commission shall serve without compensation, but the Secretary is authorized to pay expenses reasonably incurred by the Commission in carrying out its responsibilities under this Act on vouchers signed by the Chairperson.

(e) TERMINATION.—The Commission shall cease to exist 10 years from the date of enactment of this Act.

16 USC 1274 note.

SEC. 6. MISSOURI RIVER PROVISIONS.

(a) ADMINISTRATION.—The administration of the Missouri River segment designated in section 2 of this Act shall be in consultation with a recreational river advisory group to be established by the Secretary. Such group shall include in its membership representatives of the affected States and political subdivisions thereof, affected Federal agencies, organized private groups, and such individuals as the Secretary deems desirable.

(b) BRIDGES.—The designation of the Missouri River segment by the amendment made by section 2 of this Act shall not place any additional requirements on the placement of bridges other than those contained in section 303 of title 49, United States Code.

(c) EROSION CONTROL.—Within the Missouri River segment designated by the amendment made by section 2 of this Act, the Secretary shall permit the use of erosion control techniques, including the use of rocks from the area for streambank stabilization purposes, subject to such conditions as the Secretary may prescribe, in consultation with the advisory group described in subsection (a) of this section, to protect the resource values for which such river segment was designated.

16 USC 1274 note.

SEC. 7. NATIONAL RECREATION AREA STUDY.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the National Park Service, shall undertake and complete a study, within 18 months after the date of enactment of this section, regarding the feasibility and suitability of the designation of lands in Knox County and Boyd County, Nebraska, generally adjacent to the recreational river segments designated by the amendments made by section 2 of this Act and adjacent to the Lewis and Clark Reservoir, as a national recreation area. The Secretary may provide grants and technical assistance to the State of Nebraska, the Santee Sioux Indian Tribal Council, and the political subdivisions having jurisdiction over lands in these 2 counties to assist the Secretary in carrying out such study. The study under this section shall be prepared in consultation with the Santee Sioux Tribe, affected political subdivisions, and relevant State agencies. The study shall include as a minimum each of the following:

(1) A comprehensive evaluation of the public recreational opportunities and the flood plain management options which are available with respect to the river and creek corridors involved.

(2) An evaluation of the natural, historical, paleontological, and recreational resources and values of such corridors.

(3) Recommendations for possible land acquisition within the corridor which are deemed necessary for the purpose of resource protection, scenic protection and integrity, recreational activities, or management and administration of the corridor areas.

(4) Alternative cooperative management proposals for the administration and development of the corridor areas.

(5) An analysis of the number of visitors and types of public use within the corridor areas that can be accommodated in accordance with the full protection of its resources.

(6) An analysis of the facilities deemed necessary to accommodate and provide access for such recreational uses by visitors, including the location and estimated costs of such facilities.

(b) SUBMISSION OF REPORT.—The results of such study shall be transmitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 8. STUDY OF FEASIBILITY AND SUITABILITY OF ESTABLISHING NIOBRARA-BUFFALO PRAIRIE NATIONAL PARK.

16 USC 1a-5 note.

(a) IN GENERAL.—The Secretary of the Interior shall undertake and complete a study of the feasibility and suitability of establishing a national park in the State of Nebraska to be known as the Niobrara-Buffalo Prairie National Park within 18 months after the date of enactment of this Act.

(b) AREA TO BE STUDIED.—The areas studied under this section shall include the area generally depicted on the map entitled "Boundary Map, Proposed Niobrara-Buffalo Prairie National Park", numbered NBP-80,000, and dated March 1990. The study area shall not include any lands within the boundaries of the Fort Niobrara National Wildlife Refuge.

(c) RESOURCES.—In conducting the study under this section, the Secretary shall conduct an assessment of the natural, cultural, historic, scenic, and recreational resources of such areas studied to determine whether they are of such significance as to merit inclusion in the National Park System.

(d) STUDY REGARDING MANAGEMENT.—In conducting the study under this section, the Secretary shall study the feasibility of managing the area by various methods, in consultation with appropriate Federal agencies, the Nature Conservancy, and the Nebraska Game and Parks Commission.

(e) SUBMISSION OF REPORT.—The results of the study shall be submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

16 USC 1274 note.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Approved May 24, 1991.

LEGISLATIVE HISTORY—S. 248:

HOUSE REPORTS: No. 102-51, Pt. 1 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-19 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 137 (1991):
Apr. 17, considered and passed Senate.
May 14, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 27 (1991):
May 24, Presidential statement.

Appendix B: Missouri National Recreational River Staff

MNRR Coordinators

Rick Clark	1989 – 1990
Jill Medland	1990 - 1991

Administration

Superintendents

Warren Hill	1991 – 1996
Paul Hedren	1997 – 2007
Mike Madell	2008 – 2010
Steven Mietz	2010 - 2013
Rick Clark	2013 - Present

Assistant Superintendents

Gary Howe	1992

Acting Superintendents

Wayne Werkmeister	2007 – 2008
Gia Wagner	2009
Steve Thede	April – November 2013

Management Assistants

Chuck Cranfield	1995 – 1998
Phil Campbell	1999 - 2002

Chief of Operations

Phil Campbell	2002 -

Outdoor Recreation Planners

Gary Howe	1992 – 1995
Sandy Weaver	1992
Kent Schwarzkopf	- 1997
William Beteta	1996 - 1999

Administrative Officer

Laurie Wise	1993 – 2015
Tina Hartz	June 2016 - Present

Administrative Assistants

Jean Perry	1998 – 1999
Jo Harkins	2000 – September 2009
Heidi Eckel	November 2009 – May 2014

Clerk/Typists

Jan Maslen	- 1996

Science and Resources Management

Chiefs of Science and Resources Management

Wayne Werkmeister	2005 – 2009
Gia Wagner	2009 – 2012
Milt Haar	July 2016 - Present

Acting Chief, Science and Resources Management

Lisa Yager	January 2015 - July 2016

Resources Management Specialists

Bill Conrod	1992 - 1996
Lauren Johnson	1998
Wayne Werkmeister	2000 - 2005

Hydrologist

Tyler Cole	2005 - 2008
John Macy	2008 – 2014

Biologist

Stephen Wilson	2001 – 2010
Lisa Yager	2010-Present

Lead Biological Science Technician

Brian Korman	2010 – Present

Interpretation, Education, and Outreach

Chiefs of Interpretation, Education, and Outreach

George Berndt	2000 – 2009
Anne Doherty-Stephan	2009 – 2010
Chris Wilkinson	2011 – 2014
Dan Peterson	2016 – Present

Acting Chiefs of Interpretation, Education, and Outreach

Dugan Smith	June 2014 – March 2016

Interpretive Specialists

Roberta D'Amico	1992

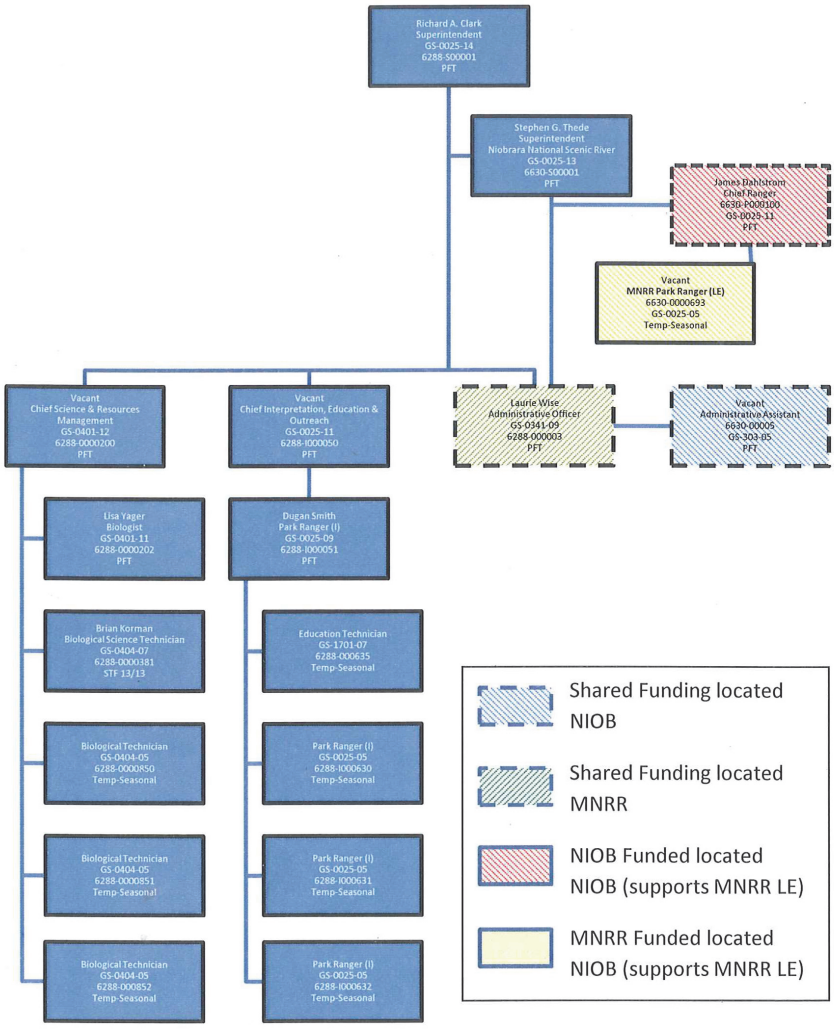
Park Rangers (Interpretation)

Dugan Smith	2001 - Present
Stuart Schneider	2001

Appendix C: Organization Chart

MISSOURI NATIONAL RECREATIONAL RIVER
CURRENT ORGANIZATIONAL CHART

National Park Service
U.S. Department of the Interior



Regional Director/Deputy Approval

7/20/15
Date

Superintendent Approval

Richard A. Clark
Date

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