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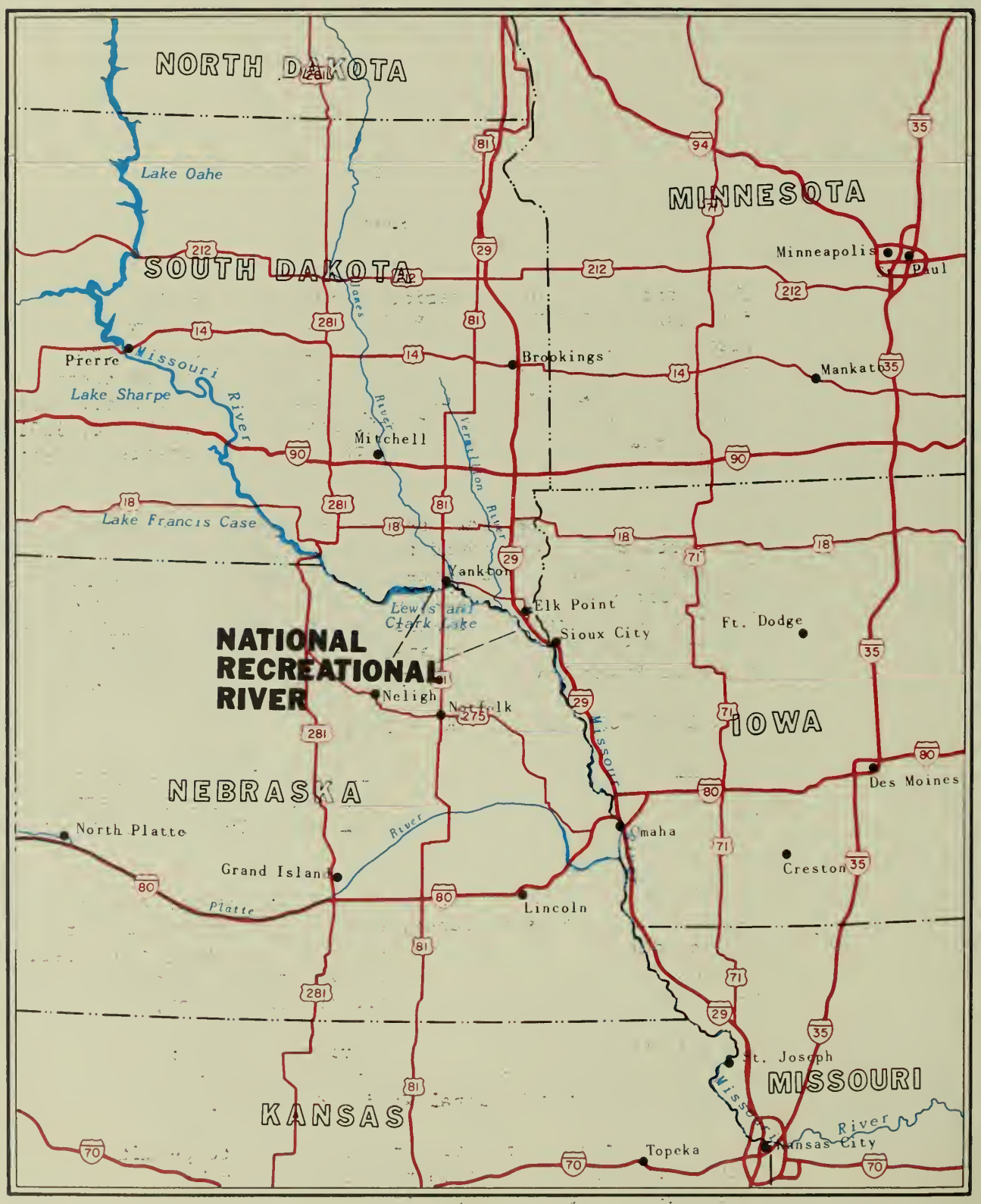
Missouri National Recreational River Management Plan

Gavins Point Dam, South Dakota, to
Ponca State Park, Nebraska

NATIONAL PARK SERVICE
WATER RESOURCES DIVISION
FORT COLLINS, COLORADO
RESOURCE ROOM PROPERTY

UNITED STATES DEPARTMENT OF THE INTERIOR
Heritage Conservation and Recreation Service


NORTH DAKOTA
SOUTH DAKOTA
MINNESOTA
IOWA
NEBRASKA
KANSAS
MISSOURI
NATIONAL RECREATIONAL RIVER
Lake Oahe
Lake Sharpe
Lake Francis Case
Lewis and Clark Lake
Missouri River
Platte River
Vermillion River
Prerre
Brookings
Mitchell
Yankton
Elk Point
Sioux City
Neligh
Norfolk
Omaha
Lincoln
Grand Island
North Platte
Minneapolis
St. Paul
Mankato
Ft. Dodge
Des Moines
Creston
St. Joseph
Kansas City
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50 0 50 100 150 miles

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INTRODUCTION

The Missouri River begins at Three Forks, Montana, and flows southeasterly for 2,300 miles before joining the Mississippi River a few miles north of St. Louis, Missouri. It ranks as the second longest and is one of the most famous rivers in the United States. It was the primary route of Lewis and Clark. The river shared with the Oregon Trail and the Santa Fe Trail the distinction of being one of the three main thoroughfares to the Far West. It was a wild and unpredictable river that carried millions of pounds of freight.

Waters of this mighty river are now harnessed in the upper and middle reaches by a series of multi-purpose dams and reservoirs. In its lower reaches, the Missouri River has been further tamed by channelization. The net effect of man's endeavors has been improved flood control and navigation, increased hydroelectric power generation, irrigation water, and the creation of new opportunities for outdoor recreation. These projects, however, have also eliminated most of the extraordinary esthetic, historic, and wildlife values associated with the river in its natural condition.

A 58-mile segment of the Missouri River from Gavins Point Dam, South Dakota, to Ponca State Park in Nebraska represents one of the few remaining reaches of this great river that is free from manmade structures and still offers an example of a free-flowing river in a relatively natural state. This reach of the river has been designated as a National Recreational River because of the outstandingly remarkable natural and cultural values in this reach which are worthy of preservation. These values include the river setting at Hog Island, the entrance of the James River and Missouri chutes paralleling Hog Island, the general bank shoreline forest dominated by cottonwood trees, clusters of sandbars, and the Nebraska wooded bluffs.

Preservation of backwater marsh areas, open sandbars, and forested areas will contribute significantly to the wildlife of the area. Waterfowl and other water birds use the marshes and sandbars. The interior least tern, a rare shorebird that nests on the sandbars is being considered for inclusion on the endangered species list. The bald eagle, a bird already on the endangered species list, uses the forested areas for winter roost sites and trees overhanging the flowing water areas as feeding perches.

The physiographic features of the river, which include deep holes, shallows, fast river current, stable river bottom, and shifting sand bottom, may be the last remaining production area for the paddlefish in the Missouri River downstream from Gavins Point Dam. Preservation of the present river setting will give Americans the opportunity to see the river much as it has been throughout its significant history.

This plan has been prepared to guide the administration of the 58-mile reach of the Missouri River from Gavins Point Dam, South Dakota, to Ponca State Park, Nebraska, as a component of the National Wild and Scenic Rivers System. Specifically, the plan will provide Congress conceptual management programs for the administration of the Missouri Recreational River. Additional advanced planning will be required to implement the programs identified in this management plan.

BACKGROUND

The significant resources of the Missouri River have been well known from the time of earliest exploration until the present day. However, concern about protecting the significant natural, cultural, and recreational resources in this 58-mile reach of the river did not culminate until the late 1960s.

The earliest efforts which recognized the many resource values took place in 1967. A Recreation Task Force, established in the Missouri River Basin Comprehensive Framework Study, identified the recreational potential and recommended that the 58-mile reach be considered for inclusion in a national or state recreational rivers system. The recommendation appeared in the 1967 Recreation Task Force report and also in the Missouri River Basin Framework Study report published in December 1971.

The second effort in 1971 was initiated by the Bureau of Outdoor Recreation (BOR)—now the Heritage Conservation and Recreation Service (HCRS)—when that agency began an investigation to determine the area's potential for inclusion under Section 5(d) of the Wild and Scenic Rivers Act. As a result of that investigation, BOR recommended that the values of the Gavins Point to Ponca segment were such that it should be given status under Section 5(d) of the Wild and Scenic Rivers Act. This would have assured that any future federal planning and programs involving the segment proceed on a basis of a complete recognition of the natural, historic, and recreational values of the river and a clear understanding of how these values would be affected. However, this reach of the river was never included under Section 5(d).

The segment was also identified in the Framework Study for Nebraska's state water plan, dated May 1971, as one with attributes which would qualify it for preservation in its existing free-flowing state.

Missouri River, South Dakota, Nebraska, North Dakota, Montana, a Review Report for Water Resources Development by the U. S. Army Corps of Engineers, Missouri River Division, August 1977, which is commonly referred to as the Umbrella Study, gave recognition to this segment. Announcements for public meetings during the study stated

> The area between Gavins Point Dam and the head of existing stabilization works has an erosion problem; however, this reach has the potential for a multiple-purpose solution of which bank stabilization is only one aspect. Consequently, it is treated as one of several considerations discussed under the topic, "Recreation River."

The 1977 Umbrella Study report recommended it as a part of the National Wild and Scenic Rivers System:

> Designation of the reach from Gavins Point Dam to Ponca State Park, Nebraska, as a National Recreation River under P. L. 90-542 as amended, through establishment of recreation and scenic easements and development of new areas and access facilities.

The Umbrella Study report is currently being reviewed before submission to Congress.

The proposed recreational river segment had received additional support at the regional level through the Missouri River Basin Commission. The Commission's *Missouri River Basin Water Resources Plan* published in 1977 recommended designation and development as a National Recreation River. Further, the Commission's *1979 Priorities Report* cited the management plan study as the number two regional priority among nine proposed federal implementation studies.

In the early 1970s intense local concerns about conservation, erosion control, public access, and recreational uses of this river led to a grass-roots movement to seek ways to control a worsening erosion problem and yet preserve a more or less natural river. Diverse elements found a common meeting ground predicated on combining bank stabilization with retention of the then existing nature of the river. Emerging as the organized spokesman for these interests was the Missouri River Bank Stabilization Association (MRBSA), a local organization of landowners, environmentalists, hunting, boating, and fishing interests, and conservationists. Enjoying effective support from the diverse elements hereinbefore mentioned, the MRSBA has proved itself a highly successful organization; it was the driving force behind the movement which culminated in the inclusion of this segment of the Missouri in the National Wild and Scenic Rivers System. Indeed, so effective was this citizens group that it earned the Outdoor Recreation Achievement Award from the Secretary of the Interior in 1978.

This reach of the river has also been considered in a number of resolutions to consider bank stabilization, construction of a lock and dam, improvement for navigation, flood protection, and power development for which investigations have been carried out.

AUTHORITY

The Wild and Scenic Rivers Act, P. L. 90-542, was enacted October 2, 1968. In passing this important legislation, Congress stated that

> It is hereby declared to be the policy of the United States that certain selected rivers of the nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geological, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations. The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes.

The Wild and Scenic Rivers Act, as amended by Section 707 of Public Law 95-625, National Parks and Recreation Act of 1978, incorporated this segment as a recreational river within the National Wild and Scenic Rivers System.

The Missouri Recreational River is to be administered under the provisions of the Wild and Scenic Rivers Act which also provides for the installation of

erosion control features on this reach that are compatible with river designation.

Other authorities and legal requirements include

- Section 10, Rivers and Harbors Act of 1899; the Act of Congress approved May 27, 1952 (33 U.S.C. 403; 43 U.S.C. 961).
- Section 404, Clean Water Act of 1977 (33 U.S.C. 1344).
- Section 32, 1974 Water Resource Development Act (42 U.S.C. 1962d-5 note; 42 U.S.C. 1962d-5b).
- Section 106, the National Historic Preservation Act of 1966 (16 U.S.C. 470f).
- Coast Guard Navigation Authorities, Title 14, U. S. Code.
- Executive Order 11593—Protection and Enhancement of the Cultural Environment.
- Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 6 U.S.C. 661 et. seq.; 16 U.S.C. 661 et. seq.).
- Endangered Species Act (16 U.S.C. 1531 et. seq.).
- National Environmental Policy Act of 1969 (42 U.S.C. 4321 et. seq.).
- National Trails System Act (16 U.S.C. 1241 et. seq.).
- Executive Order 11988, as it relates to flood plains management.
- Executive Order 11990, as it relates to wetlands protection.
- All state and local laws applicable to this reach of the river.

LEGISLATIVE HISTORY

On May 3, 1978, Congressman Phillip Burton (California) introduced H.R. 17536, a bill to provide for increases in appropriations ceilings, development ceilings, land acquisition, and boundary changes in certain federal park and recreation areas, and for other purposes. Section 708 of the bill would have designated the Gavins Point to Ponca State Park segment as part of the National Wild and Scenic Rivers System. The act, cited as the National Parks and Recreation Act of 1978, was approved by the House of Representatives July 12, 1978.

Senate Bill 2876, introduced by Senator Abourezk (South Dakota) April 11, 1978, also was to provide for increases in appropriation ceilings, development ceilings, land acquisition for boundary changes at certain units of the National Parks System and for other purposes, but made no reference to adding this segment to the National Wild and Scenic Rivers System.

Senator Abourezk's bill, later identified as S. 791, was reviewed by the House of Representatives in October 1978. Section 707 recommended addition of the

Gavins Point to Ponca State Park segment to the National Wild and Scenic Rivers System. The Act, also cited as the "National Parks and Recreation Act of 1978," was approved by the Senate, as amended by the House, October 12, 1978. The House agreed to the Senate amendments to S. 791 October 13, 1978.

Congressional delegations from Nebraska and South Dakota were supportive of adding this segment to the system.

On November 10, 1978, President Jimmy Carter signed Public Law 95-625, "The National Parks and Recreation Act of 1978," in which Section 707 added the Gavins Point to Ponca State Park segment to the National Wild and Scenic Rivers System.

BOUNDARY DESIGNATION

The locations of the river and adjacent communities are depicted on the maps in Appendix A. The boundaries, as shown in the aerial photos, were established in conformance with Public Law 95-625 after aerial and ground reconnaissance, reference to previously proposed boundary maps, and consultation with interested agencies, groups and citizens.

The boundary is generally designated to be the Missouri River, beginning at the downstream border of the Lewis and Clark Project (Gavins Point Dam) to the downstream side of Ponca State Park (1965 river mile 809.9 to 1965 river mile 751.9) bounded by the adjacent flood plain, 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.

RECREATIONAL RIVER CORRIDOR DESCRIPTION

The corridor is located in the eastern portion of the States of Nebraska and South Dakota where it forms their common boundary. The land adjacent to the river ranges from a relatively level flood plain to steep, tree-covered bluffs on the Nebraska side and relatively level flood plain on the South Dakota side.

The river channel remains essentially in a natural condition, unaltered by man; however, the river flow is regulated through the Gavins Point Dam. The reach is free from any impoundments and other structures which might impede flow. River banks vary from relatively flat, sandy beach areas to vertical faces 10 to 15 feet high where active erosion is taking place.

RECREATION AND PUBLIC ACCESS

This section of the Missouri River is a major recreational resource because of its nearness to major population centers and its availability for year-round recreational use. As a result, developed sites have become increasingly popular. However, public access to the river and developed facilities for recreational use are limited, varying from areas having little or no facility development to fully developed boating and camping areas. These areas are

owned and developed by the federal government, state, county, and city governments, and private interests.

Federal lands administered by the Corps of Engineers are immediately below the Gavins Point Dam on both the South Dakota and Nebraska sides. The area contains 2 major campgrounds having approximately 172 camp pads, a large lighted fishing pier, approximately 1 mile of shoreline for fishing, a 300-foot beach, and 3 boat ramps.

The South Dakota Department of Game, Fish, and Parks owns and manages lands at five locations making up a total of approximately 500 acres. With the exception of Clay County State Recreation Area, these lands are primarily set aside as game production areas. The Clay County State Recreation Area contains camp spaces, picnicking sites, and boat launching facilities, while the remaining areas provide river access. Another access, although not directly on the Missouri, is located at Kelly's Cove on the James River, two miles upstream from its confluence with the Missouri. The state may also have title to some accretion lands on the South Dakota side of the river.

The Nebraska Game and Parks Commission owns Ponca State Park (nearly 900 acres) located just over 58 miles downstream from Gavins Point Dam. The state park consists mainly of forested bluffs, with some accretion land at their base where fishing and boating access is available. Facilities here include a boat-launching area, approximately 300 camp pads, picnic areas, cabins, a large swimming pool, and a variety of other recreation facilities.

The three counties located in South Dakota have no known public access to the river; however, Clay County Park containing over 200 acres is located adjacent to the Clay County State Recreation Area which complements recreation access to the river. Of the two counties on the Nebraska side, only Cedar County offers public access with two boat ramps, one in Cedar County Park, 11 miles downstream from Gavins Point Dam, and the other on private land at the Sportsman's Steak House, 25 miles downstream from Gavins Point Dam. The boat ramp was constructed on privately owned land by the county through an agreement with the landowner and is available for public use.

The City of Yankton, South Dakota, owns approximately one-half mile of the town's riverfront land, as well as two parcels of land in Nebraska on either side of the Highway 81 bridge. The riverfront land in town is used for municipal purposes such as the water and sewage plants and for public access. Public recreation facilities include a boat ramp, picnic tables and shelters, a playground, and ball diamonds. On the Nebraska side, the City of Yankton owns two timbered areas which have no development. One is located on each side of the bridge. Access is attainable to the river's edge across trails in these two areas.

A few small, privately operated recreational enterprises are located along the river: boat rentals and charter, lots for cabins and trailers, overnight camping facilities, picnic areas, and private access.

In Cedar County, Nebraska, two short stretches of county road parallel the river, 24 and 27 miles downstream from the dam, the only area where a road closely parallels the river. One county road and several private roads lead

to and dead end at the river. However, the private roads provide no public access for river use. Lands adjacent to these roads are privately owned.

At present, the upper reach of the segment, the area just below Gavins Point Dam, supports the heaviest recreational use. Downstream from Gavins Point Dam recreational use decreases due to the diminishing amount of recreational facility development and access points.

The 1977 Corps of Engineers Umbrella report stated that an estimated 950,000 recreation days occurred along this segment of the river in 1976. This includes use at Ponca State Park and the Corps of Engineers recreation area below Gavins Point Dam. Swimming and fishing constitute the major uses, 298,000 and 214,000 recreation days, respectively. Camping accounts for 129,000 recreation days, while hunting, picnicking, boating, and canoeing account for an additional 309,000 recreation days in total.

ADJACENT LAND USE

The major use of the land adjacent to the river is for agricultural purposes, for both irrigated and non-irrigated crops and for pasture. According to a survey done by the Corps, 75 to 95 percent of the lands immediately adjacent to the river are used for cultivated crops. Corn is the most important, followed by soybeans, alfalfa, and oats. Pasture makes up 5 to 10 percent of the land and the remainder is in woodlots. Other lands along the river banks and within the river itself include sand dunes, bars, and islands which support varying stages of vegetative growth ranging from grasses to flood plain cottonwood forest.

Interspersed in this generally agricultural area are individual homes, clusters of homes, and public recreation and wildlife lands. Immediately adjacent to the river banks, residential use includes the City of Yankton, South Dakota. Cabins, trailers, and clusters of both are located sporadically along the river banks in both states.

South Dakota	Clay County	Anderson Homestead Austin Whittemore House Old Main (University Hall) Vermillion Historic District Rice Farm Spirit Mound
	Yankton County	Bishop Marty Rectory Excelsior Flour Mill Ohlman Shannon House Yankton College Conservatory Yankton County Court House Yankton Historic District
Nebraska	Cedar County	Schulte Archeological Site Bow Valley Mills Wiseman Archeological Site
	Dixon County	Cook Blacksmith Shop Ponca Historic District

CULTURAL RESOURCES

The Missouri River is rich in cultural resources, having been a natural highway and a focal point for occupation throughout history. Fifteen historic sites and two archeologic sites listed in the *National Register of Historic Places* are located in counties along the corridor. The table to the left shows those sites listed in the *National Register* as of February 1979. However, the river corridor has never been systematically surveyed for cultural resources, and none of these *National Register* sites is located within the corridor.

The Missouri River corridor was the route of explorers Lewis and Clark, Indian traders, trappers, and pioneers as they traveled toward the Rocky Mountains. Its role in the settlement of the trans-Mississippi west was very significant and many features and sites of historical importance can still be seen along it. The route of the 1804-1806 Lewis and Clark Expedition has been designated a National Historic Trail.

The earliest major historical documentations of the river are the journals kept by Lewis and Clark as they made their epic journey up the Missouri in 1804 and 1805 and returned in 1806.

Information from the Lewis and Clark journal indicates that they camped on this particular segment of the river eight times in the process of their round trip. Six campsites were made during the period August 23 through August 31, 1804, on the way up river and two on September 1 and 2, 1806, as they returned to St. Louis.

In their journals, Lewis and Clark described the surrounding countryside as they traveled upstream. They mention the rivers which flow into the Missouri, the bluffs, and sand bars, islands, and wildlife. The landscape remains much today as it was then. Significant features are still identifiable. One feature mentioned in the Lewis and Clark journal, and which was to become a local landmark, was the Ionia "volcano." The journal describes it as a "burning bank or bluff which was very high and had fire in it . . ." This bluff they reported as located opposite the Whitestone River, the present-day Vermillion River. The Indians of the area thought of this hill as being associated with the supernatural and regarded it with awe.

Thousands of river travelers and settlers saw the hill and wondered at the "burning bluffs." Most of them believed it was a volcano. During the 1860s and 1870s the Ionia "volcano" attracted much attention, especially when increased subterranean activity followed the frequent floods on the Missouri River. High water caused chemicals in the hill to react, and steam and sulfurous fumes rose from cracks in the hills. Local residents feared a volcanic eruption. On November 15, 1877, an earthquake in northeast Nebraska was thought to be an impending eruption of Ionia "volcano." Early in 1878, a raging flood on the Missouri severely damaged the small town of Ionia, from which the bluff got its name, and washed away a large section of the hill. The river now flows some distance from the base of the bluff, so it no longer releases steam and gases. All that remains of the town of Ionia which was relocated up the bluff is a cemetery and the foundation of a school. This is one of the several prominent features still identifiable.

Calumet Bluff, site of Gavins Point Dam, was the location of a Lewis and Clark campsite from August 28 through August 31, 1804, while they met with the Sioux Indians of this region. This bluff, too, was a well-known landmark. The exact location of other Lewis and Clark campsites along the river would be almost impossible to determine precisely, since the river channel has changed so much since 1804; nevertheless, approximate locations can be determined. Indian traders and trappers followed soon after Lewis and Clark, and the era of steamboats on the Missouri began a few years later. By 1831, the steamers had traveled well beyond Gavins Point. It was in this year that the steamer *Yellowstone* reached Fort Pierre, South Dakota. Both sidewheelers and sternwheelers traveled this portion of the river. Some became victims of the river

either because of snags, ice, or fire; there were at least seven steamboat wrecks. By 1900, steamboat travel on the Missouri was essentially a thing of the past.

The Boy Scouts of America have been instrumental in furthering knowledge of the Lewis and Clark Expedition through the establishment of the Lewis and Clark Historic Canoe Trail which extends from Pickstown, South Dakota, to Sioux City, Iowa. The first segment of the canoe trail extends from Sioux City, Iowa, to Yankton, South Dakota, which includes the recreational river.

The recognition and designation by the Boy Scouts of America encourages Scouts to experience and view the area traveled by the Lewis and Clark Expedition. Here the Scout can relive those expedition experiences, especially in the recreational river area, much as it was during that expedition.

VEGETATION

Natural vegetation along the river is composed primarily of two major plant communities, the flood plain forest of willow and cottonwood and the elm and oak woodland typical of the bluffs that border the flood plain in Nebraska.

Varying stages of flood plain vegetative succession are evident throughout the segment. On the sand bars and newly deposited accretion lands adjacent to the river banks are the pioneer species of flood plain succession: annual weeds, short-lived grasses, sedges, and seedling willow and cottonwood. Farther back and higher above the water table larger willow and cottonwood trees dominate until finally a flood plain forest consisting mainly of cottonwoods on the highest banks and islands dominates the flood plain vegetation. Understory types in this mature cottonwood forest consist mainly of dogwood, sumac, wild grape, and poison ivy. Much of the mature cottonwood forest on the high banks adjacent to the river has been replaced with pasture and cultivated cropland, though remnant groves remain. These feature the most mature examples of the forest. Two large islands also support substantial groves of mature vegetation. Other examples of plant community are seen on relatively new accretion lands and islands which have not been subject to agricultural development.

In contrast to mixed flood plain forest and agriculture use on the flood plain are the hardwood forests of the adjoining bluffs in Nebraska. There are several places in the river segment where the river flows at the base of the bluffs. Here, the bluffs and their hardwood forest dominate the scene. The slopes are predominantly north facing and support a dense growth of oak, ash, mulberry, and walnut. Burr oak is by far the predominant species. Where grazing has been limited, a good understory shrub layer is present as in the flood plain forest. Dogwood and sumac are typical plants. This hardwood forest is predominant on the north-facing slopes and in the many draws and ravines of the bluffs. Near the hilltops where soil moisture is less abundant, and where there is a south or west exposure, the forest is replaced by native grasses mixed with yucca. The variety of vegetation types, contrasting with the flood plain forest, adds to the overall diversity of the study segment.

FISH AND WILDLIFE

An abundance of fish species can be found in the river. The unchannelized condition of the river in this reach provides a diversity of habitat for fish

that were common throughout most of the Missouri River prior to its alteration by man. Although the main stem dam system has altered the river's traditional pattern of flow and significantly reduced its sediment load, most of the indigenous fish species are still present. The changed river condition has, however, modified the dominance and abundance of species in the fish community, and a few species have been introduced into the river. The following table lists the principal fish species found today. Of these, sauger, carp, channel catfish, goldeye, white bass, and freshwater drum are the most abundant fish found in the fisherman's creel. The Missouri River sport fishery compares favorably with other rivers in the United States, and the annual rates of catch and harvest were greater in the national river reach than any other portion of the river including the Gavins Point Dam tailwaters. The paddlefish, one of the oldest living fish, is found throughout the Missouri River drainage. However, known spawning grounds are few. It is felt that this lack of spawning areas has resulted because large portions of the Missouri have been altered by man. The channelized river below Ponca State Park, for example, does not offer suitable spawning areas because water depths are too great and the bottom too uniform. Gavins Point Dam is a barrier to their movement upstream. The recreational river is, therefore, considered very important to the maintenance of the paddlefish in the Missouri River below Gavins Point Dam. Although there is no definite evidence of their spawning, paddlefish larvae were found below the dam in the spring of 1976. This is the strongest evidence to date that paddlefish could be spawning in this reach.

PRINCIPAL SPECIES OF THE FISH COMMUNITY

Shovelnose sturgeon[1]	Goldeye[1]
Gizzard shad[1]	Carp[1]
River carpsucker[1]	Sauger[1]
Channel catfish[1]	Paddlefish
Smallmouth buffalo	Shortnose gar
Bigmouth buffalo	Longnose gar
Shorthead redhorse	Blue sucker
Flathead catfish	Walleye
Freshwater drum	Sand shiner
Emerald shiner	White bass
Red shiner	

[1]Indicates a dominance

Wildlife is fairly abundant although types of wildlife have changed since the coming of the white man. Lewis and Clark killed a buffalo and shot at two elk on August 23, 1804, in what is now Dixon County, Nebraska, adjoining the river. These species are not found in this area today, nor are plains grizzly bear and pronghorn antelope which were also dominant on the historic scene. A survey of the area identified one species of salamander, 14 species of frogs and toads, 3 species of lizards, and 13 species of snakes. It is believed that this community of amphibians and reptiles has changed little since historic times. The abundance of the more completely terrestrial species of reptiles has probably diminished because of land use changes that have taken place.

The same survey accounted for 48 species of mammals. Small mammals, including mice, voles, bats, moles, rats, and ground squirrels, make up almost 60 percent of these species, and furbearers contribute another 20 percent. White-tailed deer is the only large mammal in the study segment; however, an occasional mule deer moves into the uplands adjoining the river from the west. Coyote, red fox, and badger are also common. As with the reptiles, the species composition of the mammals has not changed significantly from historic times, except for the loss of the big herbivores and the grizzly bear. The community makeup, however, has been affected by land use changes.

The river corridor is the year-round home for 25 bird species. Fifty-eight

species commonly nest in the area in addition to the year-round residents, while 15 additional species are common winter residents. Over 115 species regularly use the corridor on their spring migration, and 110 return through the area during their fall migration. This number of species represents about one-third of the bird species that are present in the Missouri River Basin either as regular residents, common visitors, or as occasional visitors. Except for a few introduced species and a couple of recently extinct species, there is very little change in the bird community from the historic past. The migration of waterfowl and shorebirds along the river corridor remains one of the most important ornithological occurrences in the area. This is particularly true of their spring migration. The interior least tern, a rare shorebird that nests on sandbars, is being considered for inclusion on the federal endangered species list. The bald eagle, a bird already on the endangered species list, uses the forested area for winter roost sites and trees overhanging the flowing water areas as feeding perches.

STREAMFLOW

The volume of water is influenced by releases from Gavins Point Dam. Water is released during the recreation season in amounts suitable to maintain commercial navigation at Sioux City, Iowa, the upper terminus of the Missouri River Bank Stabilization and Navigation Project. This seasonal release is at least 25,000 cfs, except during periods of flood discharge from the James, Vermillion, or other tributaries. These releases assure adequate flows for unimpeded recreation use.

Flows during years of normal water supply vary seasonally between 35,000 cfs during the spring, summer, and fall months, and 15,000 cfs or less during the winter. Flows may be outside this range during abnormal years. The Gavins Point to Ponca Park segment is free from any impoundments and other structures which might impede the flow.

WATER QUALITY

No water quality data measurements have been collected except in the upstream reaches at Gavins Point Dam and Yankton, South Dakota. However, some water quality data have been collected near the mouth of the two major tributaries, the James River and Vermillion River. It is generally assumed that the overall quality of the water is good with any degrading influences occurring farther downstream in the vicinity of Sioux City, Iowa.

The waters released from Gavins Point Dam generally comply with the requirements listed in the Federal Water Pollution Control Administration's *Water Quality Criteria*, dated April 1, 1968. The only exceptions are (a) a slight exceeding of optimal pH range of 6.5 to 8.3 SU; (b) mean phosphorous concentrations which are sufficient to support nuisance growth of aquatic organisms; and (c) mean concentrations of cadmium which may exceed 1/500 of the 96-hour mean tolerance limit for aquatic habitat

The inflows from the James and Vermillion Rivers have occasional high measured levels of fecal coliforms. However, it appears that the pollutional loadings from the James and Vermillion River should not cause sufficient water quality degradation in the Missouri River to limit its use for primary contact recreation.

Other possible pollution sources include wastewater effluent, feedlot runoff, and other non-point agricultural runoff. The major wastewater facilities are at Yankton and Vermillion, South Dakota. Both cities now have secondary treatment. As such, pollution from wastewater effluent should not be a problem. The basin management plan prepared by the State of Nebraska indicates that approximately 28,000 head of cattle are being fed in feedlots within the right bank drainage area. Information on feedlots in the South Dakota drainage is not available. Pollution entering the Missouri River from this source should also be fairly well controlled in the future because of federal requirements of the states under the auspices of P. L. 92-500. The last source, non-point agricultural runoff, is currently an unregulated pollution source. The impact of this source, and the residual pollution from the other two regulated sources, on the quality of the Missouri River cannot be determined at this time.

Water quality standards established by both Nebraska and South Dakota state that the waters shall be maintained suitable for primary contact recreation and warm water fish life propagation. However, the requirements of these standards can only be applied to controllable pollution sources, of which a possible major source, non-point agricultural land use, is not currently included. At the present, there is no reason to suppose that contact recreation might be limited anywhere except perhaps near the James and Vermillion Rivers.

The Plan

COORDINATION

In the conduct of the Corps of Engineers *Missouri River Review Report for Water Resources Development* study, the Heritage Conservation and Recreation Service teamed with the Corps in acquiring data and formulating alternative plans for the Gavins Point to Ponca State Park segment of the Missouri. Coordination with interested agencies, local organizations, and the private sector was a part of that study. State and federal agencies included in that coordination effort were as follows:

Missouri River Basin Commission
Bureau of Reclamation
U. S. Fish and Wildlife Service
Soil Conservation Service
Federal Energy Regulatory Commission
Environmental Protection Agency
National Park Service
U. S. Geological Survey
Bureau of Indian Affairs
Bureau of Land Management
Nebraska Game and Parks Commission
Nebraska Natural Resources Commission
South Dakota Department of Game, Fish, and Parks
South Dakota Department of Natural Resources Development

Local interest groups and the private sector were provided the opportunity for participation in public meetings held in Yankton and Pierre, South Dakota, June 30 and July 1, 1976, respectively. In addition, interim status reports were widely distributed to the public.

In early 1979, after the Secretary of the Interior designated HCRS as the agency responsible for development of the management plan for the Missouri Recreational River, several additional groups were consulted. These included

State Historic Preservation Officers, Nebraska and South Dakota
Nebraska State Office of Planning and Programs
South Dakota Department of Conservation
Missouri River Bank Stabilization Association
Dakota Environmental Council
Congressional Delegations, Nebraska and South Dakota

Status reports and copies of a draft management plan were provided to the above and to local governments, conservation organizations, chambers of commerce, private citizens, and other local interests to obtain input into the plan.

Public meetings were held in Newcastle, Nebraska, and in Yankton and Vermillion, South Dakota on August 21, 22, and 23, 1979, respectively.

A discussion of the public meetings is contained in Appendix B.

ADMINISTRATIVE GOALS AND RESPONSIBILITIES

Legislation adding this reach of the Missouri River to the National Wild and Scenic Rivers System is predicated on the combined cooperative efforts of federal, state, and local governments, organizations, and private citizens in developing, protecting, and enhancing this resource for the benefit and enjoyment of present and future generations. An active role by *all* the above-mentioned interests is mandatory for the management plan to become effective.

The Secretary of the Interior is mandated to administer the river in a manner that will protect and enhance the values which caused it to be included in the National Wild and Scenic Rivers System.

The Secretary of the Interior shall enter into a written cooperative agreement with the Secretary of the Army (acting through the Chief of Engineers) providing for federal construction and maintenance of erosion control work and appropriate recreational development.

Although Congress has given the Secretary of the Interior the duty to administer the river, responsibility can be delegated.

The Secretary of the Interior may establish a Recreational River Advisory Group to provide counsel and advice in administration and management of the river. This group may include in its membership representatives of the affected states and political subdivisions thereof, affected federal agencies, organized groups, and such private citizens as the Secretary deems desirable.

The Secretary of the Interior is responsible for constructing and maintaining erosion control works and recreational facilities. Construction or maintenance of any streambank erosion control works will be conditioned upon the availability to the United States of such land or interests in land as deemed necessary by the Chief of Engineers to carry out such construction or maintenance and to protect and enhance the river in accordance with the purposes of the Wild and Scenic Rivers Act.

A designated federal agency will be responsible for negotiating for lands or interests in lands.

A designated federal agency will manage all lands and interests in lands acquired as part of the recreational river.

A designated federal agency will be responsible for working with local units of government to consider zoning for lands within the corridor.

The federal government may enter into cooperative agreements with state and local units of government for their participation in planning administration and management of the Recreational River Corridor.

It will be the responsibility of those entities with whom cooperative management agreements are developed to manage the Missouri Recreational River and its related resources to maintain or enhance the existing recreational river values, while providing the public the opportunity to enjoy those values.

Subject to the execution of an agreement, the State of Nebraska will be responsible for management, including operation and maintenance, of Ponca State Park, and additional sites to be developed along the river on the Nebraska side.

Subject to the execution of an agreement, the State of South Dakota will be responsible for management, including operation and maintenance, of the Clay County State Recreation Area, four game production areas that border the river, and the additional recreational sites to be developed along the river on the South Dakota side.

Subject to the execution of an agreement, the City of Yankton will be responsible for management, including operation and maintenance, of the city's riverfront lands, and the two parcels of land on either side of U. S. Highway 81 bridge on the Nebraska side of the river.

Where possible, agreements will be negotiated with the various local governments for the management, including operation and maintenance of access roads, and of existing access sites and those additional access sites to be acquired and developed.

Privately developed public recreation areas and access sites compatible with the overall river management plan will be encouraged.

LAND USE AND INTEREST IN LANDS

Protection and enhancement of recreational river characteristics is dependent upon the willingness of landowners to agree to use those lands identified in the river corridor in a manner compatible with recreational river designation.

Approximately 600 acres of land are identified in the management plan for potential recreation development. These islands and parcels along the river corridor are intended to provide river access and allow for development of facilities to support future recreational use. These lands can only be acquired from willing sellers. If these lands, as identified in the management plan, cannot be obtained from a willing seller, locations may have to be adjusted to seek out willing sellers.

An additional estimated 19,000 acres have also been identified as lands on which an interest may be desirable for river management. This interest is primarily to assure that ongoing activities compatible with recreational river management will continue, or if changed would remain compatible with river management. This interest will be available through various types of agreement obtained in association with installation and maintenance of erosion control features or through negotiation with landowners.

Following are examples of types of agreements which may be considered:

Scenic Easement. A scenic easement is basically the acquisition of some of the potential uses of the land. This easement prevents changes in land use which harm the natural qualities of the area. The landowner donates or sells his or her right and the right of his or her successors to those potential uses of the land which might degrade the river's values. The landowner keeps the land and may continue to use it as in the past. The landowner basically sells or donates the right to certain future land-use changes for which he or she is paid fair market values. With easements, the county keeps the land on its tax rolls. Scenic easements do not provide for public use or access; the land remains in control of the landowner, and trespassers may be prosecuted.

Recreation Easement. A recreation easement is similar to the scenic easement with one major exception. The recreation easement would allow public use of the private lands and would clearly identify the uses that could occur, such as hiking, boat beaching, and picnicking.

Purchase and Resale. Land may be purchased by a government agency or private organization and subsequently resold subject to appropriate conservation restrictions written into the deed of transfer back to the private sector for private use. This allows land to be purchased and then returned to the tax rolls after it has been burdened with restrictions which will preserve its recreational or natural values.

Acquisition of Tax Delinquent Property. It may be possible to acquire suitable land for recreation needs by purchase of tax delinquent property either at auction or from the local county government that acquired the property at foreclosure since there were no other buyers. Also, owners of tax delinquent land may be interested in donating their property to take advantage of tax donation benefits and at the same time rid themselves of property tax, insurance, and maintenance costs.

Bargain Sales. If, for a variety of reasons, the landowner does not wish to make a full donation of his property, it may be possible to negotiate a bargain sale and thus allow the landowner to combine the advantages of both a gift and a sale.

A "Bargain Sale" is a sale of property to a qualifying organization or governmental body at a price that is less than its fair market value. This results in a part sale and part charitable contribution. Also, it is possible to transfer property or an interest in property (i.e., lease, life estate, or conservation easement) through the bargain sale method.

Donation of Undivided Interest of Land. When an undivided interest in property is contributed to a charitable organization, the donor is entitled to a current deduction for the fair market value of the interest contributed. A donation of undivided interest of land involves the donation of a percentage interest in the land and not any specific physical portion. As a result, the land, or a unit, will be owned as tenants in common by all those parties who have interest in the property.

Donations by Bequest. An individual can donate land in a will to an organization. The bequest may or may not be restricted as to the use of the property; but whenever possible, review should be made before the donor's death of that section of the will that applies to the land. Land willed in this manner is not subject to estate or inheritance taxes.

Outright Donation. Under this option, the owner, by execution of a standard deed of conveyance, gives the land to the governmental agency or nonprofit organization. This is the simplest and most direct land gift and usually provides the greatest tax benefits to the donor.

Donation with a Reserved Life Estate. A property owner may donate land or interest in land to a qualified organization but retain possession and use of the property for his own lifetime and/or the lifetime of other members of his family.

Generally in this type of transaction, the individual makes a present donation of his property but retains the right to use and possession for the remainder of his life. This results in a legally binding transaction with the incidents

of ownership actually passing to the remainderman organization upon expiration of the life tenant's estate.

Life Estate and Estate Taxes. The federal estate tax is a tax imposed on the transfer of property owned at death and on certain lifetime transfers of a testamentary nature. The tax is measured by the value of the taxable estate and applied at progressive rates. The taxable estate consists of the gross estate reduced by deductions for charitable gifts, marital bequests, administration expenses and debts.

If the decedent during his lifetime made a transfer under which he retained for his life (life estate), the possession or enjoyment of property or the right to its income, the value of the property is included in his gross estate. However, a deduction from the gross estate for purposes of determining the taxable estate is allowed for bequests or transfers of property for public, charitable, or religious purposes.

Leases. A lease is a conveyance to another of the temporary possession or use of land for a prescribed period, usually in return for rent or some other compensation.

Sale and Leaseback. Another mechanism available for the acquisition of land for conservation or recreation purposes is the sale and leaseback technique. The acquiring agency either buys or is given land from a landowner, and then both sign an already-agreed-upon lease which leases the land back to the original owner for a specific purpose. In this way, the landowner receives money immediately from the sale or as a contribution deduction but still retains the use of the land. The result is very similar to that of a life-estate transaction. One difference between these two techniques is rent. A lease will generally provide for rent to be paid to the public agency, whereas a life estate may give the landowner more control over the land than a leaseback.

This technique may be used as a form of, or a substitute for, zoning as it reduces the options of use and puts controls on development.

Other methods of obtaining interest in lands may also include voluntary land-use agreements and set-back agreements.

Agreements will contain specific provisions that prohibit uses of land that are not compatible with river management. Some incompatible uses would include erection of billboards or other structural features not associated with ongoing agricultural activities, the dumping of trash or other debris, installation of animal feedlots, and changes in topography or landscape that would adversely impact cultural, visual, and natural qualities, or fish and wildlife habitat. Each agreement will provide specific detail, for the area being considered, based on the negotiations with each landowner.

Local zoning that provides adequate protection to lands within the river corridor would preclude the need to obtain additional interests in such lands. Local governments will be encouraged to consider zoning for lands within the river corridor that will complement river management.

Where interests in land cannot be obtained, landowners will be encouraged to

continue to operate their lands in a manner compatible with recreational river management.

Should incompatible uses such as those identified above occur or be planned for lands on which no interests have been acquired, landowners will be contacted to discourage such use or the power of eminent domain may be exercised to acquire interests in lands to prevent incompatible uses of such lands as deemed necessary for river management.

No lands or interests in lands may be acquired without the consent of the owner, provided that not to exceed 5 percentum of the acreage within the designated river boundaries may be acquired in less than fee title without the consent of the owner, in such instances that activities are occurring or threatening to occur thereon which constitute serious threat or damage to the integrity of the river corridor in accordance with the values for which this river was designated.

An overall plan establishing priorities and providing for lands and interests in lands will be developed.

Priorities will consider threats to recreational river values, willing seller, and severity of erosion.

MANAGEMENT OBJECTIVES AND PROGRAMS

Implementation of the management plan is a long-range and dynamic effort that will protect and enhance the values of the river resource consistent with the objectives of the National Wild and Scenic Rivers Act. As bank stabilization and other efforts are implemented the managers will continually seek to enhance the river resource

RECREATION RESOURCES

Objectives

- Provide recreational opportunities including, but not limited to, canoeing, boating, hiking, nature study, fishing, and hunting to the extent that the recreational river characteristics are not degraded.

- Develop criteria to ensure a quality recreation experience and periodically evaluate and monitor the long-term and continuing impact of human use on the river and its environment.

- Provide or maintain limited access for camping, boating, hunting, and fishing as well as sanitation facilities to meet public health needs and to prevent site deterioration and water pollution.

- Provide for visitor health and safety at levels appropriate to the risks normally expected in recreational activities on the Missouri River. Attempt to identify and reduce hazards on or over the Missouri River.

- Inform visitors of historical aspects, recreational values, and safety precautions needed to fully enjoy and utilize the Missouri River.

- Continue operation and maintenance of all recreational sites not administered by the state, county, and local governments, and in addition develop agreements with these entities to operate and maintain new sites to be acquired and developed along the river corridor.

- Promulgate rules for use of motorized vehicles, boats, and aircraft as needed to meet the objectives of the plan.

- Provide potable water supplies at all recreation sites to meet state and federal primary standards.

- Minimize noise pollution in zones valued for solitude.

- Develop interpretative programs, user regulations, and resource uses that enhance the understanding, appreciation, and enjoyment of the various resources of the river management area.

- Promulgate visitor use rules needed to achieve the objectives stated above and provide for their dissemination, understanding, and enforcement.

Programs

Proposed Facility Development

Additional lands for visitor use facilities will be acquired and developed at or near the following locations, with proposed responsibility for management as shown:

APPROXIMATE RIVER MILE	ESTIMATED ACRES	PROPOSED MANAGING AGENCY
754 left bank	20	State of South Dakota
759 left bank	180	State of South Dakota
762 right bank	20	Dixon County or State of Nebraska
772 left bank	20	State of South Dakota
776 right bank	20	Dixon County or State of Nebraska
781 left bank	100	State of South Dakota
785 right bank	12	Cedar County or State of Nebraska
785 island	40	Designated federal or state agency
787 left bank	25	State of South Dakota
796 left bank	70	State of South Dakota
799 right bank	20	Cedar County or State of Nebraska
800 island	40	Designated federal or state agency
801 left bank	20	State of South Dakota
Access Roads	12	County government

A river access site will be developed near river mile 754 on the South Dakota side.

The site near river mile 759 in South Dakota will be developed as a major recreational-use area, providing for camping, picnicking, potable water, and sanitary facilities. This unique ares is commonly referred to as the Elk Point Sand Dunes. Development of this major recreation area should protect

the natural values found at the site and emphasize the interpretation of the river ecosystem.

Sites on the islands and those not accessible by automobile may be developed to provide for primitive camping consisting of campfire rings, sanitary facilities, and boat beaching areas. Parking, sanitation, and boat launching facilities may be installed at those sites accessible by automobile. Areas may be fenced as needed.

With the exception of Yankton City Park, which is adequate, the remaining existing sites may be improved with the addition of such facilities as boat ramps, camping pads, boat docks, parking spaces, interior roads, and sanitation to conform with standards appropriate for national river designation. Upon completion of these improvements, which will be carried out with federal funds on lands made available to the federal government, the management responsibilities will be assumed by the present nonfederal site managers.

Use intensity will be monitored to assure that the recreational river values and existing facilities are not degraded and that intrusions on private land holdings are minimized.

Trail Development

As demand warrants, trails may be provided for access to features of interest, and such development will be coordinated with local communities.

The Lewis and Clark National Historic Trail, which traverses the management area, was designated by Public Law 90-543 (National Trails System Act of 1968) as amended by P. L. 95-625 (National Parks and Recreation Act of 1978). The trail will be managed in accordance with this plan and the general management plan for the Lewis and Clark National Historic Trail.

Use of the Lewis and Clark Historic Canoe Trail designated by the Boy Scouts of America will be in accordance with management of the Lewis and Clark National Historic Trail and the overall management plan for the recreational river.

Interpretation and Information

The Missouri Recreational River corridor contains significant natural and historic features. Interpretation of these features and the management direction will afford the visitor the opportunity to gain a greater understanding, appreciation, and concern for the river's natural values. Interpretive efforts should also express the significance of the Missouri River as an artery of the nation's westward expansion. Interpretive techniques will be used to increase visitor understanding of regulations and to provide visitor information of recreation opportunities.

Interpretive programs will be developed which will fostor public recognition and care for the natural environment and cultural features through the use of published informational guides or by off-site interpretation. On-site interpretation will be provided where appropriate.

Emphasis will be placed on floral, faunal, cultural, historic, and geologic

features. A unique opportunity exists for such interpretation at the proposed site near mile 759 on the South Dakota side of the river.

FISH AND WILDLIFE

Objectives

- Maintain and enhance fish and wildlife populations, both game and nongame species through maintenance and enhancement of habitat.

- Enhance sport fishing and hunting.

- Re-establishment of wetlands and marsh areas to provide fish and wildlife habitat.

Programs

An intensive inventory of wildlife and wildlife habitat for game, nongame, and species threatened and endangered as well as those species which are proposed or candidates for such status will be conducted in the river area for the development of a wildlife habitat management plan.

With the assistance and cooperation of the Fish and Wildlife Service and the states, a habitat management plan will be developed to manage key and unique wildlife habitat.

Hunting, trapping, and fishing will be permitted in accordance with state laws and regulations, except in designated zones and at specified periods when no hunting will be permited for reasons of public safety and administration.

Special consideration will be given to the unique characteristics of river islands in the habitat management plan.

Trees used for cavity nesting will not be cut. Snags with cavities actively used by nesting birds will be maintained except where they present safety hazards in proximity to campsites.

Raptor nest and roost sites will be protected. No designated camping or other recreational development will be allowed within a buffer zone around raptor nest sites.

An evaluation will be made to identify those areas that have potential for establishment of wetland areas or improvement of existing wetlands. Establishment or improvement of wetlands will be included in the overall wildlife habitat management plan.

Section 7 consultation has been carried out as required in the Endangered Species Act. See Appendix E.

EROSION CONTROL

Objectives

- Protect agricultural lands and those features that contribute to the designation of the recreational river.

- Implement, as soon as possible, erosion control measures at previously identified critical erosion problem sites.

- Assure continued effectiveness of erosion control features.

Programs

The Corps of Engineers will develop an erosion control plan that will protect agricultural lands, wooded areas, islands, sand bars, and other natural characteristics of the river and adjacent lands. Structures will be designed and installed to be compatible with the natural characteristics of the area. When feasible, erosion control structures will incorporate features to improve existing aquatic habitat and create new habitat. All erosion control structures including those installed prior to river designation will be monitored and maintained to protect those features for which they are installed and will not be altered to the detriment of recreational river values.

Construction or maintenance of any streambank stabilization structure will be conditioned upon the availability to the United States of such lands or interest in such ownership as is deemed necessary to carry out construction and maintenance and to protect and enhance the values which formed the basis for the river's designation.

Continuing studies will be conducted to accurately determine changes in river hydraulic characteristics. These studies are needed to determine the river's response to management actions and will furnish the data necessary to modify construction actions that will provide for preservation of the river's characteristics.

CULTURAL RESOURCES

Objectives

- To comply with the provisions of the National Historic Preservation Act of 1966 and the procedures of the Advisory Council on Historic Preservation.

- Establish and maintain an ongoing inventory of all lands within the river management corridor to identify, evaluate, and protect prehistoric and historic cultural resources.

- Preservation, protection, and enhancement of historic and archeological sites.

- Provide interpretation of historic and archeological sites for visitor enjoyment.

Programs

A complete inventory will be conducted to identify and record all cultural resource sites within the corridor area. The inventory will be conducted in cooperation with private landowners. Further research, evaluation, or excavation will be completed as required.

Areas to be either designated as campsites or developed for management

purposes will first be investigated for cultural remains. If cultural resources are located, a recommendation on the disposition of the resource or the potential harmful effects of such designation or development will have on the resource, will be made to the Secretary of the Interior by the managing entities and the appropriate cultural resources specialist.

All significant cultural resource sites will be monitored on a regular basis to determine their condition. If monitoring indicates that destruction is taking place at the sites, emergency measures, as needed, will be employed.

A long-range plan for protecting, enhancing, and interpreting cultural resources within the management corridor will be prepared and updated as an integral part of river management. Suitable sites will be nominated to the *National Register of Historic Places*.

NATURAL RESOURCES

Objectives

- Conduct a natural resource inventory.
- Preserve and/or conserve the geological, ecological, and paleontological resources in their present condition.
- Protect species of flora and fauna officially listed as threatened and endangered as well as those species which are proposed or candidates for such status.

Programs

A natural resources inventory will be conducted within the management area to locate and identify examples of rare, unique, or outstanding ecological, geological, and paleontological resources. Rare and endangered species of flora and fauna as well as species which are proposed or candidates for such status will also be inventoried.

Where practical, these natural resources will be identified on the ground. Brochures or pamphlets identifying these resources and their significance will be made available to the users of the area.

These natural values will be closely monitored by those entities responsible for site and area management to assure that they are not degraded or lost. When such degradation becomes apparent, action will be taken to protect or preserve these resources.

VISUAL RESOURCES

Objectives

- Protect and enhance existing natural characteristics of the visual resource.
- Reduce the impact of existing and future manmade intrusions on the visual resource in accordance with the Wild and Scenic Rivers Act.

Programs

Agreements will be sought to preserve and protect the existing visual qualities of the recreational river corridor.

Areas previously stabilized with car bodies and rubble, which are not modified with improved bank stabilization, will be screened or otherwise altered to enhance the visual qualities of the river.

MINERALS

Objectives

- Inventory mineral resources and mining claims for management planning.

- Allow development and use of mineral resources in such a manner as to prevent degradation of water quality and the esthetic, prehistoric, historic, geologic, ecologic, and natural features of the area.

Programs

A complete inventory of the mineral resources and known mining claims will be conducted in the river corridor.

Development and use of mineral resources may be allowed with the approval of the Secretary of the Interior subject to the requirements of the Wild and Scenic Rivers Act and approval of the States of Nebraska and South Dakota, provided that development and use of the mineral resources do not degrade the esthetic, prehistoric, historic, and geologic features and water quality, or adversely affect the fish, wildlife, and vegetative resources.

The removal of gravel and riverbed materials will be permitted under existing authorities only when such removal is carried out under an approved plan and will not have a significant effect on esthetics, water quality, fisheries, and wildlife habitat potential, or create hazards to recreational river users.

GRASSLANDS MANAGEMENT

Objectives

- Manage grasslands to maintain or improve forage production, maintain or enhance reparian vegetation, wildlife habitat, watershed, and scenic values, and minimize conflict between livestock and recreationists.

- Assist private landowners in carrying out a livestock management program on river corridor lands that will be compatible with recreational river management.

Programs

Negotiation may limit grazing primarily in those areas where grazing activities are not compatible with river management purposes.

Cooperative assistance may be provided to the landowner to develop grazing

management plans that will maintain or improve grasslands in the river corridor.

Assistance will be provided to landowners in design and layout of livestock management facilities such as fences and water sources to comply with scenic and recreational restrictions appropriate to the classification of the recreational river segment.

WOODLANDS

Objectives

- Manage woodland resources to enhance the scenic character of the Missouri River.

- Reforest the area immediately adjacent to the river.

Programs

A woodland management plan will be developed that will maintain or improve woodlands in the river corridor.

The woodlands management plan will allow cutting of timber to prevent spread of disease or insect infestations, clean up burned areas, and for harvest on a sustained yield basis.

AGRICULTURAL LANDS

Objectives

- Continue agricultural practices in the river corridor that are compatible with or complementary to recreational river designation.

- Assure that pumping facilities and associated pipelines for an adequate supply of water for agricultural purposes are compatible with recreational river management.

Programs

Agreements on prime agricultural lands will assure the continued use of such lands for the production of food and fiber.

Planning assistance in design and layout may be provided to acquire access for pumping and associated pipelines as may be necessary to assure an adequate supply of water for owners of land adjacent to and outside the river corridor. Installations for this purpose will not adversely affect those values for which the river has been designated.

WATER

Objectives

- Manage water releases from Gavins Point Dam in consonance with the primary main stem reservoir project functions of flood control, power generation,

irrigation, and navigation; and incorporate maximum consideration of recreational use, fish and wildlife enhancement, and esthetic values of the recreational river.

- Maintain or improve water quality.

- Control proposed bank and streambank modification and dredge and/or fill activities.

Programs

Water releases from Gavins Point Dam are made to serve the following purposes: flood control, power generation, navigation, recreation, and fish and wildlife enhancement throughout the main stem reservoir system. Releases will be controlled to benefit recreational use, fish and wildlife enhancement, and the esthetic value of the recreational river to the extent they do not interfere with the operation of Gavins Point Dam and the upstream system.

All activities within the recreational river corridor will be monitored to assure that water quality is maintained or improved. Proper and timely notification to concerned interests will be made should accidental pollution occur, in order that remedial action can be taken. Proposed bank and streambed modification, dredge and/or fill activities will be evaluated on a case-by-case basis to identify potential water quality impacts. Approval will be given only to those projects considered to have little or no adverse impacts on fisheries, wildlife, cultural, or recreational uses.

Streamflows will be monitored to determine the relationship between streamflow, river habitat, recreational uses, and water quality; and assist in managing flows to maintain esthetic, wildlife, and recreational values.

PLAN IMPLEMENTATION

This plan will become effective 90 days after being forwarded to the President of the Senate and Speaker of the House and publication in the *Federal Register*.

The federal agencies responsible for administration and for day to day management of the recreational river will take leadership roles and work with other federal, state, and local government agencies, and local organizations and citizens to carry out the following elements of plan implementation:

- Combine the following implementation elements into one comprehensive plan that complies with all federal and state environmental statutes identifying lead responsibilities for carrying out each element, and prepare a budget that will identify both the short-range (1 to 5 years) and long-range costs (beyond 5 years) for carrying out the management plan.

- Prepare a land ownership status map, and contact all landowners within the boundaries as identified in this management plan to advise them of planned activities for river management. These contacts will also provide information on availability of lands or interests in land for recreational river management.

- Inventory river areas to determine erosion control needs and priorities and develop a plan for installation and maintenance of erosion control features. This inventory also will identify lands on which interests in land are required as a result of installation of erosion control features.

- Establish criteria and a mechanism to 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 the segment, utilizing existing authorities.

- Negotiate with landowners for lands or interests in lands on a willing seller basis.

- Work with local units of government to consider zoning for lands within the river corridor.

- Prepare a detailed plan for acquisition of lands and development for recreational purposes, listing in order of priority the areas to be acquired and developed.

- Inventory fish and wildlife habitat and species, and formulate a plan for management, including enhancement and protection.

- Inventory cultural resources and prepare a plan for identification, interpretation, preservation, and enhancement of such resources.

- Inventory natural resources and prepare a plan for interpretation, enhancement, conservation, and protection of the river's natural and visual characteristics.

- Inventory woodlands and develop a woodlands management plan, which includes consideration for experimental reforestation.

- Inventory ongoing land use practices and develop a land use plan that provides guidance in negotiating for interests in land for river management. This plan will also provide guidance in determining the circumstances under which the power of eminent domain could be exercised.

- Formulate a plan for visitor management and facility use and how such use will be monitored.

- Formulate a plan for the development of informational materials for the recreational river user.

- Obtain agreements with local governmental entities to manage existing and proposed access and recreation sites. This includes providing for visitor safety, fire suppression, and insect and disease control.

These plan implementation elements are not necessarily presented in the order in which they may be carried out. In some instances it may be convenient to combine two or more of the implementation elements.

COST ESTIMATES

Section 707 of Public Law 95-625 authorized $21,000,000 for acquisition of lands and interest in lands and for development.

The following estimated costs to carry out implementation are based on the umbrella study as modified in this management plan.

Phase I	
Data collection, planning, design and supervision.	$ 2,226,000
Estimated work years required, 53.7.[1]	
Phase II	
Lands, interests in lands, and construction costs.	18,774,000
Estimated work years required, 12.0.[1]	
Phase III	
Annual operation, maintenance, and surveillance.[2]	293,100
Estimated annual work years required, 7.9.[1]	

PLAN MODIFICATION

As a minimum, the plan will be reviewed for modification every 5 years. When needed, the procedures for modification will be as follows:

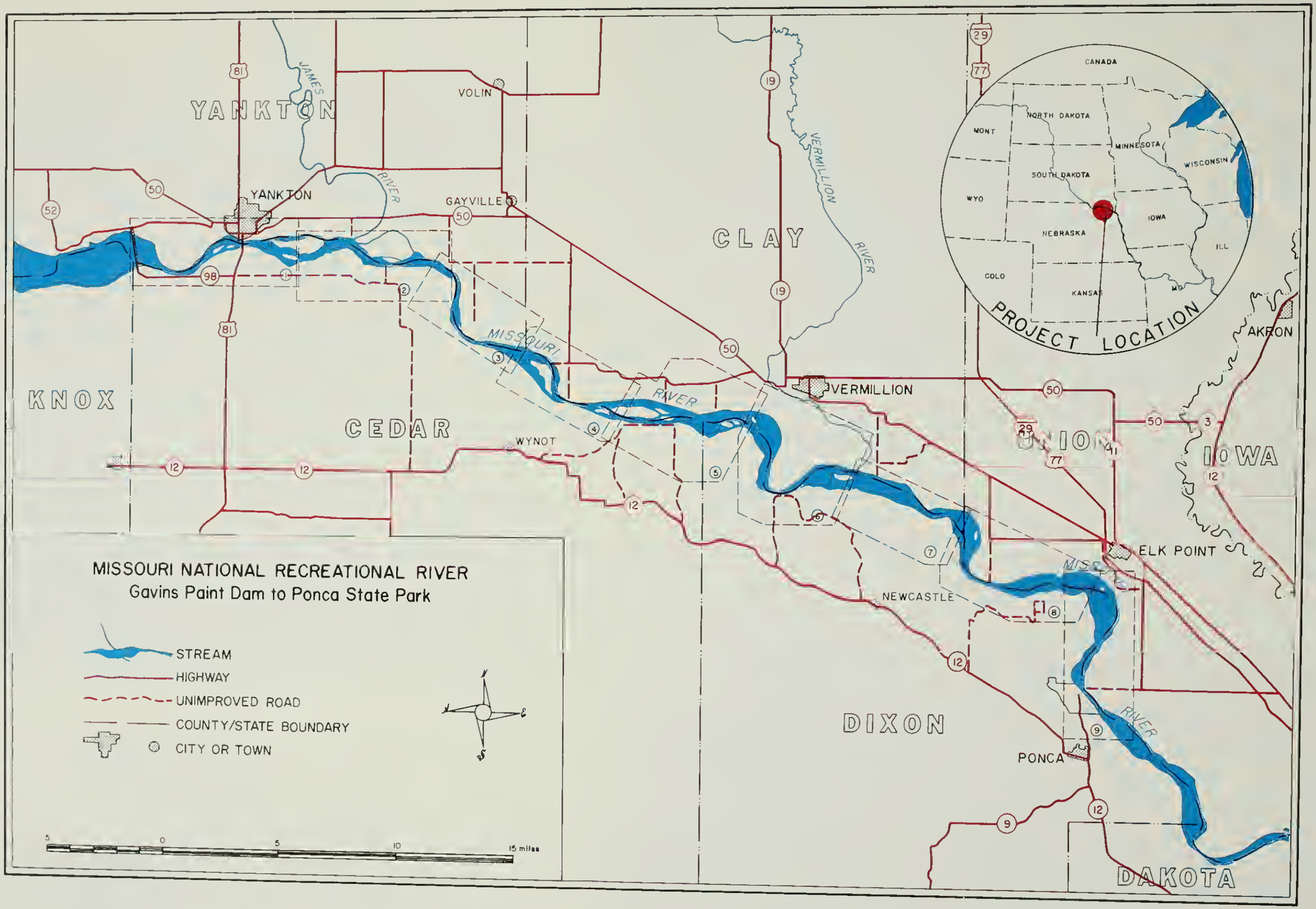
1. Gather and evaluate monitoring data.

2. Determine the kind and amount of change needed and allow for public input and review.

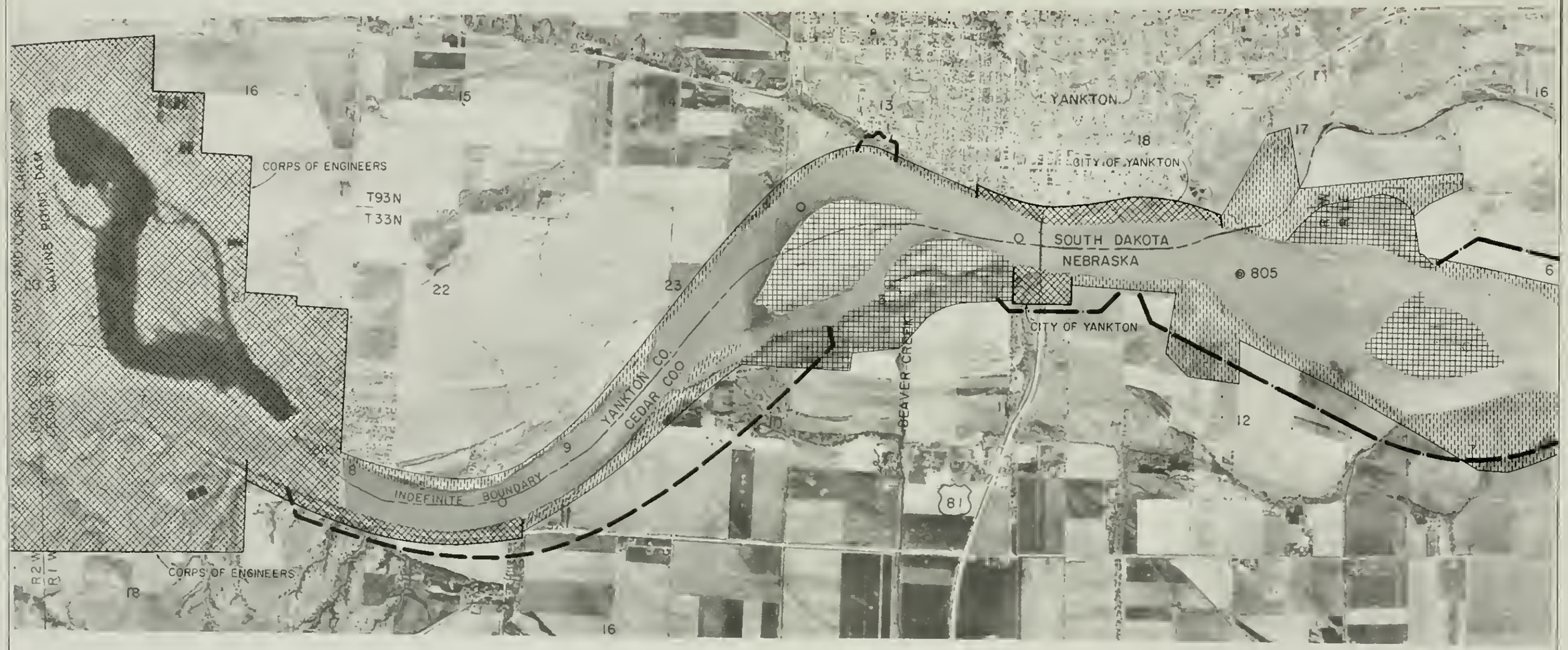
3. Make changes based on public input and on the basis of best information available.

4. Finalize the modifications by notice to the public through the media and direct contact with users.

[1] Includes only federal requirements and excludes work done under contract.
[2] Includes estimated annual federal costs only.



Maps identifying recommended
recreational river boundaries,
scenic areas, potential public use areas,
and erosion control works completed and planned



EXISTING RECREATION OR PUBLIC USE SITE

SCENIC AREA

POTENTIAL PUBLIC USE AREA

COMPLETED EROSION CONTROL WORK

CURRENT EROSION AREAS

APPROXIMATE CORRIDOR BOUNDARY

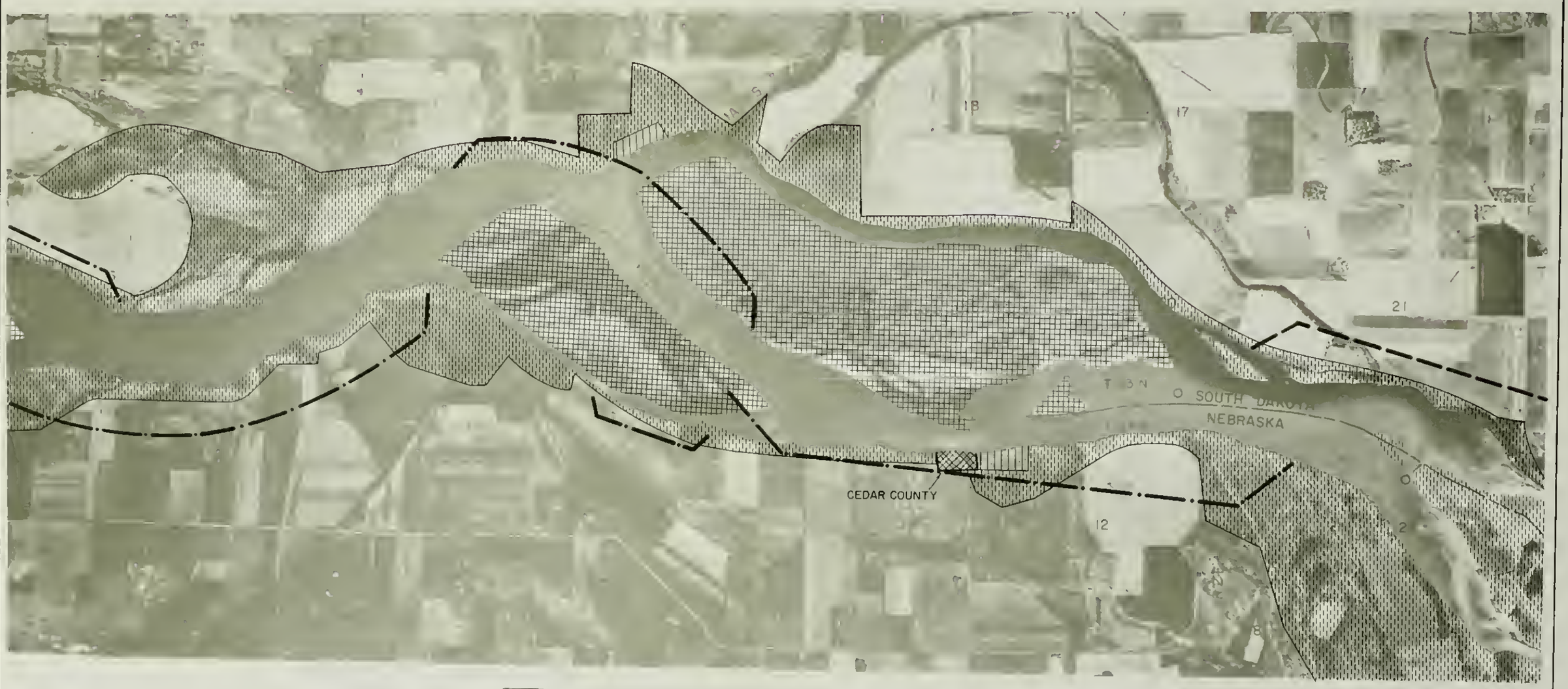
2000 0 2000 4000 6000 8000 feet

PHOTOS TAKEN 21 APR 1978

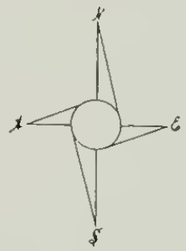
DISCHARGE = 30,000 c f s

MISSOURI RIVER
GAVINS POINT DAM TO PONCA
AERIAL MOSAIC
U S ARMY ENGINEER DISTRICT, OMAHA
CORPS OF ENGINEERS
OMAHA, NEBRASKA
MAY 1978

1



POTENTIAL RECREATION DEVELOPMENT
EXISTING RECREATION OR PUBLIC USE SITE
SCENIC AREA
POTENTIAL PUBLIC USE AREA
COMPLETED EROSION CONTROL WORK
CURRENT EROSION AREAS
APPROXIMATE CORRIDOR BOUNDARY



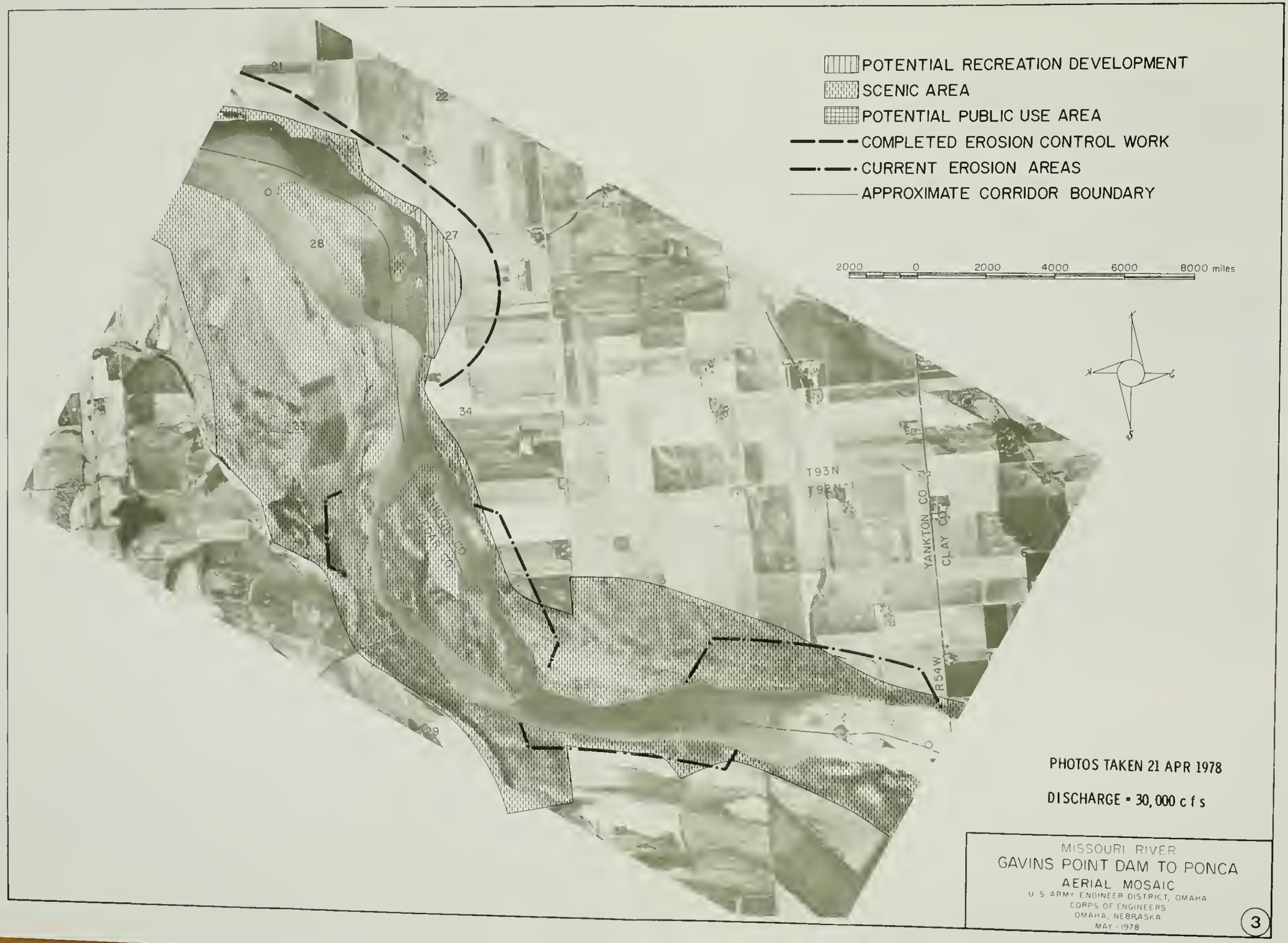
PHOTOS TAKEN 21 APR 1978

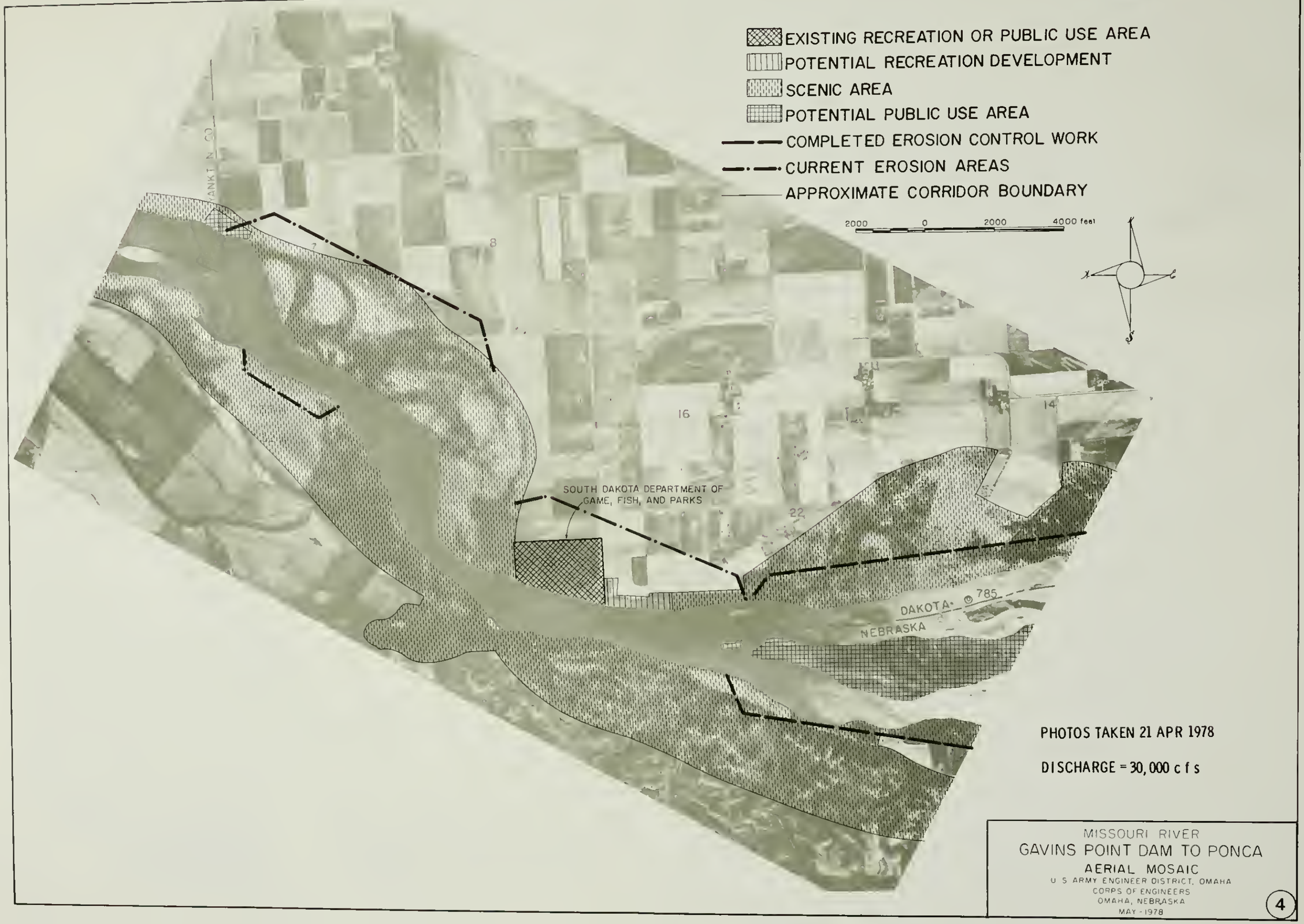
DISCHARGE = 30,000 c f s

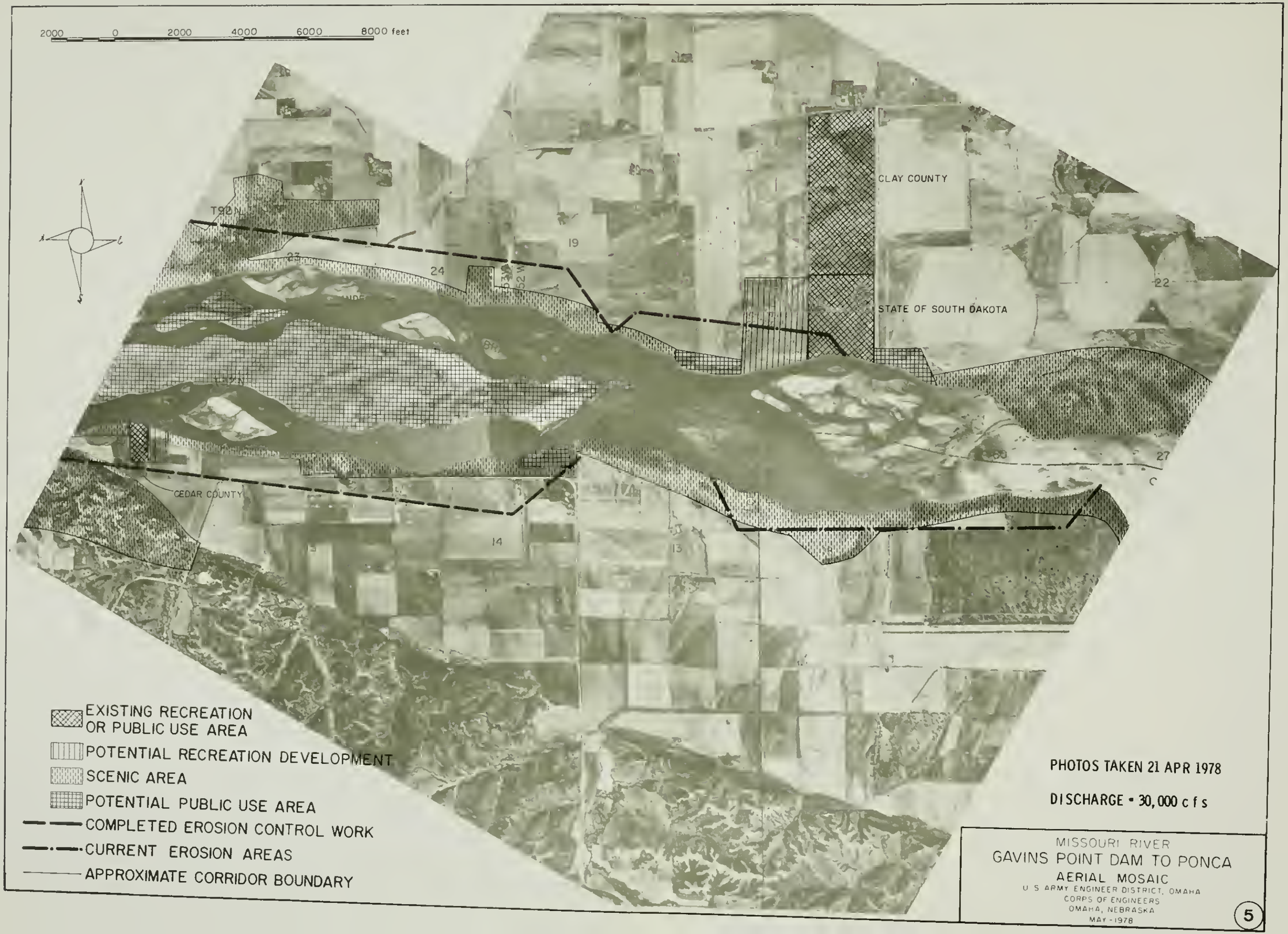
2000 0 2000 4000 6000 8000 feet

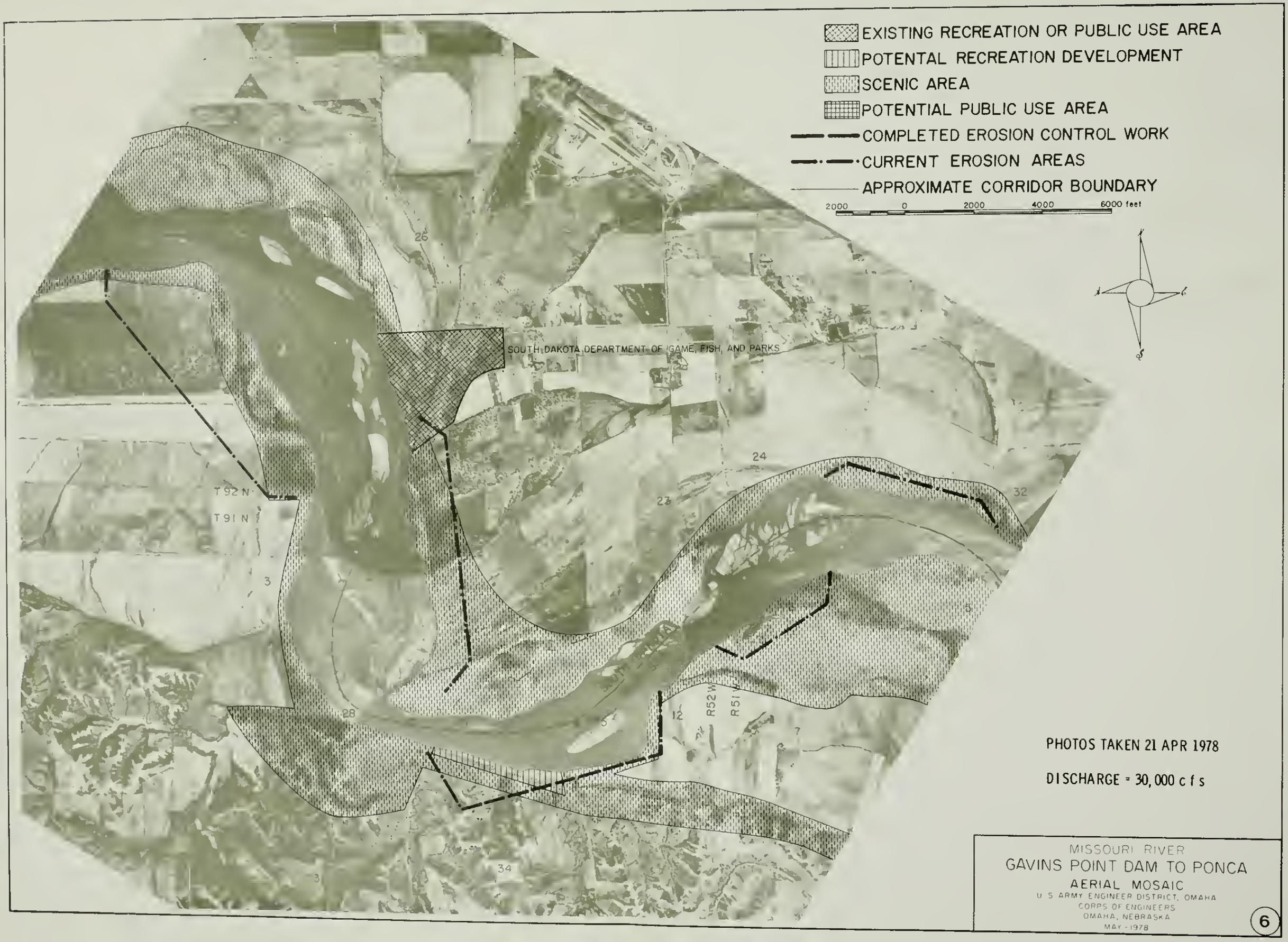
MISSOURI RIVER
GAVINS POINT DAM TO PONCA
AERIAL MOSAIC
U S ARMY ENGINEER DISTRICT, OMAHA
CORPS OF ENGINEERS
OMAHA, NEBRASKA
MAY 1978

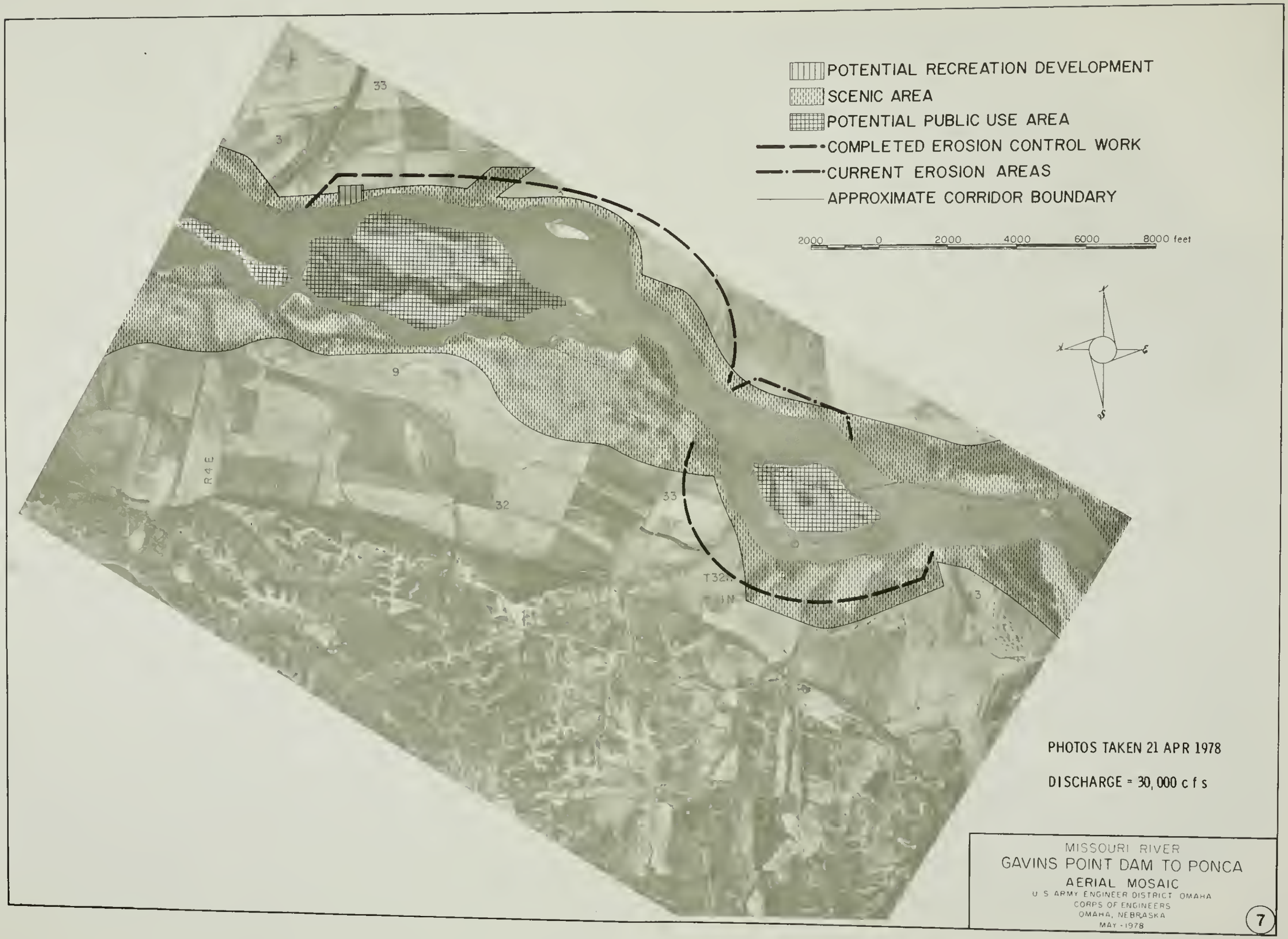
2


POTENTIAL RECREATION DEVELOPMENT
SCENIC AREA
POTENTIAL PUBLIC USE AREA
COMPLETED EROSION CONTROL WORK
CURRENT EROSION AREAS
APPROXIMATE CORRIDOR BOUNDARY
2000 0 2000 4000 6000 8000 miles
21
22
27
28
34
T93N
T92N
YANKTON CO
CLAY CO
R54W
PHOTOS TAKEN 21 APR 1978
DISCHARGE = 30,000 c f s
MISSOURI RIVER
GAVINS POINT DAM TO PONCA
AERIAL MOSAIC
U S ARMY ENGINEER DISTRICT, OMAHA
CORPS OF ENGINEERS
OMAHA, NEBRASKA
MAY - 1978
3


EXISTING RECREATION OR PUBLIC USE AREA
POTENTIAL RECREATION DEVELOPMENT
SCENIC AREA
POTENTIAL PUBLIC USE AREA
COMPLETED EROSION CONTROL WORK
CURRENT EROSION AREAS
APPROXIMATE CORRIDOR BOUNDARY
2000 0 2000 4000 feet
SOUTH DAKOTA DEPARTMENT OF GAME, FISH, AND PARKS
DAKOTA
NEBRASKA
785
8
16
14
22
PHOTOS TAKEN 21 APR 1978
DISCHARGE = 30,000 c f s
MISSOURI RIVER
GAVINS POINT DAM TO PONCA
AERIAL MOSAIC
U S ARMY ENGINEER DISTRICT, OMAHA
CORPS OF ENGINEERS
OMAHA, NEBRASKA
MAY - 1978
4


2000 0 2000 4000 6000 8000 feet
CLAY COUNTY
STATE OF SOUTH DAKOTA
CEDAR COUNTY
T92N
19
24
22
27
14
13
EXISTING RECREATION OR PUBLIC USE AREA
POTENTIAL RECREATION DEVELOPMENT
SCENIC AREA
POTENTIAL PUBLIC USE AREA
COMPLETED EROSION CONTROL WORK
CURRENT EROSION AREAS
APPROXIMATE CORRIDOR BOUNDARY
PHOTOS TAKEN 21 APR 1978
DISCHARGE = 30,000 c f s
MISSOURI RIVER
GAVINS POINT DAM TO PONCA
AERIAL MOSAIC
U S ARMY ENGINEER DISTRICT, OMAHA
CORPS OF ENGINEERS
OMAHA, NEBRASKA
MAY - 1978


EXISTING RECREATION OR PUBLIC USE AREA
POTENTAL RECREATION DEVELOPMENT
SCENIC AREA
POTENTIAL PUBLIC USE AREA
COMPLETED EROSION CONTROL WORK
CURRENT EROSION AREAS
APPROXIMATE CORRIDOR BOUNDARY
2000 0 2000 4000 6000 feet
SOUTH DAKOTA DEPARTMENT OF GAME, FISH, AND PARKS
T92N
T91N
R52W
R51W
26
24
23
32
3
28
5
12
34
PHOTOS TAKEN 21 APR 1978
DISCHARGE = 30,000 c f s
MISSOURI RIVER
GAVINS POINT DAM TO PONCA
AERIAL MOSAIC
U S ARMY ENGINEER DISTRICT, OMAHA
CORPS OF ENGINEERS
OMAHA, NEBRASKA
MAY - 1978
6


POTENTIAL RECREATION DEVELOPMENT
SCENIC AREA
POTENTIAL PUBLIC USE AREA
COMPLETED EROSION CONTROL WORK
CURRENT EROSION AREAS
APPROXIMATE CORRIDOR BOUNDARY
2000 0 2000 4000 6000 8000 feet
33
3
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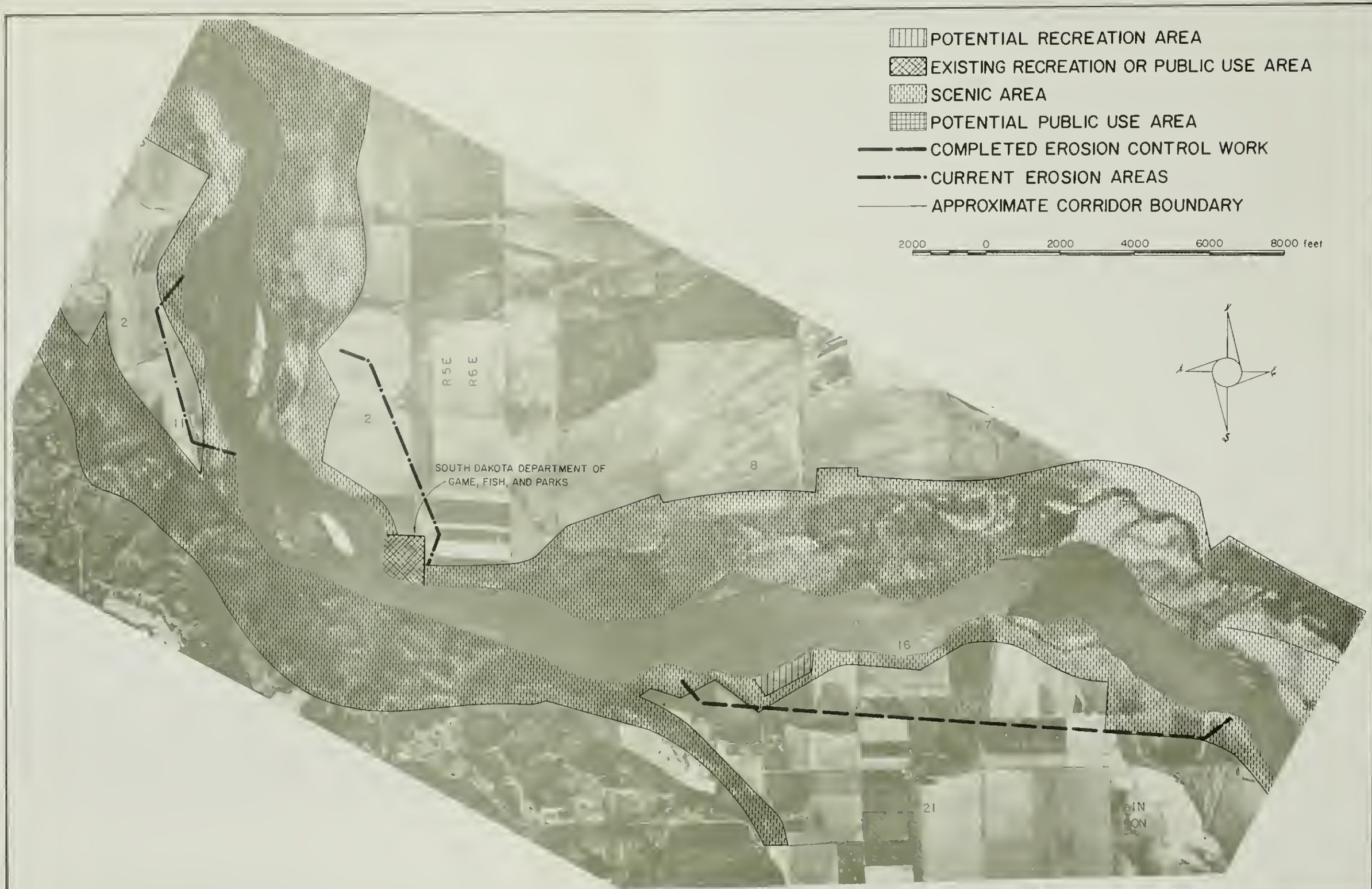
R4E
32
33
T32
3
PHOTOS TAKEN 21 APR 1978
DISCHARGE = 30,000 c f s
MISSOURI RIVER
GAVINS POINT DAM TO PONCA
AERIAL MOSAIC
U S ARMY ENGINEER DISTRICT OMAHA
CORPS OF ENGINEERS
OMAHA, NEBRASKA
MAY - 1978



PHOTOS TAKEN 21 APR 1978

DISCHARGE = 30,000 c f s

MISSOURI RIVER
GAVINS POINT DAM TO PONCA
AERIAL MOSAIC
U S ARMY ENGINEER DISTRICT, OMAHA
CORPS OF ENGINEERS
OMAHA, NEBRASKA
MAY - 1978

PONCA STATE PARK
EXISTING RECREATION OR PUBLIC USE AREA
POTENTIAL RECREATION DEVELOPMENT
SCENIC AREA
POTENTIAL PUBLIC USE AREA
CURRENT EROSION AREAS
APPROXIMATE CORRIDOR BOUNDARY
2000
4000 feet
MISSOURI RIVER
GAVINS POINT DAM TO PONCA
AERIAL MOSAIC
9

APPENDIX B

PUBLIC INVOLVEMENT

For the past 10 years the interest in preserving this 58-mile reach of the Missouri River has developed and grown primarily because of the intense concern of landowners, communities, and local governmental entities adjacent to the river. The legislation which designated the river reach as a component of the national system was the result of a well-organized grassroots effort. This active partnership between governmental entities and a well-informed public has continued throughout the development of this management plan.

In addition to representatives of federal and state agencies, the team formed to develop this plan included a dozen local people ranging from individual landowners to representatives of landowner groups, chambers of commerce, city planning councils, conservation organizations, councils of government, and natural resource districts.

Over 350 copies of the initial draft management plan developed by this group were mailed out to interested citizens and groups for review. Following this mailing, widely advertized public meetings were held in Newcastle, Nebraska, and Yankton and Vermillion, South Dakota. Each of the public meetings began at 6:00 p.m. The period from 6:00 to 7:30 p.m. was set aside for individual citizens to react to the fact sheet (attachment 1) and other materials handed out at the door, view the maps and large aerial photos depicting river corridor boundaries and potential recreation area sites, and visit with individual members of the planning team. At 7:30 a summary presentation of the management plan was made followed by statements and questions from the audience until everyone who wished to speak had the opportunity.

Each meeting was chaired by a local citizen:

- Newcastle—Earl Rowland, local farmer and president of the Missouri River Bank Stabilization Association.

- Yankton—Ken Jones, local pharmacist and former state senator.

- Vermillion—Jim Peterson, local landowner and faculty member at the University of South Dakota.

Over 300 people registered at the three meetings. The majority of those in attendance were owners of land adjacent to the river. Governor Charles Thone of Nebraska attended and spoke (see attachment 2) at the Yankton meeting. Because of the volume of input received, both written and verbal, comments cannot be presented in their entirety. The following is a summary of the major issues discussed and the general consensus of public opinions presented. Persons desiring more specific information should contact the Heritage Conservation and Recreation Service, P. O. Box 25387, Denver Federal Center, Denver, Colorado 80225, where more detailed records of the meetings are on file.

ACQUISITION OF LANDS AND INTERESTS IN LANDS

Considerable time was spent at all meetings defining types of easements and

acquisition procedures and answering numerous questions relating to the above subject.

Some of the typical questions and concerns were:

- *How long does an easement last?* Since the intent of river designation was to preserve the river for future generations, the government would attempt to secure perpetual easements. The general consensus was opposed to perpetual easements. Some sentiment was expressed in favor of 10-year recreation easements to see how well the areas were managed and 25-year scenic easements to maintain options for inflation and changing conditions.

- *If a landowner wants the government to construct a bank erosion feature, must he agree to an easement?* The law, of course, requires this. Further, if needed, acreage, in addition to such easements that are protected by the structure, could be required.

- *Will there be standard terms for easements?* Since the intent of the legislation is to keep the appearance of the landscape as it is now and the river natural and free flowing, some standard terms will be necessary. However, most terms and conditions of easements can and will be negotiated on an individual basis.

- *Will all fee title and easements be obtained on a willing-seller basis?* Except for the limited power to condemn easements when a serious threat or damage is present, all negotiations will be on a willing-seller basis. Under no circumstances can fee title be condemned.

- *Under what circumstances and how much land can be condemned?* Under the law the power of eminent domain is limited to easements on 5 percent of the river corridor, a total of about 1,000 acres, and then only under extreme circumstances. Activities and developments necessary to continue current and normal farming operations would not be grounds for condemnation. Eminent domain could be used only to prevent an incompatible use or development, not to gain public access or build a park.

- *If I sell an easement and get paid in a lump sum, how can I avoid a big income tax bill and will my property taxes go down?* It might be possible to negotiate payments spread over several years as a condition of the easement. Property taxes are a local matter, but the assessed value of the property should be reduced.

- *Could I donate a perpetual easement with a reversionary clause in case Congress changes the designation and use of the river in the future?* The government can and will accept donations. Such a reversionary clause, like other easements, is negotiable.

- *If I sell a scenic easement on my woodland pasture, can I control the underbrush if I don't cut the trees?* At this point in time, the answer to this and many similar questions could only be answered by saying that the details of terms must be negotiated on an individual basis.

ESTABLISHMENT OF AN ADVISORY GROUP AND CONTINUED PUBLIC PARTICIPATION

Since most of those in attendance were aware that the recreational river concept and the legislation had been the result of active public participation, there was considerable interest in continuing this involvement process. Further, many were aware that although the legislation permitted the formal establishment of an advisory group, such action was not mandated. Consequently, many statements were offered in support of action by the Secretary of the Interior to establish an advisory group to foster public input by local organizations. The consensus was that the advisory group role should be to advise not only the Secretary but to work directly with the agency designated to carry out day-to-day management functions. Further, it was stated that members of the groups should serve without pay or reimbursement for expenses. As a result of these discussions, considerable follow-up activity can be anticipated.

IMPACTS ON HUNTING, FISHING, AND MOTORBOATS

Although there is nothing in the legislation or the draft management plan to indicate changes from the present, there was concern that hunting and the use of motorboats would be curtailed. Every effort was made to assure the public that there was no intention to prohibit or curtail either hunting or motorboat use.

The Izaac Walton League of America presented a strong case against the use of trammel nets by commercial fishermen. Since the regulation of hunting and fishing, both sport and commercial, rests with the states, the management plan does not address the apparent problem of trammel nets. However, there was general support for more stringent regulation of commercial fishing.

EXTENSION OF COMMERCIAL NAVIGATION UPSTREAM TO YANKTON

A number of studies have been done to evaluate the feasibility of extending the navigation channel upstream to Yankton and all have proved negative. Although the legislation designating this reach as a component of the Wild and Scenic Rivers System precludes federal involvement in such a project, a few supporters remain and offered comments to keep the navigation proposal visible.

CONSTRUCTION OF A BRIDGE ACROSS THE MISSOURI RIVER AT VERMILLION

This is another project that has been in the planning stages for many years. Unlike the navigation project there is nothing in the legislation which would preclude the bridge. In answer to statements in support of the bridge, the management plan team indicated that this project would be judged on its own merits.

ACCESSIBILITY TO THE RIVER FOR IRRIGATION, LIVESTOCK WATERING, AND MUNICIPAL AND INDUSTRIAL WATER SUPPLIES

Although the law makes specific provision for water withdrawals for irrigation of adjacent lands, recreation, and fish and wildlife purposes, it says nothing about other uses. Considerable concern was expressed on these other matters. It was the consensus that other uses could and should be accommodated to the

degree possible without adverse affect on river values and that livestock watering must continue.

MISCELLANEOUS STATEMENTS OF SUPPORT

In addition to the above, the following items were addressed in statements of support (both written and oral) which were generally endorsed by those in attendance.

- Early action by the Congress to appropriate funds to implement erosion control and recreation development features.
- Endorsement of the Corps of Engineers as the River Management Agency.
- Designation of the National Park Service as the Interior Administration Agency.
- Removal or screening of junk car bodies.
- Strict control of vandalism and littering.
- Establishing a South Dakota boundary commission to work with Nebraska to determine ownership of islands, riverbeds, and Gavins Point Dam Spillway areas.
- Preservation and interpretation of historical and cultural sites, particularly Lewis and Clark campsites.
- Marking of the river channel for safety.
- Strict enforcement of illegal trespass and easement provisions.
- Continuation of past practices regarding issuance of 404 and Section 10 permits.
- Development of a priority system for determining which erosion problems are treated first.
- Endorsement of private enterprise efforts to provide recreation access and facilities.
- General support for public access and recreational development which will enhance the tourist and hospitality industry of the area.

MANAGEMENT PLAN FACT SHEET
MISSOURI NATIONAL RECREATIONAL RIVER
GAVINS POINT DAM, SOUTH DAKOTA, TO PONCA STATE PARK, NEBRASKA

On November 10, 1978, President Jimmy Carter signed into law a bill that designated the Missouri River from Gavins Point Dam to Ponca State Park a component of the National Wild and Scenic Rivers System.

WHAT IS THE NATIONAL WILD AND SCENIC RIVERS SYSTEM?

The Wild and Scenic Rivers Act states: ". . . certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations. The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes." To implement this policy, Congress established the National Wild and Scenic Rivers System. The Act established three classifications for inclusion in the System—Wild Rivers, Scenic Rivers, and Recreational Rivers. Recreational rivers are those rivers or sections of rivers that are readily accessible by road or railroad, may have some development along the shorelines, and may have undergone some impoundment or diversion in the past, such as this segment of the Missouri River.

HOW DID THE MISSOURI RIVER DESIGNATION COME ABOUT?

The Missouri River and its resources have been well known since its earliest exploration. The protection of the significant natural, cultural, and recreational resources in the designated reach of the river was not considered until the late 1960s. The recreational potential was identified in a 1967 report by the Missouri River Basin Comprehensive Study, which recommended that this reach be considered for inclusion in a national or state rivers system. A second effort in 1971 was initiated by the Bureau of Outdoor Recreation (now the Heritage Conservation and Recreation Service). This effort resulted in a similar recommendation. In 1977, this reach of the river was again recognized by the Corps of Engineers and designation was recommended. During late 1977 and early 1978, public interest emerged because of the increasing awareness of recreational river values and an increasing need for early action in controlling bank erosion. After legislative action in the House and the Senate, President Carter signed Public Law 95-625, "The National Parks and Recreation Act of 1978," November 10, 1978. Section 707 of that Act added the Gavins Point to Ponca State Park segment to the National Wild and Scenic Rivers System.

Public Law 95-625 requires that the Secretary of the Interior, through consultation with state and local government, other interested organizations and associations, and the interested public, complete a management plan for the river area by November 1979.

WHAT IS A MANAGEMENT PLAN?

The management plan is prepared in order to direct the administration of the river reach and to incorporate necessary erosion control measures for the protection of those amenities which make the river eligible for national designation. The plan will provide Congress with detailed management information for the administration of the Missouri Recreational River. It will serve as a planning framework within which the Secretary of the Interior will administer the river and its resources; it will also provide management information to interested individuals and government entities.

A detailed description of the purpose, authorities, and background of the designation is presented in the management plan. The administrative goals and responsibilities are presented. Also, the management objectives and programs are discussed in some detail. The plan also identifies river boundaries and lands needed for recreational river development.

WHAT WILL HAPPEN TO THE LAND?

Interests in land along the river can be obtained in various ways—agreements, fee title, scenic easement, and recreation easement. Condemnation of the needed lands is limited by Public Law 95-625

Fee Title. Land needed for the protection of the river reach will be donated and/or purchased from *willing* sellers only.

Scenic Easement. A scenic easement is basically the purchase of some of the potential uses of the land. This easement prevents changes in land use which harm the natural qualities of the area. The landowner donates or sells his or her right and the right of his or her successors to those potential uses of the land which might degrade the scenic values. The landowner keeps the land and may continue to use it as in the past. The landowner basically sells the right to future land-use changes for which he is paid fair market values. With easements, the county keeps the land on its tax rolls, although the taxes may be significantly less due to the encumbrance. Scenic easements do not provide for public use or access; the land remains in control of the landowner, and trespassers may be prosecuted.

Recreation Easement. A recreation easement is similar to the scenic easement with one major exception. The recreation easement would allow public use of the private lands and would clearly identify the uses that could occur, such as hiking, boat beaching, and picnicking.

Scenic and recreation easements will be obtained from willing sellers. Public Law 95-625, however, states that up to 5 percent of the lands needed for easements for the protection of the values for which the river was designated may be obtained through condemnation.

The various land purchase and easement arrangements will be obtained from the landowners on an individual basis. For example, the type of easement obtained will depend upon the appropriate quality or qualities to be preserved at each individual site. Once the type of easement has been determined, the value of the easement will be appraised and negotiated.

Erosion Control. A key element of the Recreational River program is the installation of necessary erosion control structures, and the operation and maintenance of all existing and future erosion control structures. Such structures are essential to preserve those unique present river characteristics which qualified this river reach for designation as a National Recreational River. The Management Plan identifies currently recognized erosion problem areas and acknowledges that the location and extent of erosion problem areas will change with time. Erosion control projects will be designed as much as possible to improve environmental values and recreation opportunities. Construction of new projects in critical problem areas will proceed as fast as Congressional funding permits. Site priorities will be coordinated with all concerned federal, state, and local entities.

WHAT IS THE CURRENT STATUS OF THE MANAGEMENT PLAN?

The Heritage Conservation and Recreation Service, in coordination with federal, state, and local governments, other interested organizations and associations, and the interested public, completed the draft management plan. This draft has been sent to the public and to interested agencies for review and comment.

The draft management plan tells what is to be done and how it will be done. The Secretary of the Interior will be responsible for overall administration of the river. The Corps of Engineers, in cooperation with the Secretary, will be responsible to identify erosion control needs and will install and maintain all existing and planned erosion control features and install all recreational developments. The states and county and local governments will continue to carry out their present roles and responsibilities along the river. A federal agency will be designated to carry out the day-to-day operation and management of the remaining portion of the river corridor. The states and local governments will also be encouraged to operate and maintain any new access areas to be acquired and developed. Costs for fee acquisition, interests in land, and development will be carried out with federal funds. The various agencies to be involved in plan implementation will be specified in cooperative agreements now being developed. These agreements will be between the Secretary of the Interior and the Secretary of the Army (as required by Public Law 95-625) and between the Secretary of the Interior and potential local sponsors who may assume operation and maintenance responsibilities after initial construction of the recreational facilities.

WHAT IS THE RECREATIONAL RIVER ADVISORY GROUP?

Federal, state, and local governments and private citizens can have a role in the management of the river through their participation on a Recreational River Advisory Group if established as allowed for in the legislation and recommended in the management plan.

The establishment and membership on this group is at the discretion of the Secretary of the Interior. The Act states that the administration of this river segment shall be in ". . . coordination with and pursuant to the advice of . . ." this group. Although the Act does not identify the membership of this group, it does say that it may include representatives of the affected states, political subdivisions, federal agencies, organized groups, and private citizens. The management plan will identify agencies and organizations that have shown an interest in being members of this advisory group.

WHAT HAPPENS NEXT?

Following these public meetings and after reviewing the comments received concerning the draft management plan, a final plan will be prepared and submitted to Congress through the Secretary of the Interior. This plan will become effective 90 days after being forwarded to the President of the Senate and Speaker of the House and published in the *Federal Register*. The plan is scheduled for submission to Congress by November 10, 1979.

STATEMENT OF GOVERNOR CHARLES THONE ON THE DESIGNATION OF THE MISSOURI RIVER FROM GAVINS POINT DAM TO PONCA STATE PARK AS A NATIONAL RECREATION RIVER YANKTON, SOUTH DAKOTA, AUGUST 27, 1979

I am extremely grateful to have this opportunity to be at this meeting this evening. My schedule in northeast Nebraska was such that I could arrange to come to Yankton to be here. I'm sure my good friend and your governor, Bill Janklow, won't mind if I visit his territory for a couple of hours.

With regard to the Recreation River, as many of you know, I was in the House of Representatives when this legislation was approved and the President signed it into law. I sponsored the bill establishing this Recreation River because I felt it would be a great benefit for both my constituents on the Nebraska side of the Missouri and the people of South Dakota. I know that I won't be proven wrong. It appears that plans for the implementation of the law are going smoothly. I am here tonight to pledge the full cooperation and support of the State Government of Nebraska. We are more than happy to work with the local landowners and sponsors and the federal government to make this the best Recreation River in the entire nation.

The river already has a unique place in American history. The legislation creating it is one-of-a-kind, worked out so that all interested parties receive some benefits.

The law provides for preservation and enhancement of part of the Missouri River to be used for recreational and other related purposes. This is one of the most beautiful segments of the Missouri and the protection of the river and surrounding riverbank area is of utmost importance.

It should be noted that equally important is the need to stabilize the banks of the river in this same area so the beauty and usefulness of this stream will not be lost to the persistent forces of erosion.

Preservation and streambank stabilization go together to benefit the public. While the designation will ensure that the recreational aspects of the Missouri will continue to be available, it also ensures that the streambanks, which support the trees, wildlife shelter, and other growth will not be destroyed by the river erosion.

The law severely restricts the power of the Government to condemn lands. It was felt by all interests—Government and private—that the spirit of cooperation and mutual benefit would prevail negating the need for condemnation proceedings. I believe it will foster a feeling of good faith on all sides and make this designation even more beneficial. It should be a signal to the entire country that laws are most successful when they are reasonably administered and derive their force from direct consent of the people.

The Wild and Scenic Rivers Act provides that The Secretary of the Interior administer the program. However, the Corps of Engineers, which already has legal responsibility for many programs on and involving the Missouri River should take primary responsibility for the administration of the designated river segment.

The draft plan before us mentions a "designated" federal agency in several

instances, but never identifies the agency. This is extremely important because it will be this agency that will lead the way in the implementation of this plan.

It was the intent of the drafters of the legislation in the Congress, that the Corps of Engineers by authority of the written cooperative agreement with the Secretary of the Interior assume this role. Inasmuch as the Congress has agreed that the budget authority for the Recreation River rests with the Corps, it would seem appropriate that the Corps assume the lead role in planning and administering the river. As you know, the two houses have agreed to appropriate $500,000 for the coming fiscal year to begin work on this Recreation River. And, they placed the funds in the Corps of Engineers budget. I think the message is clear.

It's a real pleasure to be here and if any of you have any questions about how this bill developed in the Congress or any of the thinking that went on in Washington on this, my administrative assistant, Randy Moody, is here with me this evening. Randy was on the staff of Congresswoman Virginia Smith of Nebraska's 3rd District and spent quite a bit of time working on this legislation with the House Interior Committee, the federal agencies involved, and with the landowners group along the river.

Thank you.

A P P E N D I X C

AGREEMENTS

INTERIM MEMORANDUM OF UNDERSTANDING
BETWEEN
THE HERITAGE CONSERVATION AND RECREATION SERVICE
(REPRESENTING THE SECRETARY OF THE INTERIOR)
AND THE CHIEF OF ENGINEERS, U. S. ARMY
FOR IMPLEMANTATION OF SECTION 707
PUBLIC LAW 95-625

Relating to the administration and protection of the 59-mile segment of the Missouri River as a recreation component of the National Wild and Scenic Rivers System.

Witnesseth that:

1. Whereas, Congress, under Public Law 95-625, directed the Secretary of the Interior to administer the segment of the Missouri River between Gavins Point Dam, South Dakota, and Ponca State Park, Nebraska, as a recreational river component of the National Wild and Scenic Rivers System established by Public Law 90-542, as amended; and,

2. Whereas the Secretary shall provide for the construction, operation, and maintenance 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 appropriate; and,

3. Whereas the Secretary of the Interior (acting through the Heritage Conservation and Recreation Service) and the Secretary of the Army (acting through the Office, Chief of Engineers) Propose to implement Section 707 of Public Law 95-625 through this Interim Memorandum of Understanding.

Now therefore:

A. The Director, Heritage Conservation and Recreation Service, agrees:

1. To cooperate fully with the Chief of Engineers who has prime responsibility for determining construction and maintenance requirements for bank stabilization, as well as development of appropriate recreational features.

B. The Chief of Engineers agrees:

1. 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.

C. The Chief of Engineers and the Director, Heritage Conservation and Recreation Service mutually agree:

1. That a cooperative effort under the leadership of the Heritage Conservation and Recreation Service will be undertaken to prepare a development/management plan for the river which will include identification of specific responsibilities of federal, state, and local agencies and private organizations.

2. That the plan shall be prepared in consultation with the National Park Service, the Fish and Wildlife Service, and state and local interests.

3. To seek funds for the implementation of mutually agreed-upon responsibilities; that nothing in this Interim Memorandum of Understanding shall be construed as obligating either party hereto to the expenditure of funds in excess of appropriations or allocations authorized by law; and

4. Formulation of the development/management plan will be delegated to the Mid-Continent Regional Office of the Heritage Conservation and Recreation Service and to the Division Engineer, Missouri River Division. Said plan is to be approved by the signatories to this Interim Memorandum of Understanding prior to submission of the plan to the Congress in conformance with Section 707 of the National Parks and Recreation Bill of 1978.

5. That this Interim Memorandum of Understanding shall become effective when signed by the parties hereto and shall continue in force until terminated by mutual consent. Amendments to this Interim Memorandum of Understanding may be proposed by either party and shall become effective upon approval by both parties.

In witness whereof, the parties hereto have executed this Interim Memorandum of Understanding as the day and year written.

U.S. Department of the Interior

By _____ March 28, 79
Director, Heritage Conservation and Recreation Service — Date

U.S. Department of Army

By _____ June '79
Chief of Engineers — Date

RESOLUTION

WHEREAS, the Missouri River between Gavins Point Dam and Ponca State Park has been designated a National Recreation River under the National Wild and Scenic Rivers Act, and

WHEREAS, the Nebraska Game and Parks Commission operates Ponca State Park designated as the lower terminus on the Nebraska side for the Recreation River, and

WHEREAS, official action of the Nebraska Game and Parks Commission on December 10, 1976 recognized the need for improved public access to the river and established the intent to enter into an agreement as non-federal sponsor for acquisition and operation of the sites, and

WHEREAS, action providing for operation of this reach of the Missouri River by the federal government as a unit of the National Wild and Scenic Rivers System has been supported by this Commission as an action complementary to the various programs and policies of this agency;

NOW, THEREFORE, BE IT RESOLVED that it is the intent of the State of Nebraska, Game and Parks Commission to enter into an agreement to continue operating a portion of Ponca State Park as access to the Missouri Recreation River and operate areas acquired and developed by the federal government for access as generally depicted in the July 13, 1979 draft of the Missouri River Management Plan. Such management will be in a manner consistent with comparable areas in the Nebraska State Park System and subject to the availability of appropriations made by the Legislature.

Dated: August 27, 1979

Signed: Gerald R Campbell
Chairman
Nebraska Game and Parks Commission

Signed: Eugene T Mahoney
Director
Nebraska Game and Parks Commission

RESOLUTION
adopted by the
South Dakota Game, Fish and Parks Commission
September 17, 1979

WHEREAS, the Missouri River between Gavins Point Dam and Ponca State Park has been designated a National Recreation River under the National Wild and Scenic Rivers Act, and

WHEREAS, the designation of this reach of the Missouri River as a unit of the Wild and Scenic Rivers System has been supported by the South Dakota Game, Fish and Parks Commission as an action complimentary to the various programs and policies of this agency, and

WHEREAS, the South Dakota Game, Fish and Parks Commission has officially recognized the need for improved access to the Missouri River, and

WHEREAS, the Department of Game, Fish and Parks owns and manages Clay County Recreation Area which provides public access to the Missouri Recreational River, and

WHEREAS, the Department of Game, Fish and Parks owns and manages four Game Production Areas within the corridor of the Missouri Recreational River;

NOW, THEREFORE, BE IT RESOLVED, that it is the intent of the South Dakota Game, Fish and Parks Commission to continue operating Clay County Recreation Area in a manner consistent with the objectives of the National Recreation River.

BE IT FURTHER RESOLVED, that it is the intent of the South Dakota Game, Fish and Parks Commission to continue to manage the four Game Production Areas identified as the Warren Wilderness in Union County, Bolten Area in Union County, Frost Area in Clay County, and Myron Wilderness in Clay County, consistent with proper wildlife management goals which compliment objectives of the Recreational River.

BE IT FURTHER RESOLVED, that the Game, Fish and Parks Commission is willing to operate and maintain at federal expense those access sites and recreation areas acquired and developed in South Dakota as generally depicted in the July 13, 1979 draft of the Missouri River Management Plan. Such management will be in a manner consistent with policies of the Department of Game, Fish and Parks and contingent upon availability of funds and necessary budget authority.

Signed: _____
Secretary
South Dakota Department of Game, Fish and Parks

RESOLUTION 79-49

WHEREAS, the Missouri River between Gavins Point Dam, South Dakota, and Ponca State Park, Nebraska, has been designated a National Recreation River under the National Wild and Scenic Rivers Act, and

WHEREAS, the City of Yankton supports the designation of this reach of the Missouri River as a part of the National Wild and Scenic Rivers System, and

WHEREAS, the City of Yankton presently operates city park lands on the upper terminus of the river.

NOW, THEREFORE, BE IT RESOLVED that is is the intent of the City of Yankton to continue to operate and maintain city park lands in a manner that is compatible with the management of the recreational river. Such management will be contingent upon the availability of funds and necessary budget authority.

Robert R. Litschewski
Mayor

ATTEST:

Jerald J. Knodel
Finance Officer

RESOLUTION

YANKTON BOARD OF COUNTY COMMISSIONERS
YANKTON, SOUTH DAKOTA

OCTOBER, 1979

WHEREAS, the Missouri River between Gavins Point and Ponca State Park has been designated a National Recreation River under the National Wild and Scenic Rivers Act, and

WHEREAS, the Board of County Commissioners supports the designation of the Missouri River in Yankton County as a part of the National Wild and Scenic River System, and

WHEREAS, the Board of County Commissioners presently provides maintenance to county roads in Yankton County leading to the Missouri River;

NOW, THEREFORE, BE IT RESOLVED that it is the intent of the Board of County Commissioners of Yankton County to continue operating and maintaining existing county roads or county roads developed in Yankton County by the federal government for purposes of access to the Missouri River as generally depicted in the July 13, 1979, draft of the Missouri River Management Plan.

George Mueller

George Mueller, Chairman

RESOLUTION FOR CONSIDERATION OF
DIXON COUNTY, BOARD OF COUNTY COMMISSIONERS

WHEREAS, the Missouri River between Gavins Point and Ponca State Park has been designated a National Recreation River under the National Wild and Scenic Rivers Act, and

WHEREAS, the Board of County Commissioners supports the designation of the Missouri River in Dixon County as a part of the National Wild and Scenic Rivers System, and

WHEREAS, the Board of County Commissioners presently provides maintenance to county roads in Dixon County leading to the Missouri River;

NOW, THEREFORE, BE IT RESOLVED that it is the intent of the Board of County Commissioners of Dixon County to continue operating and maintaining county roads in Dixon County to provide satisfactory public access to the Missouri River. Such management will be contingent upon the availability of funds and necessary budget authority.

Dated Aug. 14, 1979.

Dixon Co.
Doyle Hanson chairman

OLD COURTHOUSE
1889-1977

Board Of County Commissioners

Union County, South Dakota
P.O. Box 519
Elk Point, South Dakota
57025

NEW COURTHOUSE
Completed May 1, 1978

RESOLUTION FOR CONSIDERATION OF
UNION COUNTY, BOARD OF COUNTY COMMISSIONERS

WHEREAS, the Missouri River between Gavins Point and Ponca State Park has been designated a National Recreation River under the National Wild and Scenic Rivers Act, and

WHEREAS, the Board of County Commissioners supports the designation of the Missouri River in Union County as a part of the National Wild and Scenic Rivers System, and

WHEREAS, the Board of County Commissioners presently provides maintenance to county roads in Union County leading to the Missouri River;

NOW, THEREFORE, BE IT RESOLVED that it is the intent of the Board of County Commissioners of Union County to continue operating and maintaining county roads in Union County to provide satisfactory public access to the Missouri River. Such management will be contingent upon the availability of funds and necessary budget authority.

Date this the 2nd day of October 1979.

M C Bak

M. C. Bak, Chairman
Board of Commissioners

A P P E N D I X D

PUBLIC LAW 95-625
AND
ANALYSIS

ADDITION OF MISSOURI SEGMENT

SEC. 707. Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

Boundaries.

"(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 both structures constructed under the authority of this section and structures constructed under the authority of any other Act); and

Recreation river features and streambank stabilization structures, construction.

"(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

Recreational River Advisory Group.

Lands and interests, acquisition. 16 USC 1277.

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

Appropriation authorization.

ANALYSIS OF THE STATUTE THAT DESIGNATED THE GAVINS POINT DAM TO PONCA STATE PARK REACH OF THE MISSOURI RIVER AS A RECREATIONAL RIVER

On November 10, 1978, President Carter signed Public Law 95-625 into law which, in part, amended the Wild and Scenic Rivers Act, 16 U.S.C. 1271 et. seq., by adding a 59-mile reach of the Missouri River to the Wild and Scenic Rivers System. The purpose of this paper is to analyze the statute that designated that reach of the Missouri River by utilizing the legislative history of this statute and the other applicable sections of the Wild and Scenic Rivers Act (the Act).

Portion of the Statute

> Section 3(a). The following rivers and the land adjacent thereto are hereby designated as components of the national wild and scenic rivers system: . . .
>
> (22) Missouri River, Nebraska, South Dakota.—The segment from Gavins Point Dam, South Dakota, 59 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.

Interpretation

The segment of the Missouri River discussed in the August 1977 Report is the 59.05-mile reach immediately below Gavins Point Dam at the 1965 river mile 811.05 downstream to Ponca State Park, Nebraska, at the 1965 river mile 752, (Appendix 1, at E-93). This reach is the segment that this legislation designates for protection as a Recreational River. Due to physical changes in the river channel the reach between Gavins Point Dam to Ponca State Park may not be 59.05 miles at this point in time. This does not present a problem because the statute provides the flexibility to allow for such difference where it states that the designated segment is that which is "generally depicted" in the August 1977 Report.

Rivers designated for inclusion in the wild and scenic rivers system may be classified as wild, scenic, or recreational. The basic differences between these are the amount of manmade development allowed and the degree of accessibility. A river classified as recreational, such as the subject reach, may have the greatest amount of such development and is to be readily accessible by road or railroad, Section 2(b)(3).

All the rivers in the system must be freeflowing and the related adjacent land must possess at least one of the following: "outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values," Section 2(b). The August 1977 Report describes in detail the values of this recreational river segment and states the conclusion that the values that made this segment eligible for designation are the

outstandingly remarkable recreational, fish and wildlife, esthetic, historical, and cultural values, (Appendix 1, at E-113). In urging designation of this reach of the Missouri River both Congresswoman Smith and Senator McGovern stressed that these were the values that needed to be protected and enhanced. 124 *Cong. Rec.* E3529 (1978) and 166 *Cong. Rec.* S18526-9 (daily ed. October 12, 1978).

The Secretary of the Interior is mandated to administer the river in a manner that will "protect and enhance the values which caused it to be included" in the system, Section 10(a), for the benefit and enjoyment of present and future generations, Section 1(b). Therefore, the recreational, fish and wildlife, esthetic, historical, and cultural values described in the August 1977 Report are to be protected and enhanced. The freeflowing condition of this reach is also to be preserved and protected, Section 1(b). Actions taken to carry out the authorities granted by the Act or actions limited by the Act must be exercised in a manner that is consistent with such protection, enhancement, or preservation.

Although Congress has given the Secretary of the Interior the duty to administer this river, this responsibility may be delegated. If the Secretary of the Interior delegates his administrative responsibility to the Park Service, the recreational river must become part of the National Park System, and if that responsibility is delegated to the Fish and Wildlife Service, it must become part of the National Wildlife Refuge System, Section 10(c). In these situations, the recreational river will then be subject to the laws covering the National Park System or the National Wildlife Refuge System as well as the provisions of the Wild and Scenic Rivers Act.

A state or local government may participate in the administration of the river if the Secretary enters into a cooperative agreement with the state or local government for such participation. The Secretary is to encourage the cooperation of the state and local governments in the planning and administration of the river segments which include or are adjacent to any state or county-owned lands, Section 10(e). This cooperative effort may be accomplished through the use of the Recreational River Advisory Group (discussed below).

Portion of the Statute

> 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.

Interpretation

The Corps of Engineers (Corps) is responsible for constructing and maintaining bank stabilization works and recreational facilities. The Corps is to carry out this responsibility through a written cooperative agreement entered into by the Secretary of the Interior and the Chief of Engineers. That agreement may delineate the details of the Corps' responsibility. The legislative

intent of this section, as stated by Senator McGovern in the October 12, 1978, *Congressional Record* at S18528, is that the Corps is to be responsible for the two specified functions of bank stabilization and recreational development but is not necessarily limited to these functions. The Secretary of the Interior has the discretionary authority to delegate to the Corps a greater involvement in the management of the river, including the day-to-day routine management responsibility. Therefore, the cooperative agreement could cover responsibilities in addition to bank stabilization and recreational facilities. However, both House and Senate subcommittees made it clear in informal conversations that the Secretary of the Interior was to retain ultimate administration authority and that such authority could not be delegated to the Corps.

The actions the Secretary of the Interior must take by November 10, 1979, are delineated in Section 3(b), and are as follows: (1) establishing detailed boundaries of the recreational river, (2) preparing a management plan, and (3) publishing the boundaries and management plan in the *Federal Register* which will become effective 90 days after being forwarded to the President of the Senate and the Speaker of the House of Representatives. The area within the recreational river boundaries shall include an average of not more than 320 acres per mile on both sides of the river.

The Heritage Conservation and Recreation Service has been directed by the Secretary of the Interior to carry out these three actions. These are to be done in consultation with Nebraska, South Dakota, and local governments. The interested organizations and public also are to be informed that these actions are being taken and are to be consulted. Public meetings or other appropriate means may be used to consult and communicate with the organizations and the interested public.

The management plan may establish varying degrees of intensity of protection and development but the plan must provide for the protection and enhancement of the recreational, fish and wildlife, and the other values for which this river was designated, and for the preservation of its freeflowing condition, Section 10(a). Uses which do not substantially interfere with the public use and enjoyment of these values may be permitted, if those uses are consistent with such protection, enhancement, and preservation. These uses can be delineated in the management plan and a mechanism can be established for permitting compatible uses.

The land or interests in land that need to be acquired to protect, enhance, and preserve the river's values may be detailed in the management plan. However, Section 6(a) places a limitation on such acquisition by limiting the lands on which fee title may be acquired to an average of not more than 100 acres per mile on both sides of the river.

Section 7(a) of this Act additionally protects this reach 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 this river was designated. However, projects above or below this recreational river reach which will not unreasonably diminish these values may be permitted.

Portion of the Statute

In administering such river, the Secretary shall, to the extent, and

in a manner, consistent with this section—

"(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 before the date of enactment of this paragraph and structures constructed after such date, and including both structures constructed under the authority of this section and structures constructed under the authority of any other Act); and . . .

Interpretation

The Secretary of the Interior is to consult with the Corps with a view to determining what recreational facilities and streambank stabilization structures the Chief of Engineers deems necessary and advisable to construct. When the Secretary of the Interior, who has the ultimate responsibility for administration, concurs in the Chief's determination the Secretary is to have such facilities or stabilization structures constructed pursuant to the cooperative agreement. Such concurrence is to be consistent with the Secretary's affirmative duty to protect, enhance, and preserve the river's values. This division of responsibility may be clarified further in the cooperative agreement between the Secretary of the Interior and the Corps.

The operation and maintenance referred to in (ii) gives the Secretary of the Interior the responsibility to operate and maintain streambank stabilization structures constructed in this reach that the Secretary may authorize under this Act, that have been authorized under the National Streambank Erosion Prevention and Control Demonstration Program, P. L. 93-251 and P. L. 94-587, or structures constructed under the authorities of any other Act.

Any streambank stabilization structures or recreational river facilities constructed or maintained under the authority of this Act may be subject to the conditions discussed below.

Portion of the Statute

"(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.

Interpretation

The Secretary is to permit access for water pipes, pumps, irrigation intakes, etc.; however, that permission must be consistent with the Secretary's responsibilities to protect, enhance, and preserve the values which caused this river to be included in the wild and scenic rivers system. This may involve putting stipulations in a permit regarding noise limitations, visual screening, or other protective measures. The mechanism that will be utilized to grant or deny such access may be developed as part of the management plan. If

the pumping and pipelines also involve the discharge of dredge or fill material, a Section 404 permit also may be required.

Section 13(g) of this Act authorizes the Secretary of the Interior to grant easements and rights-of-way for other purposes and to include protective stipulations in those easements or rights-of-way.

Portion of the Statute

> 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.

Interpretation

The sites that are listed on pages 62 and 63 are as follows:

Site Location 1960 River Mile	Right or Left Bank	Name of Area
755.5	Left	Elk Point
759.0	Right	Ionia Bend
760.5	Right	Ionia Bend
764.5	Left	Bolton Bend
767.0	Right	Ryan Bend
771.0	Left	Vermillion River Chute
772.5	Left	Fairview
775.0	Right	Mulberry Bend
777.0	Left	Mulberry Point
779.0	Right	North Alabama Point
781.0	Left	Clay County Park
783.5	Left	Vermillion Boat Club
784.0	Right	Brooky Bottom Road
786.0	Left	Vermillion Boat Club Area 2
790.0	Left	Audubon Bend
794.0	Left	St. Helena Bend
796.5	Left	Goat Island
798.5	Right	Cedar County Park
800.0	Right	Campbells Point
801.0	Left	James River
803.0	Right	Yankton Reach
804.0	Left	Rush Island
805.7	Right	Beaver Creek
806.0	Left	Yankton Riverfront
806.6	Left	Sacred Heart Hospital

The legislation does not limit the stabilization structures to the sites listed to the left. If there are physical changes in the river that make stabilization at these sites unnecessary or other sites preferable, the Secretary of the Interior has the discretionary authority to provide for the stabilization of other sites. The actual construction and maintenance is to be carried out by the Corps according to the terms of the cooperative agreement. Changes in sites or additions of sites for other than physical changes in the river are covered by subsection (A)(i) which states that the Corps is to decide what structures are necessary and advisable. However, such changes are subject to the Secretary of the Interior's ultimate administrative authority over the river and limitations of the Act that the administration of the river must be in a manner that will protect, enhance, and preserve the river's values.

Portion of the Statute

> 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 purpose of this Act.

Interpretation

Since this legislation puts limits on the exercise of the condemnation powers of the United States government, the intent of this sentence is to assure, that at a minimum, the land or interests in land necessary to protect, enhance, and preserve fish and wildlife, and other values will be acquired at the sites that may be stabilized under the authority of the subject amendment. Congress intended that there be a "quid pro quo." This was explained by Senator McGovern in his statement in the October 12, 1978, *Congressional Record,* at S18529, that "If a landowner wants to protect his property with bank stabilization and such a stabilization plan is authorized under the conditions of this amendment, then that streambank protection is conditioned upon his making an acceptable amount of acreage within the river corridor available for protection of wildlife habitat and other values for which this designation is intended." This assurance was deemed necessary to meet the concern expressed by the Fish and Wildlife Service that the then existing wildlife habitat would be cleared for agricultural purposes once the banks were stabilized.

This sentence means that land or interests in land deemed necessary must be made available to the United States before any stabilization site can be constructed or maintained by the Corps under the authority of this Act. The Corps is to determine which land or interests in land is necessary to protect, enhance, and preserve the fish and wildlife, and other values. However, again this determination is subject to the Secretary of the Interior's ultimate authority to administer the recreational river. Any interests in land acquired in this manner must be acquired in the name of the United States for such interest probably could not be legally transferred at a later date.

The words "lands and interests in land in such ownership" mean that if a landowner has 1 mile of land that is to be stabilized but that landowner owns additional acreage in the designated boundaries, the United States can condition that additional acreage to protect, enhance, and preserve the river. The land or interests in land that are made available to the United States may be grants of land in fee simple absolute, easements, or other types of real property interests. The land or interests in land may be sold or donated to the United States [authority to accept donations is in Section 6(f)], or may be made available by other means that are acceptable to the Corps and the Secretary of the Interior.

Portion of the Statute

> 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.

Interpretation

The intent of the above is to assure the continued involvement of the private local citizen groups, and the affected local state and federal agencies and to provide a mechanism for that involvement in the management of the river. The Recreational River Advisory Group is to assist the Secretary of the Interior in the administration of the river by acting in an advisory capacity and in such capacity participating in the decisionmaking process regarding the management of the river.

Portion of the Statute

> 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 constitutes serious damage or threat to the integrity of the river corridor, in accordance with the values for which this river was designated.

Interpretation

The authority in Section 6(a) that is limited by the above sentence states:

> The Secretary of the Interior and the Secretary of Agriculture are each authorized to acquire lands and interests in land within the authorized boundaries of any component of the national wild and scenic rivers system designated in section 3 of the Act, or hereafter designated for inclusion in the system by Act of Congress, which is administered by him . . . .

The above authority of the Secretary of the Interior to acquire lands or interests in land includes the authority to use the power of eminent domain. However, that power is specifically limited by this subsection. In the situation where the Secretary would use his power of eminent domain, it cannot be used to acquire fee title or to acquire more than 5 percent of the acreage of the river and the adjacent lands that will be within the designated river boundaries. The acreage to which the 5 percent limit applies does not include land in public ownership or land or interests in land that are made available to the United States as a condition of the construction or maintenance of a stabilization structure. Public ownership includes land owned by the local, state, or federal government.

For the Secretary of the Interior to exercise his power of eminent domain

within 5 percent of the acreage, the Secretary must first determine that activities are occurring or are threatening to occur which would seriously damage or threaten the recreational, fish and wildlife, esthetic, or the other values for which the river was designated.

This Act further limits the condemnation power in Section 6(c) which states:

> (c) Neither the Secretary of the Interior nor the Secretary of Agriculture may acquire lands by condemnation, for the purpose of including such lands in any national wild, scenic, or recreational river area, if such lands are located within any incorporated city, village, or borough which has in force and applicable to such lands a duly adopted valid zoning ordinance that conforms with the purposes of this Act.

The Secretary of the Interior may determine that a zoning ordinance is sufficient to protect the river's values and in that event the above limit would become effective. No specific guidelines have been established for evaluating zoning ordinance.

Portion of the Statute

> 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.

Interpretation

Congress has authorized $21,000,000 for the acquisition of land and interests in land and for the streambank stabilization, recreational facilities, and other developments that are outlined in the management plan. The involved federal agencies must go through the appropriation process before this money is available for their use.

APPENDIX E

ENVIRONMENTAL COMPLIANCE

NATIONAL ENVIRONMENTAL POLICY ACT

The impacts of this management plan are discussed in the U. S. Army Corps of Engineers revised draft environmental statement for the *Missouri River Review Report* (March 1978) which is hereby adopted in accordance with 40 C.F.R. 1506.3. The final statement is still in preparation.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

No cultural resources on or determined eligible for the *National Register* have been identified within the river corridor. The Advisory Council on Historic Preservation has advised that until *National Register* or eligible resources which will be affected have been identified, it is not appropriate to initiate formal consultation procedures pursuant to 36 C.F.R. 800. The management plan provides for identification of cultural resources, evaluation of effects, and consultation with the Advisory Council as an integral part of plan implementation.

United States Department of the Interior
FISH AND WILDLIFE SERVICE

MAILING ADDRESS:
Post Office Box 25486
Denver Federal Center
Denver, Colorado 80225

STREET LOCATION:
134 Union Blvd.
Lakewood, Colorado 80228

IN REPLY REFER TO:
FA/SE/HCRS--Mo. R.
Rec. Plan

JUN 1979

MEMORANDUM

To: Regional Director, Mid-Continent Region
Heritage Conservation and Recreation Service, Denver, Colorado

From: Regional Director, Region 6
Fish and Wildlife Service, Denver, Colorado

Subject: Section 7 Consultation, Endangered Species Act of 1973

This responds to your June 7 memorandum requesting Section 7 consultation on the draft management plan for the Missouri Recreational River between Gavins Point Dam, South Dakota, and Ponca State Park, Nebraska.

We have reviewed the plan and it is our biological opinion that actions described therein will not jeopardize the continued existence of any endangered or threatened species. If the objectives for natural resources, woodlands, and wildlife listed on pages 34, 38, 41, 42, and 43 are carried out, it will likely benefit the bald eagle and possibly the whooping crane.

The objectives of the plan include the protection of threatened and endangered species of flora and fauna, the protection and enhancement of woodlands, and the inventory and development of habitat management plans for threatened or endangered wildlife species. Under programs for the above objectives, timber cutting will be allowed only to prevent the spread of disease or insect infestations or to clean up burned areas, experimental methods of reforestation will be attempted, and a plan of erosion control to protect woodland areas where needed will be provided by the Corps of Engineers. In addition, raptor nest sites will be protected, and the establishment or improvement of wetlands will be included in the overall wildlife habitat management plan.

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Section 7(a) of the Act requires all Federal agencies, in consultation with the Secretary of the Interior, to "utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species." Therefore, in any acquisition of lands in fee or easement or in any erosion control plan, the protection of habitat for bald eagles should be a top priority in determining which areas to purchase or stabilize. The Heritage Conservation and Recreation Service and the Corps of Engineers should use their authorities to see that this is carried out for the benefit of endangered species.

Thank you for the opportunity to provide comments and for your concerns with endangered species. If the objectives or programs of the plan which are likely to benefit the species are changed or modified, consultation should be reinitiated.

James C. Pitman

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August 28, 1979

Mr. Emanuel Lauck
Management Plan Coordinator
Heritage Conservation & Recreation Service
P.O. Box 25387
Denver Federal Center
Denver, Colorado 80225

Dear Mr. Lauck:

The Missouri National Recreational River Management Plan provides an effective means for the management of cultural resources along the Gavins Point to Ponca State Park segment of the river. The programs and objectives outlined in the plan would assure that cultural resources would not be adversely affected by the proposed developments. The protection afforded by the cultural resource programs would, in fact, be beneficial to the sites by assuring their continued preservation.

Sincerely,

Marvin F. Kivett

Marvin F. Kivett
State Historic Preservation Officer

Richard E. Jensen

Richard E. Jensen
Preservation Archeologist

dbm

HISTORICAL PRESERVATION CENTER
University of South Dakota
Vermillion, S.D. 57069
Phone (605) 677 5314

SOUTH Dakota Department of
Education and Cultural Affairs

August 24, 1979

Mr. Al Baldwin
Heritage Conservation & Recreation Service
P.O. Box 25387
Denver Federal Center
Denver, Colorado 80225

Re: Missouri River Management Plan

Dear Mr. Baldwin:

We have reviewed the draft of the Missouri National Recreational River Management Plan and, in accordance with preservation laws culminating in 36 CFR 800, offer this comment:

It is our determination that the text of the Plan is acceptable in the form agreed upon this date and, when implemented as written, will have no adverse effect on significant cultural resources.

Sincerely,

John J. Little
State Historic Preservation Officer

cc: Advisory Council
State Archaeologist

The Office of Cultural Preservation of the Department of Education and Cultural Affairs coordinates South Dakota's archaeological research, museums, historical preservation and historical resource in a program designed to preserve our natural and cultural heritage.

GPO 853-189