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The Wild and Scenic Rivers Act and Erosion Control

Establishing the Missouri National Recreational River

The Missouri National Recreational River (MNRR) is a dynamic entity. Its history reveals remarkable examples of compromise and creativity, as well as shortsightedness and apathy. A component of the National Wild and Scenic Rivers System, the MNRR stretches for fifty-nine miles along the border between southeastern South Dakota and northeastern Nebraska. Congress designated this segment of the Missouri River in 1978 under the Wild and Scenic Rivers Act in an attempt to preserve the natural character of the reach. Married to this purpose, however, was the goal of remedying the problem of land erosion through river-bank stabilization efforts. A diverse partnership of interests succeeded in securing legislative approval for the MNRR, but the measure represented a merger of contradicting philosophies that would create an administrative quagmire. Establishing the MNRR as Congress intended was more than an immense challenge, it was impossible.

Stretching 2,341 miles from its start in the Rocky Mountains of Montana to its confluence with the Mississippi River near Saint Louis, the Missouri is one of the nation's great rivers. Most of its immense length, however, is now dammed or channelized. The MNRR begins at Gavins Point Dam near Yankton, South Dakota, and extends downstream to Ponca State Park in Nebraska. Also referred to as the “fifty-nine-mile reach,”¹ this seemingly unrestrained segment contains undeniable his-

1. River mile markers 809–750. The Missouri National Recreational River is, in fact, composed of two segments. In May 1991, Congress designated a thirty-nine-mile section from Fort Randall Dam near Pickstown, South Dakota, to Lewis and Clark Lake as a recreational river. Situated upstream from the fifty-nine-mile segment discussed here, this reach includes the lower twenty miles of the Niobrara River, which flows into the Missouri, and the lower eight miles of Verdigre Creek, which flows into the Niobrara. Officially called the Missouri/Niobrara/Verdigre Creek National Recreational Rivers, it

toric, scenic, and natural values and offers a glimpse of what the Missouri River used to be like: free flowing, with a shifting and braided channel, islands, sandbars, and wetlands. The river here is also broad and shallow compared to the long channelized stretch downstream from Sioux City to Saint Louis. It meanders along the Nebraska-South Dakota border through a landscape characterized by steep riverbanks, large farms, and high bluffs. The area also offers numerous recreational opportunities, such as boating and fishing, and is home to a wide variety of plants and animals.

For more than 175 years, people have sought to harness the Missouri River's awesome power through engineering projects. Efforts were somewhat sporadic until Congress authorized the Pick-Sloan Plan in 1944, the largest and most durable alteration of the river and its flood

has a management plan separate from that of the fifty-nine-mile segment, and a completely different set of circumstances surrounded its designation.



Shrouded in haze, the Missouri River in this view looking north from Ponca State Park appears much as it would have on a spring day a century ago.

plain. Part of the Flood Control Act of 1944, the plan was a consequence of the Great Depression and the belief that multipurpose water projects would stimulate growth in the arid West. The project's greatest endeavor was the completion of six massive dams on the upper Missouri River, with the last forming the western limit of the MNRR. The dams provided unquestionable benefit to the people of the region, including flood control, water for irrigation, hydroelectric power, and recreational opportunities. However, the dams also prevented the river from exhibiting its natural character, thus creating a set of problems that would not have existed otherwise. The almost sediment-free releases from the dams increased riverbed degradation, deteriorated fish and wildlife habitats, and increased riverbank erosion. Severe erosion had always been an issue on the fifty-nine-mile reach, but annual flood deposits replaced the soil the river took downstream. Completion of the main-stem dams largely prevented this annual flood-accretion process from occurring, thus resulting in a net loss of land. It was under these resulting conditions that a recreational river proposal was made.²

A growing awareness of the need to stem a decades-long pattern of river engineering and preserve the nation's remaining free-flowing rivers pervaded the country when Congress passed the Wild and Scenic Rivers Act in 1968. The act states that in order to qualify for designation, rivers or sections of rivers are to be free flowing and "possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values."³ The sentiment behind the

2. Don P. Weeks, David L. Vana-Miller, and Hal Pranger, *Missouri National Recreational River, Nebraska-South Dakota, Water Resources Information and Issues Overview Report* (Department of the Interior, National Park Service, Mar. 2005), pp. 4, 36. The Pick-Sloan Plan called for five mainstem dams and reservoirs in North Dakota and South Dakota: Garrison, Oahe, Big Bend, Fort Randall, and Gavins Point (Montana's massive Fort Peck Dam had already been completed). The total storage capacity is about 73 million acre-feet, the largest amount of water stored by any system in North America. Reinforced banks and the dredging of a navigation channel helped to tame the river's lower reaches. See also John Ferrell, "Developing the Missouri: South Dakota and the Pick-Sloan Plan," *South Dakota History* 19 (Fall 1989): 306-41.

3. Public Law 90-542, 90th Cong., 2d sess. (2 Oct. 1968), *Wild and Scenic Rivers Act; U.S. Statutes at Large* 82 (1969): 906. As of December 2013, the National Wild and Scenic Rivers System consisted of 12,598 miles on 203 waterways, or approximately one-quarter of one percent of the nation's rivers. To put these figures into context, more than seven-



Gavin's Point Dam, shown here from the Nebraska side of the river, was completed in 1957 and forms the western boundary of the Missouri National Recreational River.

Wild and Scenic Rivers Act remained strong ten years after its passage, and from a conservationist's viewpoint, the fifty-nine-mile segment on the Missouri was a good candidate for protection under the recreational river provision of the act.⁴ The strongest support for the establishment of the MNRR in 1978, however, did not come from conservationists but from landowners, making the proposal unlike any before it—or since. Elected officials saw the general public interest in conservation

ty-five thousand large dams have altered at least six hundred thousand miles, or about 17 percent of all rivers in the United States. Department of the Interior, National Wild and Scenic Rivers System, "About the WSR Act," <http://www.rivers.gov/wsr-act.php>, accessed 20 Dec. 2013.

4. The act sets forth three classifications for designation, all applying to rivers or sections of rivers: wild river areas—those representing vestiges of primitive America, free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted; scenic river areas—those free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads; and recreational river areas—those readily accessible by road or railroad, that may have some development along their shorelines

as an opportunity to provide federally funded riverbank stabilization for their constituents and chose designation under the Wild and Scenic Rivers Act as the vehicle to make it happen.

Organized into the Missouri River Bank Stabilization Association, landowners had lobbied their delegates in Congress for erosion control for some time. They argued that because the federally owned dams had increased the erosion of their property, the government should pay to prevent it.⁵ A 1969 report from the United States Army Corps of Engineers—the agency charged with overseeing the Missouri River dams—had found that the cost to prevent erosion losses far outweighed the benefit. In order to develop low-cost methods to limit the adverse economic impact, Congress passed the Streambank Erosion Control Evaluation and Demonstration Act of 1974 (Public Law 93-251) on 7 March 1974. Section 32 of this legislation established a program that provided for research studies to identify the causes of erosion, evaluate existing bank-protection techniques, and implement demonstration projects to assess the most promising bank-protection methods. The act (also referred to here as Section 32) called for the completion of sixty-eight bank-stabilization demonstration projects by 1981, nine of which were in the Gavins Point Dam to Ponca segment.⁶ Landowners rallied behind this opportunity, but the projects were limited to a handful of sites, and funding was uncertain. As a result, the Missouri River Bank Stabilization Association and congressional delegates from Nebraska and South Dakota pressed for broader federal support of bank stabilization.

Members of both states' congressional delegations believed that a Wild and Scenic Rivers designation—what would be known as a “green”

and that may have undergone impoundment or diversion in the past. *Statutes at Large* 82 (1969): 906.

5. It should be noted that the federal dams have largely prevented annual spring flooding, thereby allowing landowners the opportunity to live or farm on the floodplain.

6. U.S. Army Corps of Engineers, *Final Report to Congress: The Streambank Erosion Control Evaluation and Demonstration Act of 1974*, Section 32, Public Law 93-251, Main Report, 1981, pp. III-1, III-3. These stabilization projects included a variety of natural and artificial materials placed against the riverbanks, including concrete blocks, rock, rubber tires, and vegetation schemes, among others.

project today—would be well received in Congress and help solve the problem of ongoing funding. Optimistic that designation of a segment of the Missouri River under the “recreational” classification of the Wild and Scenic Rivers Act would help them achieve their ultimate goal of federally funded erosion control, landowners were willing to allow the added environmental restrictions that came with the designation. Conservationists, in turn, were willing to accept bank stabilization as an integral part of the recreational river. Given that the two sides most likely to clash were largely in agreement, the recreational river proposal faced little opposition in the region, and the strength of environmental awareness at the time provided the perfect conditions for such an accord.

The development of legislation to designate the MNRR began on 1 March 1978 and progressed quickly. Virginia Dodd Smith, Republican representative for Nebraska’s Third Congressional District, wrote the initial draft, and her desire to secure bank stabilization is quite clear. While speaking to the House about the merits of the recreational river, she praised the beauty of the fifty-nine-mile reach and the protection that a recreational river designation would bring. At the same time, Smith emphasized the need to stabilize riverbanks as equally important. The intertwining of preservation and erosion control would benefit the public as a whole, she stated, noting that streambank stabilization not only helped to save private and government land, but also trees, shelter for wildlife, and other vegetation. Stabilized banks also ensured ongoing recreational opportunities for the general public.⁷

The harmony among the interested parties was encouraging but fragile. In a letter to the Parks and Recreation Subcommittee, Senators Carl T. Curtis (R-Nebr.), George S. McGovern (D-S.Dak.), and Edward Zorinsky (D-Nebr.) wrote, “We are afraid that without passage of this legislation the attempt to arrive at an amicable compromise will be lost forever, that the parties involved in working so hard and long to formulate this agreement will be so thoroughly frustrated that they will return to their adversary relationship.”⁸

7. *Congressional Record*, 95th Cong., 2d sess., 1978, 124, pt. 14:18883–84.

8. *Ibid.*, pt. 27:36203.

The seemingly contradictory nature of the proposal created other obstacles, and opposition by the administration of President Jimmy Carter nearly derailed it. William Whalen, National Park Service director, testified at a Senate Subcommittee on Parks and Recreation hearing that the Carter Administration supported the addition of all Wild and Scenic Rivers segments proposed in House Resolution 12536, except for the fifty-nine-mile stretch of the Missouri. Too many questions remained, he said, about the compatibility of erosion-control structures and a recreational river classification. Whalen acknowledged the alliance, but he also appealed to committee members' sincere interests in the values of the river itself.⁹

On 12 October 1978, several senators debated the merits of the plan. Among them was South Dakota's George McGovern, who described the reach as "one of the last vestiges of the 'free flowing' Missouri," a segment that remained nearly the same as it had existed prior to passage of the Flood Control Act of 1944. McGovern spent most of his time on the Senate floor recounting the agreement that had made the recreational river proposal possible and outlining the unique attributes of the legislation, which were the result of "delicate negotiations" among numerous state and federal agencies and the Missouri River Bank Stabilization Association. McGovern argued that this interstate cooperation between groups with diverse interests in the river's future was what made the legislation "so remarkable" and that a designation was justified on that basis alone.¹⁰ The tenuous coalition persevered, and concerns about the compatibility of erosion-control structures with the Wild and Scenic Rivers Act were discarded. President Carter signed the National Parks and Recreation Act of 1978 into law on 10 November 1978, thereby establishing the MNRR.¹¹

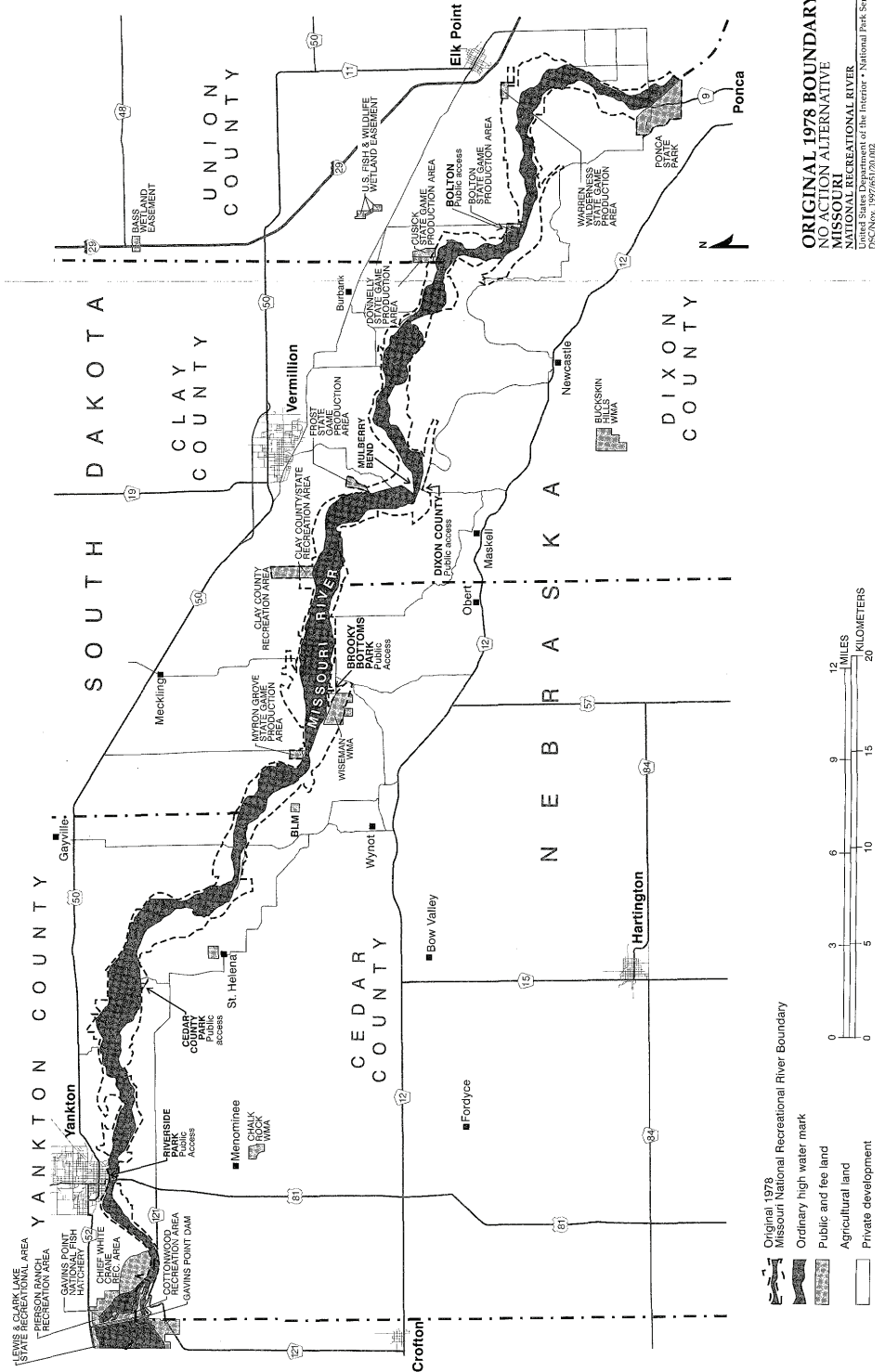
9. U.S., Congress, Senate, Committee on Energy and Natural Resources, *National Parks and Recreation Act of 1978: Hearings before the Subcommittee on Parks and Recreation on S. 2706, S. 2848, and H.R. 12536*, 95th Cong., 2d sess. 1979, p. 90.

10. *Congressional Record*, 95th Cong., 2d sess., 1978, pt. 27:36203.

11. Public Law 95-625, 95th Cong., 2d sess. (10 Nov. 1978), *National Parks and Recre-*

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As established in 1978, the Missouri National Recreational River extended fifty-nine miles downstream from Gavin's Point Dam to Ponca State Park.



**ORIGINAL 1978 BOUNDARY
NO ACTION ALTERNATIVE
MISSOURI
NATIONAL RECREATIONAL RIVER**
 UNITED STATES DEPARTMENT OF THE INTERIOR • NATIONAL PARK SERVICE
 PAC/News, 1997/05/12/0102

Described by Nebraska governor Charles Thone as “one-of-a-kind,” the legislation designating the MNRR was out of the ordinary, and the period required for its approval was relatively brief.¹² From the time the Army Corps of Engineers and the Department of the Interior’s Heritage Conservation and Recreation Service agreed to conduct an initial study until the river’s official designation, only a year and a half had passed, compared to an average of six and a half years for the other rivers approved.¹³ This unique legislation required the Department of the Interior to sign an unprecedented cooperative agreement with the Army Corps of Engineers for the construction and maintenance of bank stabilization and recreational facilities and called for the formation of an advisory group to oversee management of the MNRR. It limited the federal government’s ability to acquire land without consent to 5 percent of the total acreage within the designated river boundary and contained a “quid pro quo” provision that required landowners requesting bank stabilization to sell easements that made other land available for the protection of wildlife habitat and other values.¹⁴

ation Act of 1978; Statutes at Large 92 (1978): 3528–29; President, Signing Statement, “Statement on Signing S. 791 into Law,” *Public Papers of the Presidents of the United States: Jimmy Carter, 1978*, vol. 2 (Washington, D.C.: Government Printing Office, 1979), p. 1999. For a detailed legislative history, see Daniel D. Spiegel, “The Missouri National Recreational River: An Unlikely Alliance of Landowners and Conservationists,” *Nebraska History* 90 (Spring 2009): 22–41.

12. Governor Charles Thone, “Statement of Governor Charles Thone on the Designation of the Missouri River from Gavin’s Point Dam to Ponca State Park as a National Recreation River,” 27 Aug. 1979, U.S. Army, Corps of Engineers, Omaha District Office, Omaha, Nebr. (hereafter cited Omaha District Office).

13. U.S. Department of the Interior, Heritage Conservation and Recreation Service (HCRS), *The Missouri River: An Alliance for National Designation*, p. 6, National Park Service (NPS), Missouri National Recreational River, Administration Office, Yankton, S.Dak. (hereafter cited Yankton NPS Office). The Heritage Conservation and Recreation Service was a short-lived agency within the Department of the Interior that oversaw outdoor recreation programs and protection of natural and cultural resources. Established in January 1978, it was abolished in 1981 and responsibility for its duties transferred to the National Park Service. National Archives and Records Administration, “Records of the Heritage Conservation and Recreation Service,” <http://www.archives.gov/research/guide-fed-records/groups/368.html>, accessed 20 Dec. 2013.

14. *Statutes at Large* 92 (1978): 3528–29. Landowners initially were highly concerned about the issue of easements. They had two options: selling the government a scenic easement, which prevented changes in land use that would harm the natural quality

Most importantly, the legislation for the first time made erosion control a necessary part of a waterway designated under the Wild and Scenic Rivers Act. Congress's intent is clear in the designating legislation, which states that the secretary of the interior shall "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

of the area, or a recreational easement, which carried the same stipulations but also allowed public use of the land. Landowners were generally receptive to the concept but opposed the idea of having their land tied up with easement restrictions forever. See *Nebraska Journal Leader* (Ponca, Nebr.), 30 Aug. 1979. In the end they had no choice, because this point was non-negotiable. Unlike many other Wild and Scenic Rivers that run through federal property, the MNRR is largely surrounded by privately held land, making a positive working relationship with property owners necessary for managing the river effectively.



River currents eat away a sandy bank on the Missouri National Recreational River. For landowners, erosion control was an important aspect of the legislation designating the river.

(ii) for the operation and maintenance of all streambank stabilization structures constructed in connection with such segment.”¹⁵

In contrast to the legislative process, the task of getting the MNRR up and running was complex and riddled with disagreement. The Department of the Interior typically administered Wild and Scenic Rivers and oversaw development of a management plan, but in this case the Corps of Engineers was intimately involved, thus complicating the process. The cooperative agreement between the two agencies and the establishment of an advisory group were intended to eliminate confusion, but the secretary of the interior first had to identify a lead agency to carry out his responsibility under the act.¹⁶ Those agencies considered were the National Park Service, Fish and Wildlife Service, Bureau of Land Management, and Heritage Conservation and Recreation Service.

There were many strong opinions as to which agency should be responsible. Initially, neither the National Park Service nor the Fish and Wildlife Service wanted the appointment.¹⁷ Fish and Wildlife Service officials believed that the Heritage Conservation and Recreation Service should take the lead because the placement of administrative responsibility with the National Park Service or themselves would trigger section 10 (c) of the Wild and Scenic Rivers Act. This section of the original 1968 legislation mandated that any component of the National Wild and Scenic Rivers System administered by the National Park Service or the Fish and Wildlife Service must become a part of the national park system or the national wildlife refuge system, respectively.¹⁸ Many observers assumed that the Corps of Engineers would handle day-to-day management of the MNRR. In the view of the Fish and Wildlife Service, such a plan would create a “dangerous precedent” by granting the Corps control of a national park or national wildlife refuge. If the Heritage Conservation and Recreation Service was given responsibil-

15. *Statutes at Large* 92 (1978): 3528.

16. *Ibid.*

17. William Rennebohm, HCRS, to Margaret G. Maguire, Director, HCRS, 8 Dec. 1978, folder D4219, Yankton NPS Office.

18. *Statutes at Large* 82 (1969): 916; Lynn A. Greenwalt, Director, Fish and Wildlife Service (FWS), to Assistant Secretary, FWS, 24 Nov. 1978, folder D4219, Yankton NPS Office.

ity, however, the issue could be avoided.¹⁹ In December of 1978, the latter agency agreed with this suggestion, viewing it as an opportunity to introduce the Corps properly into the National Wild and Scenic Rivers System.²⁰

As the Department of the Interior contemplated which agency should assume responsibility, Nebraska Representative Virginia Smith sent letters on 11 December 1978 to Clifford Alexander, secretary of the army, and Cecil Andrus, secretary of the interior, urging them to begin work on the cooperative agreement. Smith emphasized the importance of the matter due to continued bank erosion on the fifty-nine-mile reach and the need to secure funding in the upcoming fiscal year. She also requested that each agency provide her with a full report of their plans for establishing the MNRR as well as a timetable for developing the cooperative agreement.²¹ Within three weeks, the Department of the Army had prepared a draft agreement, contacted the Department of the Interior to arrange discussions, and replied to Smith with a promise to keep her updated.²²

The Department of the Interior proceeded more slowly. It took a month and a half before Robert Herbst, assistant secretary for Fish and Wildlife and Parks, replied to the Corps of Engineers, and nobody from the department had yet responded to Smith's original correspondence.²³ The representative did not appreciate the delay and sent a scathing letter to Secretary Andrus on 14 March 1979, stating that she was "baffled" and "disappointed" by his department's slow action in implementing the MNRR.²⁴ This time, the Interior Department reacted promptly and began sending Smith updates.

With Congress applying pressure for the timely development of a cooperative agreement and management plan, Secretary Andrus del-

19. Greenwalt to Assistant Secretary, 24 Nov. 1978.

20. William Rennebohm, HCRS, to Margaret G. Maguire, Director, HCRS, 18 Dec. 1978, folder D4219, Yankton NPS Office.

21. Smith to Alexander, 11 Dec. 1978, *ibid*.

22. Major General Charles McGinnis, Director of Civil Works, U.S. Army Corps of Engineers, to Division Engineer, Missouri River, U.S. Army Corps of Engineers, 29 Dec. 1978, Omaha District Office.

23. Herbst to McGinnis, 13 Feb. 1979, folder D4219, Yankton NPS Office.

24. Smith to Andrus, 14 Mar. 1979, *ibid*.

egated responsibility to the Heritage Conservation and Recreation Service. On 25 January 1979, Robert Herbst informed the agency of Andrus's decision and indicated that the plan needed to be completed no later than 10 November, as the legislation mandated. The Heritage Conservation and Recreation Service had never before administered a component of the National Wild and Scenic Rivers System, thus adding another complication to the fledging MNRR.²⁵

The complexity of administering the fifty-nine-mile river segment escalated over subsequent months. As the Department of the Interior contemplated the intricacies of the matter, concerns were raised about giving the secretary's administrative responsibilities to the Heritage Conservation and Recreation Service. Because the Fish and Wildlife Service had been involved in designating the MNRR, regional components of that agency initially believed they would be charged with administering the recreational river. Although relieved to have avoided this task, they nevertheless argued that the cooperative agreement and management plan should make the Heritage Conservation and Recreation Service subject to Fish and Wildlife Service guidance. The National Park Service also expressed concern, noting that the Heritage Conservation and Recreation Service had no mandated responsibility for land management. If the Corps was to be placed in charge of daily management of the river, such concerns would be dispelled, but that option had yet to be agreed upon.²⁶

At a mid-June management plan meeting, the Heritage Conservation and Recreation Service acknowledged that administration of the MNRR should rest with an agency with land-management responsibility.²⁷ In order to clarify the matter, another meeting was held on 26 June 1979 at the Mid-Continent Regional Office of the Heritage Conservation and Recreation Service in Denver, Colorado. This meeting

25. Herbst to Director, HCRS, 25 Jan. 1979, *ibid.*

26. William Rennebohm, HCRS, to Deputy Director for Planning, HCRS, 9 Jan. 1979, and William Whalen, Director, NPS, to Herbst, 29 Jan. 1979, *ibid.*

27. Emanuel Lauck, Management Plan Leader, to Members, Missouri Recreational River Management Plan Study Team, 19 June 1979, folder 1979: January–July, Yankton NPS Office.

produced a field position paper for the secretary of the interior, which concluded that the National Park Service was the logical choice to administer the river, given its expertise in managing other components of the National Wild and Scenic Rivers System, including easement enforcement and oversight of cultural resources and river recreation.²⁸

Despite these conclusions, the National Park Service fought hard to avoid responsibility for the MNRR, and its administration would remain for the time being under the purview of the Heritage Conservation and Recreation Service. In an internal memorandum to Director Whalen, James Dunning remarked that the Heritage Conservation and Recreation Service appeared to be “trying to stick us with management of that area.”²⁹ His displeasure, however, paled in comparison to the angst other National Park Service representatives expressed throughout the summer. A memorandum sent in August from the Midwest Regional Office to the National Park Service’s Office of Legislation bluntly stated, “The National Park Service does not want this authority.” The communication went on to describe the MNRR designation as a “ruse” by farmers to obtain bank stabilization, stating that the legislation “stripped away any meaningful acquisition authority, thereby precluding any real hope for managing a true Wild and Scenic River.” It also portrayed the designation as a means for the Fish and Wildlife Service to gain control nationwide over the Section 32 erosion-control program. The memorandum further expressed concern over the involvement of the Corps of Engineers in the river’s management and said that there would be “hell to pay if the National Park Service is saddled with the Missouri segment.”³⁰ Fish and Wildlife Service and Heritage Conservation and Recreation Service personnel engaged in similar efforts to avoid responsibility for the MNRR. Such was the en-

28. William Farrand, Rivers, Trails and Water, Resources Coordinator, NPS, to Regional Director through Executive Assistant to Regional Director, “Trip Report,” 28 June 1979, p. 4, folder 1979, Yankton NPS Office. Representatives of the National Park Service, Fish and Wildlife Service, Heritage Conservation and Recreation Service, and Bureau of Land Management attended this meeting.

29. Dunning to Whalen, 12 July 1979, folder 1979, Yankton NPS Office.

30. Memorandum, Midwest Region, NPS, to Chief, Office of Legislation, NPS, 9 Aug. 1979, *ibid.*

vironment in which the cooperative agreement and the MNRR management plan were developed. No one within the Department of the Interior wanted to deal with administering the MNRR, a situation that laid the groundwork for a decade of neglect by the National Park Service.³¹

Meanwhile, the Corps of Engineers and the Heritage Conservation and Recreation Service had begun discussions in February of 1979 to develop an interim cooperative agreement that would define each agency's role and serve as the basis for planning and implementing the recreational river. Chris Delaporte, director of the Heritage Con-

31. In addition to these examples, there are several other letters on file at the NPS office in Yankton illustrating the displeasure of the NPS, FWS, and HCRS over the prospect of administering the MNRR.



This vegetated bank situated below the forested river bluff is an example of a riverbank stabilization project that has been covered with topsoil and seeded.

servation and Recreation Service, signed the interim agreement on 28 March, but it would not be until 7 June before Chief of Engineers John Morris penned his signature. The legislation establishing the MNRR mandated that the final agreement be completed within one year of enactment, specifically 10 November 1979.³²

The Heritage Conservation and Recreation Service formed a study team to create a management plan and formulate the final cooperative agreement. Led by Emanuel Lauck of the Heritage Conservation and Recreation Service, the group consisted of representatives from Nebraska and South Dakota as well as the National Park Service, Fish and Wildlife Service, Corps of Engineers, Missouri River Bank Stabilization Association, and other local entities. Development of the final agreement continued throughout the year, as numerous meetings and discussions took place at both the regional and national levels. The Corps of Engineers, Fish and Wildlife Service, and Heritage Conservation and Recreation Service all drafted several versions of a cooperative agreement, until the study team determined in August that the Corps would write the initial draft to be used in negotiations over the final document.³³

Both sides wanted the cooperative agreement to address specific concerns. An issue of major importance to the Department of the Interior was that the Corps of Engineers agree to the day-to-day management of the MNRR and that all administrative and management roles be explicitly defined. The Interior Department did not want to be held responsible for what it called “management issues,” such as fish, wildlife, cultural resources, and interpretation, and contended that a single management agency would be most efficient. Randall Pope, acting director of the National Park Service’s Midwest Region, argued that the Department of the Interior’s administrative role should simply be one

32. Herbst to Director, HCRS, “Delegation of Responsibilities,” 14 Feb. 1979, folder 1979, Yankton NPS Office; Albert G. Baldwin, Assistant Regional Director, Resource Planning Services, HCRS, to Chief, Division of Natural Resource Systems Planning, HCRS, “Cooperative Agreement,” 2 Mar. 1979, *ibid.*; “Missouri River MOU Developments,” n.d., p. 5, Omaha District Office; *National Parks and Recreation Act of 1978*, sec. 707.

33. Emanuel Lauck, Management Plan Leader, HCRS, to James Peterson, 30 Apr. 1979, folder 1979: January–July, Yankton NPS Office. The appendix contains a complete list of the initial management plan study team members.

of review and approval, while the managing agency should be responsible for planning, design, construction, operation, and maintenance of the bank-stabilization projects.³⁴

The Corps of Engineers accepted that Congress had intended it to manage the MNRR. This intent was underscored by the testimony of Nebraska Governor Charles Thone, who had supported the legislation in Congress, at a public hearing in Yankton, South Dakota, on 22 August 1979; by the legal opinion of a Fish and Wildlife Service attorney; and by the fact that Congress had placed the entire five hundred thousand dollars earmarked for the MNRR for fiscal year 1980 within the Corps of Engineers budget. The Corps, did not, however, accept responsibility for all management, especially those tasks that the Department of the Interior was better suited to carry out. These areas included cultural resource investigations, scenic and recreational easements, natural resources and minerals surveys, a fish and wildlife management plan, and a woodland resources plan.³⁵

Discussions over the final cooperative agreement continued throughout the autumn. The Fish and Wildlife Service, suspicious that the Corps of Engineers would not look out for wildlife interests, suggested that the agreement require the Department of the Interior to approve lands acquired in return for bank stabilization. It also wanted the Interior Department to be notified of congressional budget hearings on the MNRR so that its representatives would be able to testify. On 30 October 1979, the Department of the Interior held an interagency meeting in Washington, D.C., to incorporate the recommendations of the Fish and Wildlife Service, and it furnished the Corps with what was to be the final agreement for review and comment. Following some delay as problems with language in the agreement were ironed out, Robert Herbst, assistant secretary for Fish and Wildlife and Parks, signed the agreement on 4 January 1980. John Morris, chief of engineers, executed it on 1 February. The final four-page cooperative agreement delegated administrative responsibilities to the secretary of the interior and daily

34. Pope to John Velhradsky, Chief, Planning Division, Omaha District, Army Corp of Engineers, 10 Sept. 1979, folder 1979, Yankton NPS Office.

35. "Missouri National Recreation River," 20 Sept. 1979, Omaha District Office; Velehradsky to Chief, Real Estate Division, 4 Sept. 1979, folder 1979, Omaha District Office.

management responsibilities to the secretary of the army. The Department of the Interior would still be involved with certain planning and design tasks that its agencies were best suited to implement.³⁶

Despite the mandate from Congress that the cooperative agreement be completed within one year of the legislation's enactment, the process had taken nearly fifteen months. The delay drew sharp criticism from Douglas K. Bereuter, Republican representative from Nebraska's First Congressional District. On 4 March 1980, Bereuter sent a scathing letter to Heritage Conservation and Recreation Service Director Chris Delaporte, accusing his agency of neglecting to move the project for-

36. Al Sandvol, Acting Regional Director, Region 6, FWS, to Director, FWS, 5 Oct. 1979, folder 1979, Yankton NPS Office; Chris Delaporte, Director, HCRS, to Representative Douglas Bereuter, 21 Mar. 1980, folder 1980, *ibid.*; U.S. Department of the Interior, National Park Service, and U.S. Army Corps of Engineers, *Final General Management Plan/Environmental Impact Statement, Missouri National Recreational River*, 1999, p. 255.



Rock lines the water's edge as part of a stabilization project completed in 2005 to protect a road in Nebraska's Dixon County.

ward, which, in turn, prevented the Corps of Engineers from requesting appropriations for the 1981 fiscal year. “Why in the hell has [the] Heritage Conservation and Recreation Service been so delinquent in completing their portion of the work in this agency effort?,” Bereuter wrote. “I hope your staff can answer this question as well as address my general concerns about the manner in which this entire matter has been handled.”³⁷

As the planning team worked on the cooperative agreement, it was also developing the much larger management plan, which was to be completed and presented to Congress at the same time. While the cooperative agreement would specify which agency was to do the work, the management plan would direct the administration of the MNRR and provide Congress with detailed management information. The first meeting of the management plan team took place on 11 May 1979 at the University of South Dakota in Vermillion, where a number of guidelines were adopted for use in creating the document. The Heritage Conservation and Recreation Service would write the initial draft; the plan would identify the Corps of Engineers as the entity primarily responsible for day-to-day river management; land previously identified for federal acquisition and scenic and recreational easements would be reevaluated; the Corps would review constraints related to its management role and work on resolutions; the National Park Service, Fish and Wildlife Service, and Heritage Conservation and Recreation Service would address the issue of where the Interior Department’s administrative responsibility should rest; and a task force would be formed to consider the makeup of a Recreational River Advisory Group.³⁸

The study team appeared to have momentum and focus following its first meeting and set a tentative schedule to stay on track. Several team members, along with other government representatives, toured the MNRR by boat on 16 and 17 May to identify scenic vistas and determine scenic and recreational boundaries. Soon afterwards, team leader Emanuel Lauck circulated the first draft of the management

37. Bereuter to Delaporte, 4 Mar. 1980, folder 1980, Yankton NPS Office.

38. Lauck to Missouri Recreational River Management Plan Study Team Members, 15 May 1979, folder 1979: January–July, Yankton NPS Office.

plan for team members to review. During the second meeting, held at the Gavins Point Dam Visitor's Center in Yankton, the team discussed the Corps' management constraints, formation of the advisory group, endangered species, the cooperative agreement, and revisions to the draft management plan. It was at this meeting that National Park Service and Fish and Wildlife Service representatives expressed a willingness to accept Department of the Interior responsibility, revealing a desire among the study team members to make the project work.³⁹

The complex nature of the MNRR slowed this wave of goodwill in the following months. On 13 July 1979, Lauck distributed the final draft of the management plan for the public and interested agencies to review, requesting that responses be received in his office by 1 August.⁴⁰ During this public review process, a third management plan meeting took place on 26 July at South Sioux City, Nebraska. There, the team looked at possible members for the Recreational River Advisory Group from among thirty-two different government agencies and private groups. Earl Rowland, Missouri River Bank Stabilization Association president, expressed landowners' concerns over selling permanent scenic easements, but the unanimous opinion of federal representatives was that Congress would not sanction temporary easements.⁴¹ Once a landowner sold a scenic or recreational easement to the government, ownership of the property would be maintained, but the landowner could not make changes that the administering agency considered harmful to the natural quality of the area.

39. Pat Pusey, Omaha District, Army Corp of Engineers, to Velhradsky, 21 May 1979, Omaha District Office; Lauck to Missouri Recreational River Management Plan Study Team Members, "Draft Management Plan and Scheduled Team Meeting," 4 June 1979, p. 1, and "Record of Proceedings June 13-14, Planning Team Meeting, Yankton, South Dakota," 19 June 1979, p. 1, folder 1979: January-July, Yankton NPS Office.

40. Lauck to Missouri Recreational River Management Plan Study Team Members, "Team Meeting and Review of Draft Management Plan," 13 July 1979, p. 1, folder 1979: January-July, Yankton NPS Office. Postal delays, however, pushed the due date back two weeks.

41. Lauck to Missouri Recreational River Management Plan Study Team Members, "Public Meetings and Other Elements of Management Plan," 6 Aug. 1979, pp. 6-7, folder 1979: January-July, Yankton NPS Office; Gene Galloway, to File, "HCRS Meeting on Draft Management Plan for Missouri Recreation River, South Sioux City," 31 July 1979, p. 1, Omaha District Office.

Others responded to Lauck with apprehension over the management plan, as well. One private landowner objected to the plan's proposal for federal acquisition of his land, because it had already been platted for development and approved by the Clay County Board of Commissioners.⁴² An owner of a river outfitting business, who described himself as a "good old free enterprise, tax paying, fiercely proud, private businessman," sent a colorfully worded letter requesting that private businesses be allowed to operate without federal interference.⁴³ Numerous people voiced support for the proposed bank stabilization measures, arguing that recreational and scenic assets would be lost without such efforts. Also responding to Lauck were state agencies not represented on the management plan team. They requested greater clarity in the plan's wording, further public education on recreational rivers as defined by the 1968 Wild and Scenic Rivers Act, attention to the effect of riverbed degradation on recreational values, and the inclusion on the advisory group of representatives from the affected states and political subdivisions. The Corps of Engineers released a fact sheet concerning the MNRR to the public in August in an attempt to alleviate these concerns.⁴⁴

Public meetings were convened at three towns in the region from 21 to 23 August. The purpose of these meetings held in Newcastle, Nebraska, and Yankton and Vermillion, South Dakota, was to educate the public on the management plan and obtain feedback before submission of the final report to Congress. In general, each meeting allowed citizens the chance to ask questions of the team members, who presented the management plan and took statements. The designation of the MNRR drastically changed the way the river would be managed, and the public meetings opened a door of opportunity for individuals who hoped to influence how it would be developed.⁴⁵ Speaking at the

42. Lauck to Management Plan Team Members, "Comments, Draft Management Plan," 15 Aug. 1979, p. 2, folder 1979: January–July, Yankton NPS Office.

43. *Ibid.*, pp. 3–4.

44. *Ibid.*, pp. 5, 11–18; U.S. Army, Corps of Engineers, "Management Plan Fact Sheet," Aug. 1979, Omaha District Office.

45. HCRS, News Release, "Missouri Recreational River Public Meetings Set for Late August," Aug. 1979, Omaha District Office; William Farrand, *Rivers, Trails and Water*,

Yankton meeting, Al Baldwin of the Denver Heritage Conservation and Recreation Service office stated, “We’re here to find out from you people what you like and don’t like about this thing and how we can fix it. . . . A bunch of bureaucrats can’t make it work.”⁴⁶

Some of the concerns voiced at the meetings echoed those expressed in letters Lauck received earlier in the month.⁴⁷ Landowners’ concerns again centered on the exceptionally sensitive issue of easements, which they had to sell to the government in order to receive federally funded bank stabilization. While generally receptive to this concept, landowners vehemently opposed the federal requirement that the easements be granted “in perpetuity,” a requirement that officials at the meeting said was not negotiable.⁴⁸

Recreational development of the river was another hot topic at the meetings, as the new designation brought hope of a business boom to the area. One promoter of the fifty-nine-mile reach said the designation would “put the river on the map” as a recreational destination.⁴⁹ A major theme discussed at the Newcastle meeting was the development of navigation along the reach, even though the concept was not included in the management plan and, in fact, contradicted the aims of the Wild and Scenic Rivers Act. Supporters of navigation argued that the abandonment of railroads and the rising cost of gasoline made shipping an important issue to consider. The much larger group of bank stabilization supporters at the Newcastle meeting, however, refuted the idea, saying that navigation would come at the cost of vital erosion control measures.⁵⁰

A major highlight of the three days occurred when Nebraska Governor Charles Thone delivered a speech to the Yankton gathering. He had been a member of the House of Representatives when the desig-

Resources Coordinator, to General Files through Executive Assistant to Regional Director, “Trip Report,” 29 Aug. 1979, folder 1979, Yankton NPS Office.

46. Quoted in *Yankton Daily Press and Dakotan*, 23 Aug. 1979.

47. *Sioux City Journal*, 24 Aug. 1979.

48. *Nebraska Journal Leader*, 30 Aug. 1979. See also *Yankton Daily Press and Dakotan*, 23 Aug. 1979.

49. *Lincoln (Nebr.) Journal*, 22 Aug. 1979.

50. *Nebraska Journal Leader*, 30 Aug. 1979.

nation was approved, and as a sponsor of the original bill he offered valuable insight into congressional intent. Thone praised the natural beauty of the MNRR and stressed the importance of bank stabilization. Erosion control was just as important as natural preservation, the governor said, and the new designation ensured bank stabilization. Concerning daily management of the river, Thone confirmed that it had been the drafters' intent that the Corps of Engineers would assume that responsibility.⁵¹

Development of the MNRR management plan encountered fewer delays than did the cooperative agreement. Just three weeks after the public meetings took place, the plan was complete and ready for printing in time to meet the 10 November deadline for submission to Congress. First, however, it had to be submitted with the completed cooperative agreement to the Heritage Conservation and Recreation Service Mid-Continent Region office. Because the cooperative agreement was not executed until 1 February 1980, there was a substantial delay in this process. On 18 March, more than four months later than the legislation mandated, Interior Secretary Andrus submitted the completed MNRR management plan and cooperative agreement to Speaker of the House Thomas P. O'Neill.⁵²

In the interim, development of the Recreational River Advisory Group discussed during the summer of 1979 had stalled. Without a signed cooperative agreement designating a managing agency, some Department of the Interior officials hesitated to proceed. Furthermore, the Office of Management and Budget opposed the formation of an advisory group, coinciding with a growing belief within the Carter Administration that such groups should be limited.⁵³

The delay did not sit well with members of the Missouri River Bank

51. Thone, "Statement of Governor Charles Thone on the Designation of the Missouri River."

52. Albert G. Baldwin, Assistant Regional Director, Resource Planning Services, HCRS, to Deputy Director, Planning, HCRS, 14 Sept. 1979, folder 1979, Yankton NPS Office; Cecil Andrus, Secretary, Department of the Interior, to U.S. Representative Thomas O'Neill, 18 Mar. 1980, folder 1980, *ibid*.

53. Jack Hauptman, Deputy Director for Planning, HCRS, to Regional Director, Mid-Continent, 17 Aug. 1979, folder 1979, Yankton NPS Office.

Stabilization Association, who wanted a say as to how the MNRR would be managed. On 10 September 1979, Missouri River Bank Stabilization Association President Earl Rowland sent a letter to Secretary Andrus, requesting his support. Rowland indicated that because the hard work of citizens' groups like the Missouri River Bank Stabilization Association had made the MNRR a reality, they should not be left without a voice in its management.⁵⁴ He sent copies of this correspondence to all members of Congress, as well as the governors of Nebraska and South Dakota. Most of these officials, in turn, sent their own letters of support for the group to Secretary Andrus. Senator McGovern told Andrus that an MNRR advisory group should not be part of the president's efforts to dismantle such groups and that the entire project "could be jeopardized by any effort to never assemble the Recreation River Advisory Group."⁵⁵

Secretary Andrus replied with a pledge to support citizen involvement. In a letter to Senator J. James Exon (D-Nebr.), he wrote, "Let me reassure you that, following an approved charter, every effort will be made to involve interested local citizens in the formulation of the Advisory Group."⁵⁶ With support from the secretary, the management plan study team developed an advisory group charter in November 1979. Following revisions by the Heritage Conservation and Recreation Service Mid-Continent Regional office, the charter was finalized in January 1980 and forwarded to Secretary Andrus the following month. After receiving several more letters of support from congressional officials, Andrus signed the charter on 4 April.⁵⁷

Despite the secretary's approval, the advisory group was nearly scuttled. Andrus had sent the charter to the General Services Administration on 15 April, but the Office of Management and Budget refused to approve it, in keeping with Carter Administration policy. The only way to resolve the problem was to amend the legislation. On 31 July,

54. Rowland to Andrus, 10 Sept. 1979, *ibid.*

55. McGovern to Andrus, 20 Sept. 1979, *ibid.*

56. Andrus to Senator James Exon, 11 Dec. 1979, *ibid.*

57. Chris Delaporte, Director, HCRS, to Representative Douglas Bereuter, 30 Apr. 1980, folder 1980, Yankton NPS Office.

Representative Phillip Burton (D-Calif.) introduced an amendment to Senate Bill 2680 to do exactly that.⁵⁸ Burton's amendment changed the language in the original legislation from "a recreation river advisory group may be established," to a more emphatic "shall be established." Congress passed the bill, and President Carter signed it into law on 8 September 1980, allowing for the charter's approval and filing in October.⁵⁹

Nearly two years after designation of the MNRR, the major components specified in the legislation—the cooperative agreement, management plan, and advisory group—were finally in place. Soon afterwards, other tools were implemented to support the administrative process. The Corps of Engineers prepared a general design memorandum, a common practice for that agency, but this one was different in that it was considered to be an extension of the already approved management plan. The Corps also filed a final environmental impact statement in August of 1980.⁶⁰

The MNRR has now been in existence for three decades, and its impact on the region has been mixed, a consequence of the twofold purpose for its designation. To date, the managing agencies have struggled to reconcile the inherent differences between the dual purposes of preserving the river's free-flowing condition with bank-stabilization measures. In contrast to its initial efforts, the Department of the Interior has taken great strides in recent years to keep the river as natural as possible. The Heritage Conservation and Recreation Service attempted to establish a good working relationship with the Corps of Engineers and landowners during its short tenure as administrator, but it clashed with other agencies that did not share its philosophies. For example, the Fish and Wildlife Service disagreed with the decision of the

58. HCRS, *Missouri River Advisory Group Charter*, 19 May 1980, p. 1, folder 1980, Yankton NPS Office; *Congressional Record*, 96th Cong., 2d sess., 1980, 126, pt. 16:20846.

59. Public Law 96-344, 96th Cong., 2d sess. (8 Sept. 1980), *An Act to Improve the Administration of the Historic Sites, Buildings and Antiquities Act of 1935*; *Statutes at Large* 94 (1980): 1137. See also Department of the Interior, *Charter: Missouri Recreational River Advisory Group*, p. 3, folder 1980, Yankton NPS Office.

60. U.S. Army, Corps of Engineers, *Missouri National Recreational River, Nebraska and South Dakota General Design: Memorandum MRR-1*, 1980, p. 1, NPS, Midwest Regional Office Library, Omaha, Nebr.

Heritage Conservation and Recreation Service to legalize all “illegal fills” that took place before the Wild and Scenic River designation and instead issue a cease-and-desist order for subsequent activity. In the view of the Pierre area supervisor, “inconsistencies in handling permits would “create more problems than the alleged payoff” in goodwill and future cooperation.⁶¹

The Heritage Conservation and Recreation Service, however, would not have an opportunity to grow into the job because the National Park Service absorbed the agency on 19 February 1981, along with responsibility for administering the MNRR. In 1979, during the process to determine which Interior Department subagency would manage the river, the National Park Service had made it clear that it did not want responsibility. Some representatives of the agency considered the MNRR little more than a ploy by farmers to have the federal government pay for bank stabilization and believed that limited authority to acquire lands made managing a true Wild and Scenic River impossible.⁶² Holding such views, the National Park Service essentially ignored its responsibility as river administrator for more than ten years.⁶³

In the absence of National Park Service oversight, the Corps of Engineers was left to manage the reach. The Corps had no experience in managing a Wild and Scenic River and traditionally viewed water resources as something to be tamed, not preserved. With this mindset, the agency approached issues on the MNRR differently than the National Park Service would have, particularly in its practice of establishing landowner relationships based upon its utilitarian philosophies. In 1991, the National Park Service was forced to reconsider its responsibilities when it was appointed administrator of a thirty-nine-mile addition to the MNRR and the associated Niobrara National Scenic River. With a renewed focus and growing responsibility in the region,

61. Environment Supervisor, Pierre Area Office, FWS, to Area Manager, South Dakota—Nebraska—Kansas, FWS, 8 Oct. 1980, folder 1980, Yankton NPS Office.

62. National Archives and Records Administration, “Records of the Heritage Conservation and Recreation Service”; Midwest Region, NPS, to Chief, Office of Legislation, NPS, 9 Aug. 1979, folder 1979, Yankton NPS Office.

63. Interview with Paul Hedren, Superintendent, Missouri National Recreational River, Omaha, Nebr., 29 June 2007.

the National Park Service opened a field office in O'Neill, Nebraska, to manage the new components along with the older fifty-nine-mile reach. The process was slow, but National Park Service staff took it upon themselves to incorporate the MNRR as a meaningful part of the national Wild and Scenic Rivers System. To aid in this process, the Corps of Engineers and the National Park Service in 1999 implemented a new management plan that gave greater focus to environmental concerns. The National Park Service also took on the formidable task of reestablishing landowner relationships in order to ground them in the preservation philosophy of the Wild and Scenic Rivers Act.⁶⁴

Over the last ten years, the Corps of Engineers and the National Park Service have succeeded in maintaining the river's natural appearance and have worked to restore habitat negatively affected by the dams. Their efforts include a cottonwood regeneration project over the entire length of the MNRR and a roughly \$2.5-million habitat restoration project on 295 acres of bottomlands in Dixon County, Nebraska. The agencies have also taken measures to provide visitors with an experience that is educational and enjoyable. In a project shared with the Nebraska Game and Parks Commission, the agencies dedicated a Resource and Education Center at Ponca State Park in 2003.⁶⁵

But what about the erosion issue? Lawmakers introduced the 1978 legislation in large part to support landowners whose valuable property was washing away. They assured landowners that designation of the reach as a recreational river would establish federal interest in the project and thereby secure ongoing funding for bank stabilization. Landowners naturally supported the legislation, which specifically authorized bank stabilization for the fifty-nine-mile reach. The MNRR of today is not what Congress intended it to be. Not only has funding for

64. U.S. Department of the Interior, National Park Service, and U.S. Army Corps of Engineers, *Final General Management Plan/Environmental Impact Statement, Missouri National Recreational River*, Aug. 1999, p. 14; U.S. Army Corps of Engineers, "Missouri National Recreational River," fact sheet, Apr. 2004, Omaha District Office. MNRR Headquarters were moved to Yankton, South Dakota, in 2009.

65. U.S. Army Corps of Engineers, "Cottonwood Regeneration along the Missouri River National Recreational River," fact sheet, n.d., "Ponca State Park Habitat Restoration Project, May 2004," fact sheet, "Missouri National Recreational River Resource and Education Center, Ponca State Park, Nebraska," fact sheet, n.d., Omaha District Office.

erosion control been limited, but relatively little bank stabilization has been allowed because of the National Park Service's stronger effort to preserve the river's free-flowing character.

In the opinion of National Park Service officials and the agency's legal counsel, the bank stabilization authorized in the legislation refers only to the Section 32 demonstration projects, and that mandate has now been fulfilled.⁶⁶ The Missouri River Bank Stabilization Association strongly contends that the National Park Service is misinterpreting the legislation and that Congress intended bank stabilization to continue beyond the demonstration projects. Much of the Section 32 work began before the 1978 legislation was enacted, proponents of the Missouri River Bank Stabilization Association argue, and thus should not be considered a fulfillment of obligations that did not even exist when the work was performed.⁶⁷ One could also question why the as-

66. Interview with Hedren.

67. Jim Petersen, President, Missouri River Bank Stabilization Association, to Paul Hedren, Superintendent, Missouri National Recreational River, 29 June 2006, copy in author's collection. For more information on this debate, see John Davidson, "Multiple-Use Water Resources Development Versus Natural River Functions: Can The WSRA and WRDA Coexist on the Missouri River?," *Nebraska Law Review* 83 (2004): 365. The Missouri River Bank Stabilization Association disputes the time frame for Section 32 construction given in this article.

As administrator for the Missouri National Recreational River, the National Park Service works with the Army Corps of Engineers to enhance the experiences of visitors through projects like the Mulberry Bend Overlook.





The Mulberry Bend Overlook provides an impressive vista that changes with the seasons. This scene was photographed in winter, when low water exposes the Missouri River's sandbars.

sociation would originally have supported a limited plan that left little recourse for further stabilization. Even so, erosion-control work does continue in certain situations. The 1999 general management plan makes MNRR funds available for bank stabilization if such efforts protect and enhance the values for which the reach was designated. Federally funded projects in recent years include a breakwater structure built at Ponca State Park in 1999 to protect public access to the river; a bank stabilization structure constructed on private land to protect an eagle's nest in 2000; and a bank stabilization structure built to protect Dixon County Road 889 at Mulberry Bend in 2005.⁶⁸

68. U.S. Department of the Interior, National Park Service, and U. S. Army Corps of Engineers, *Final General Management Plan/Environmental Impact Statement, Missouri National Recreational River*, Aug. 1999, p. 39; U.S. Army Corps of Engineers, "Missouri National Recreational River: Corps of Engineers Fact Sheet," 7 Feb. 2007, Omaha District Office.

Private landowners losing land to erosion, however, are unlikely to meet the requirements for federally funded stabilization. The general management plan does allow privately funded bank stabilization if it is covered with topsoil and seeded, but before construction can begin, conditions under section 404 of the Clean Water Act must be met and a Wild and Scenic Rivers Act section 7(a) determination must be completed. Rarely are both of these requirements fulfilled. Section 404 of the Clean Water Act requires that a permit be issued before dredged or fill material can be discharged into the river. In order to receive a permit, landowners must show that they have taken steps to avoid actual or potential impacts on wetlands and have provided compensation for unavoidable impacts.⁶⁹ The Corps of Engineers is the agency responsible for making these decisions, and it has issued permits on many occasions. The main difficulty for landowners lies in receiving a favorable section 7(a) ruling from the National Park Service. Section 7(a) of the Wild and Scenic Rivers Act states that federal agencies must not assist in the construction of any water resources project “that would have a direct and adverse effect on the values for which such river was established.”⁷⁰ In its role as river manager, the National Park Service is responsible for determining whether a proposed bank stabilization project would harm the values of the MNRR; almost invariably, the ruling concludes that it does.

Because bank stabilization on the MNRR has been limited, the relationship between the National Park Service and most landowners is abysmal. The reality of their soured relationship was openly displayed at a Missouri River Bank Stabilization Association meeting on 29 March 2007, with representatives from both the Corps of Engineers and National Park Service in attendance. Several landowners described the losses they had incurred due to ongoing erosion, and they expressed their distrust in the National Park Service for its unwillingness to approve permits to stabilize their banks. In strong and cynical language,

69. Environmental Protection Agency, Wetland Regulatory Authority, “Regulatory Requirements,” http://water.epa.gov/type/wetlands/outreach/upload/reg_authority.pdf, accessed 20 Dec. 2013.

70. *Wild and Scenic Rivers Act*, Public Law 90-542, 16 U.S.C. 1271-1287, 90th Cong., 2d sess., 2 Oct. 1968, p. 8.

they severely criticized then-MNRR superintendent Paul Hedren and his approach to managing the river. Jim Peterson, Missouri River Bank Stabilization Association president, only half-jokingly said that the National Park Service was “plotting our destruction.” One owner of property near Ponca, Nebraska, testified that he had spoken with several lawyers, all of whom agreed, he said, that he had every right to protect his own property.⁷¹

Landowners clearly feel trapped by the current state of affairs on the river and are now locked into a plan that has worked against them. Not only are landowners unlikely to receive federal funds to aid them in solving the problem of erosion, they are not even allowed to do so at their own expense. The idea of pairing bank stabilization with Wild and Scenic River status for the fifty-nine-mile reach may have seemed expedient in 1978, but the passage of time has proven the two plans incompatible. The National Park Service is charged to uphold the tenets of the Wild and Scenic Rivers Act, and it is not unreasonable for it to rule that artificial bank stabilization conflicts with these tenets. However, the fact remains that Congress intended to combat erosion by passing the 1978 legislation. The debate over bank stabilization on the MNRR is unfortunate, and there is no reason to believe that it will be resolved soon.

The MNRR is, of course, much more than a controversy over bank stabilization. It is a genuinely beautiful stretch of river enjoyed by thousands of visitors every year, many of whom experience the recreational river by power boating, canoeing, or fishing, while others engage in camping, hiking, and hunting along its banks. With the addition of the thirty-nine-mile segment in 1991, the MNRR encompasses sixty-nine thousand acres, only three hundred fifty of which are managed by the National Park Service. Because so little land is federally managed, many of the land-based activities occur at state- or county-managed parks.⁷²

The MNRR is nationally significant as a test case not only in the marriage of bank stabilization and Wild and Scenic Rivers status, but

71. The author attended this meeting and witnessed the comments made by the landowners.

72. National Park Service, Missouri National Recreational River, “Park Statistics,” <http://www.nps.gov/mnrr/parkmgmt/statistics.htm>, accessed 3 Feb. 2014.

also in its joint administration under the Corps of Engineers and the Department of the Interior. As of December 2013, there were 203 rivers in the Wild and Scenic Rivers System; of these, 179 were added after the designation of the MNRR in November 1978. The Department of the Interior administers 164 of these components, primarily with a single agency, but it utilizes more than one in several cases. State, local, and tribal governments are involved with the administration of the remaining rivers. For example, the state of California, the United States Forest Service, the United States Bureau of Land Management, and the Hoopa Valley Indian Reservation administer the Eel River in California. Likewise, state and municipal governments administer the west branch of the Farmington River in Connecticut, along with the National Park Service.⁷³

None of these rivers, however, are managed through a cooperative agreement such as the one used by the MNRR.⁷⁴ This agreement is unique in giving the Army Corps of Engineers unprecedented influence over a unit of the National Park system, and it is the only agreement executed between the National Park Service and the Corps for the management of a Wild and Scenic River. Other components of the system utilize cooperative agreements for management, but they do not involve both National Park Service and the Corps. Typically, these agreements are connected with the Partnership Wild and Scenic Rivers Program, which was designed to help communities manage and preserve their river resources locally.⁷⁵

The MNRR is also a test case for limiting the acquisition of real estate by condemnation of land along a Wild and Scenic River. This mode of operation was a marked change from most traditional units

73. Department of the Interior, National Wild and Scenic Rivers System, "About the WSR Act"; Department of the Interior, National Wild and Scenic Rivers System, "River Mileage Classifications for Components of the September 2012 National Wild and Scenic Rivers System," <http://www.rivers.gov/documents/rivers-table.pdf>, accessed 20 Dec. 2013.

74. The author consulted with representatives of the Corps of Engineers and the National Park Service, none of whom recalled another example of such an agreement, nor has the research of written material uncovered the existence of such an agreement.

75. National Park Service, "Partnership Wild and Scenic Rivers," <http://www.nps.gov/nero/rivers/wildandscenic.htm>, accessed 20 Dec. 2013.

of the National Park system, where the federal government owns all or the majority of the lands within its boundaries. During the legislative process, the proposal encountered stiff opposition from federal agents, some of whom argued that it would make managing the river too difficult. However, time has shown that limiting condemnation authority is beneficial in establishing good will with landowners, a vital component in managing private domain Wild and Scenic Rivers. This strategy has since been adopted in other instances, including the Niobrara National Scenic River.

Finally, the history of the MNRR reveals that legislation should be specific. The establishment of an advisory group for the MNRR and, indeed, implementation of the law itself, was delayed because of controversy arising from vague language in the original legislation, and it took another act of Congress to solve the problem. Since that time, legislation designating new components of the Wild and Scenic Rivers System has become more specific. A good example is Public Law 102-50, which designated the thirty-nine-mile segment of the Missouri National Recreational River and the Niobrara National Scenic River in May 1991. It clearly established an advisory commission and specified the number and type of individuals to compose it.

The MNRR has now been in existence for more than thirty years, a period through which it has forged new paths in the arena of federal river management. The experience has also shown that while compromise can resolve complicated issues, it can lead to unintended consequences without proper diligence. The experiment of bank stabilization as an integral part of a Wild and Scenic River has been a failure, leaving landowners in a conundrum with no easy solution. As federal administrators and politicians work to protect America's natural assets, they have the opportunity to consider how these methods have played out on the Missouri River. The history of the Missouri National Recreational River thus remains important for governing institutions and the public at large today and in the future.

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On the covers: For the past seventy-five years, the colorful murals of Lakota artist Felix Walking have decorated the gymnasium at Saint Paul's Catholic mission in Marty, South Dakota. In this issue, Elizabeth J. Almlie explores Walking's paintings and the stories they tell of the mission and the people associated with it.

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