



ADVISORY COUNCIL ON HISTORIC PRESERVATION

Status Report on the
U.S. Army Corps of Engineers
Historic Preservation Program
for the
Missouri River Mainstem System

March 2003

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Status Report on the U.S. Army Corps of Engineers Historic Preservation Program for the Missouri River Mainstem System

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Introduction

The Omaha District of the U.S. Army Corps of Engineers (Corps) faces the challenge of managing some of the Nation's most significant heritage resources. These properties stretch along the nearly 6,000 miles of Missouri River shoreline in North Dakota, South Dakota, Montana, and Nebraska, known in Corps parlance as the Missouri River Mainstem System.

Recognizing this challenge, the ACHP initiated a review in January 2002 of the Corps Mainstem System historic preservation program. The goal of this review was, in the words of Section 202(a)(6) of the National Historic Preservation Act (NHPA), to "recommend to the agency methods to improve the effectiveness, coordination, and consistency of those policies and programs...."

The ACHP undertook this review because of the escalating controversy surrounding Mainstem System historic preservation matters. Increasingly, the courtroom had become the arena for resolving historic property management issues. Implementation of a 1993 Programmatic Agreement with the ACHP and the affected State Historic Preservation Officers (SHPOs) for managing Mainstem System historic properties had become contentious. Ironically, these difficulties came amid broader public appreciation of the Missouri River's rich legacy of history and culture and of the serious threats to it. In June 2002, on the eve of the national celebration of the Lewis and Clark expedition bicentennial, the National Trust for Historic Preservation named the Missouri River one of "America's Eleven Most Endangered Historic Places."

This review has been under the direction of a panel of ACHP members. Chaired by ACHP Chairman John L. Nau, III, the panel includes Assistant Secretary of Agriculture Lou Gallegos, Native Hawaiian member Raynard Soon, and National Trust for Historic Preservation Vice President Kathryn Higgins.

The panel's principal information gathering included a site visit, a briefing by the Corps, and a public meeting conducted June 12, 2002, in Pierre, South Dakota. The panel learned the views of Indian tribes, SHPOs, agencies, organizations, and the general public on the management of Mainstem System historic properties. The ACHP review was also informed by extensive staff discussion with the Corps at the Headquarters, Division, and District level and with a wide range of stakeholders.

The panel has prepared this status report to offer interim recommendations to meet the historic resource challenges of the Missouri River Mainstem. It acknowledges that a new and fruitful dialogue has begun among the Corps and concerned parties that is moving forward in a timely manner to address pressing cultural resource issues.

The report focuses on recommendations for resolving longstanding issues and removing impediments that will advance the dialogue and produce lasting solutions. It is intended to serve as a framework for those further discussions and to point a clear direction toward the wise stewardship of the historic properties of the Missouri River Mainstem System.

Findings

Based on its investigation, the ACHP makes the following findings.

- **The Missouri River Mainstem System is a vast and complex resource that serves many functions of vital importance to the region and the Nation.**

From its headwaters in Montana, the Missouri River flows more than 2,300 miles to join the Mississippi River at St Louis, Missouri. Along its length are six dams operated by the Corps. This controlled section of the Missouri River is referred to as the Missouri River Mainstem System.

At the beginning of the Mainstem System is Lake Peck (Fort Peck Dam) in Montana, followed by Lake Sakakawea (Garrison Dam) in North Dakota, the largest capacity reservoir in the system. Crossing North and South Dakota, Lake Oahe (Oahe Dam) closely rivals its neighbor reservoir to the north in size. The lower three reservoirs in South Dakota and northern Nebraska—Lake Sharpe (Big Bend Dam), Lake Francis Case (Fort Randall Dam), and Lewis and Clark Lake (Gavins Point Dam)—are much smaller, but no less important. While not formally part of the Mainstem System, the 59 miles of Missouri River below the Gavins Point Dam are designated national scenic and recreation status in recognition of their more natural state.

The Mainstem System provides crucial hydropower, flood control, municipal and industrial water supply, navigation, and recreational opportunities. As such, it is an economic engine for the Upper Great Plains, generating in 2002 more than \$260 million in direct hydropower revenues.

In addition, the river provides essential cooling for numerous power plants and is the central flood control feature for the Upper Great Plains and Midwest, protecting 1.4 million acres annually. The Mainstem System offers significant recreational opportunities, contributing more than \$80 million to the region and fueling State, local, and tribal economies.

- **The Missouri River's historic properties are important national assets.**

The Missouri River is one of the richest areas of historic properties in all of North America. Mainstem System historic properties include prehistoric villages and campsites; game drives, kill, and processing sites; prehistoric and historic cemeteries and graves; stone circle sites; historic and prehistoric trails, forts, ranches, and battlefields; and historic properties associated with early exploration and Anglo settlement, including the expeditions of Lewis and Clark.

While the Corps has recorded nearly 5,000 archeological sites and other cultural resources on its own Mainstem System lands, little of the Corps' lands have been subject to recent intensive archeological and historic surveys or evaluations meeting current professional standards. There has been little effort to identify historic properties of religious and cultural significance to Indian tribes.

If professional survey and evaluation work were to be completed along the Mainstem System, it is likely that many more thousands of sites would be located. Like those presently known, most of these would be eligible for the National Register of Historic Places. Notably, eight properties on Corps lands have been designated National Historic Landmarks; additional National Historic Landmarks exist along the Mainstem System off of Corps lands.

- **Historic properties of the Mainstem System play a unique role in the heritage and culture of many Indian tribes.**

Many Mainstem System historic properties have special cultural and religious significance to more than 30 Indian tribes. Eight tribal reservations overlap with Corps' Mainstem System lands or are affected by its operation of the Mainstem System. Indeed, the Missouri River and its historic properties are central to the cultural identity and survival of many tribes.

Millions of acres of tribal reservation and treaty lands were flooded or became lands of the Corps when the reservoirs were created during the 1950s and 1960s. Older tribal members retain memories of where events important in the history of their tribes occurred, the locations of villages and individual's homes, special spiritual places, and sites for gathering medicinal plants and other resources. In particular, cemeteries and graves hold special importance to the tribes, as they contain the remains of their ancestors to whom present generations have continuing responsibilities that may affect the welfare of the tribe.

- **The Missouri River Mainstem System's historic properties are endangered.**

All parties acknowledge that the historic properties of the Mainstem System are threatened. Erosion from reservoir operation, vandalism and looting, recreational use, and other land management activities jeopardize these historic properties. River wave action and shoreline erosion are major problems. The average annual erosion at all the lakes is estimated to be between one and two square miles, resulting in a loss of an estimated 40 to 80 sites per year. Additionally, at times of low water levels, other sites in the fluctuating pools of the reservoirs are destroyed from sheet-type erosion.

Development and recreational use of the Mainstem System lakes have contributed to the destruction of historic properties. Additionally, the expected influx of millions of visitors for the Lewis and Clark Bicentennial during 2003 through 2006 will pose substantial challenges for the Corps and archeological law enforcement. Federal and tribal law enforcement officials fear this will only accelerate the pace of looting and vandalism of archeological sites and cemeteries.

- **The Corps' Missouri River Mainstem System historic preservation program is in need of improvement.**

The enormous scale of the Mainstem System—with its nearly 6,000 miles of shoreline, thousands of significant historic properties, and ongoing resource threats—poses serious management challenges to the Corps. Thus, the Corps needs a strategic and focused historic preservation program with well-articulated goals and objectives to meet these challenges.

The existing effort, guided by the 1993 Programmatic Agreement, has not provided a workable framework for the effective stewardship of Mainstem System historic properties, including identifying and evaluating historic properties and addressing ongoing threats to them. The existing program has not fully reflected the interests of Indian tribes, SHPOs, and other stakeholders. In particular, the program has not dealt adequately with the value of the Mainstem System historic properties to Indian tribes, nor has it been developed and implemented in partnership with those tribes who have such a substantial stake in the future of this rich legacy.

Recent commitments by Corps' leadership show promise for meeting the challenges. While the management of Mainstem System historic properties has fallen short in the past, the Corps has shown a

renewed commitment to try to address its obligations. A fresh start has been made to revise the Programmatic Agreement for management of the Mainstem System, with a concerted effort by the Corps to actively involve all affected Indian tribes in the process. The Division has committed an additional \$3 million in 2003 for cultural resource management activities, designed to deal with the most pressing threats.

Noteworthy as an example of the Corps' positive leadership direction is the Division Engineer's November 15, 2002, statement on cultural awareness, which was issued to all employees of the Omaha District. Its acknowledgment of the duty of all Corps employees to recognize the importance of cultural resources to Indian tribes and to incorporate tribal concerns into daily operational decisions through meaningful consultation can offer a new foundation for addressing historic preservation issues.

- **Funding for historic resource management is inadequate.**

Stable, predictable, and sufficient funding is essential to an effective historic preservation program. To date, the Corps has funded this program exclusively from general operations funding for the Mainstem System. The funds made available for the historic preservation program have been inadequate, as priority is understandably given to such needs as supporting essential maintenance of hydropower generator systems.

The Corps estimates a \$77 million backlog of Mainstem System historic preservation needs. With the additional demand for funding to meet the daily needs of the historic preservation program, budgetary issues are critical. The Corps' year-by-year competitive operations and maintenance budget process for projects does not enable it to develop and implement historic preservation initiatives that require sustained funding over time.

Recommendations

To meet the historic preservation challenges of the Mainstem System, the ACHP recommends the following actions.

- **Develop and implement a permanent and effective Missouri River Mainstem System historic preservation program in partnership with Indian tribes and other stakeholders.**

Fundamental to successful stewardship of Mainstem System historic properties is a permanent Corps historic preservation program commensurate with the richness and importance of those properties and the considerable threats to them. To be effective, the program must be given adequate resources, have clear goals and objectives, and be developed and implemented in partnership with Indian tribes, SHPOs, the ACHP, agencies with overlapping jurisdictions, and others.

The historic preservation program should consist of a number of interlocking historic preservation components that address all relevant historic preservation laws, all guided by a strategic plan that outlines long-term goals and objectives. A system-wide, ongoing program is needed to identify and evaluate historic properties for eligibility for listing in the National Register of Historic Places, including cemeteries, graves, and traditional cultural properties of significance to Indian tribes. Cultural resources management plans for each of the Mainstem lakes were to be the basic planning tool of the 1993

Programmatic Agreement; up-to-date cultural resource management plans would continue to serve as a key component in the future.

In addition, an ongoing program is needed to monitor and record for management purposes the changing integrity of the Mainstem System historic properties due to erosion, recreational use, development, vandalism, looting, and other factors. The historic preservation program should contain an overall strategy for the treatment of threatened historic properties, providing a full range of options for consideration to deal effectively with this variety of threats.

Work priorities and decisions need to be based on a thorough understanding of the erosion and other threats to historic properties. Initially, existing geomorphological and historic preservation information should be brought together and considered by an interdisciplinary team that includes the Corps and its experts at the Waterways Experimental Station and elsewhere, the U.S. Department of Agriculture and U.S. Environmental Protection Agency experts, affected Indian tribes, and others.

Finally, the historic preservation program must define its relationship to Mainstem System operations, contain provisions for enhanced and continuing public involvement, provide for historic preservation emergencies, and include accountability measures.

- **Provide an adequate and sustained funding level for the Missouri River Mainstem System historic preservation program.**

Stable, predictable, and sufficient funding for the Missouri River Mainstem System is required for the Corps to meet its cultural resource management responsibilities. An up-front investment in the historic preservation needs of the Mainstem System will be crucial to counter the current backlog. This investment must be followed by sustained and stable funding to meet future needs. The recent increase in the Mainstem System historic preservation budget is a commendable first step.

- **Revise the budget process to improve historic preservation funding.**

Changes in the Corps' internal budget process are necessary so that the District operations and maintenance budget does not bear the entire burden of funding an effective historic preservation program. A dedicated annual account for cultural resource obligations would lessen the competition for crucial historic preservation monies from operations and maintenance funds. It would also clearly identify cultural resource needs in the broader agency budget formulation process.

- **Identify new funding sources or arrangements that can be used to meet cultural resource management needs.**

The Corps is not the only Federal agency with a stake in the management of the Mainstem System's many resources. For example, as marketer of the electricity generated by the Mainstem System, Western Area Power Administration (Western) benefits from the Corps' historic preservation actions and expenditure of resources. Interagency agreements, such as those for reimbursement of operations and maintenance between Western and the Corps, should be examined for their potential to provide the Corps with additional historic preservation funding.

Consideration should be given to allocating a fixed percentage of the Mainstem System hydropower revenues as a source of preservation program funds. Since the Corps does not have authority over these revenues that go directly into the national treasury, any such reallocation would require new Federal authorization.

Other models do exist for providing resources for historic preservation in similar situations, such as that on the Columbia River Federal Power System (CRFPS) in the Northwest, and the Colorado River downstream of Glen Canyon Dam in Arizona.

Bonneville Power Administration (BPA) funds a 15-year historic preservation and tribal program carried out under a partnering agreement with the Corps and the Bureau of Reclamation (BoR) for the Columbia River Federal Power System. BPA provides approximately \$3 million annually to the Corps and BoR. In return, these agencies fund a number of Indian tribes and others for their participation in the program and to help carry out historic preservation tasks in fulfillment of all the agencies' historic preservation responsibilities.

As part of the Adaptive Management Program authorized by the Grand Canyon Protection Act, Western provides funding from power revenues to support the consideration of project operating effects on various environmental resources, including cultural resources, along the approximately 235 miles of Colorado River downstream of Glen Canyon Dam. Western has provided approximately \$1 million annually to the BoR for an interagency historic preservation program that also fulfills the involved agencies' Section 106 historic preservation responsibilities. BoR coordinates and distributes most of this funding to the National Park Service, Grand Canyon Monitoring and Research Center (part of the U.S. Geological Survey), Indian tribes, and private contractors for necessary consultation and historic preservation tasks.

Legislative action and interagency agreements may be necessary to create new funding mechanisms.

- **Develop and implement a new Missouri River Mainstem System Programmatic Agreement for compliance with Section 106 of NHPA.**

The Corps is to be commended for initiating consultations with the ACHP, SHPOs, and Indian tribes on a new Missouri River Mainstem System Programmatic Agreement for compliance with Section 106 of NHPA. The Corps should incorporate the recommendations of this status report in its discussions on the agreement and continue to move forward with an ongoing open and inclusive consultation process for an agreement as soon as possible.

- **Build partnerships with Missouri River tribes.**

Key to successful long-term management of Mainstem System historic resources will be for the Corps to build effective partnerships with the Missouri River Indian tribes. Indian tribes' knowledge of and concern for the Missouri River and its historic properties are invaluable assets for the Corps. Discussions on a new Programmatic Agreement have begun in this spirit of partnership.

To continue, the Corps should develop and carry out the historic preservation program jointly with Indian tribes so that tribal values and concerns are fully integrated into program goals, mechanisms, and actual implementation. Protocol agreements with individual tribes could ensure government-to-government consultation and tribal participation in the program, recognizing tribes' individual governance procedures

and policies. The Corps should pursue cooperative arrangements, using contracts as needed, with the tribes for law enforcement and historic preservation services.

Likewise, the Corps would benefit from contracting with tribes to develop and conduct training about tribal culture and perspectives on the Missouri River and its historic properties. The capacity of Indian tribes to protect their heritage and assist the Corps in meeting its obligations to do the same could be extended through Corps support of tribal historic preservation training and internships, scholarships for tribal students studying historic preservation disciplines, and assistance with equipment, telecommunications access, and the like.

It would be particularly advantageous to make use of the provisions of Section 203 of the Water Resources Development Act of 2000, the Corps' new tribal partnering program, as this program becomes further developed. This program enables more flexible and, in some cases, waived, cost-share arrangements between an Indian tribe and the Corps.

- **Take immediate steps to control looting and vandalism.**

With an ever-growing presence of visitors and recreational users on the Mainstem System, it is imperative that the Corps initiate an aggressive and multifaceted anti-looting and vandalism program for the Missouri River Mainstem System as soon as possible. This program needs to include a public education and communications component, increased law enforcement field presence with appropriately equipped and trained personnel, clarification of the Corps' archeological law enforcement authorities, and coordination with U.S. Attorneys and others to encourage aggressive prosecution of offenders. It should be an interagency initiative, conducted in full partnership with Indian tribes, to provide adequate manpower, law-enforcement authority, and tribal perspective.

- **Explore opportunities of the upcoming Lewis and Clark celebration to promote heritage tourism on the Missouri River Mainstem System.**

With the Lewis and Clark Bicentennial commencing in 2003, a unique opportunity exists for the Corps to partner with Indian tribes, State Historic Preservation Officers, and others to celebrate and interpret the rich historic resources of the Mainstem System. The Corps should work with the National Park Service, the ACHP, and other involved Federal agencies to identify suitable initiatives.

Joint ventures with Federal agencies, Indian tribes, SHPOs, local governments, and the private sector can raise the American public's appreciation of these important historic resources, foster its stewardship, and promote economic benefit that will contribute to achieving long-term preservation goals.