



Montana Fish, Wildlife & Parks

1420 East 6th Avenue
Helena, MT 59620
September 24, 2012

Dear Pallid Sturgeon MOU partner:

Enclosed please find a copy of the MOU between MFWP, BOR, USFWS, WAPA and UCACOE regarding the Upper Missouri River Basin Pallid Sturgeon facilitator. It has passed review by all agencies and is ready for signing. The Bureau will begin the signing, and I would ask you to sign in the appropriate spot, check off your name and pass on the MOU and this cover letter to the next agency contact person listed below. The contact person will be responsible for signing for their agency (or getting the right person to do so) and then passing on to the next person on the list. Once I receive the MOU back in my office with all signatures, I will send the signed copy back out to all agencies. Once we do that we can proceed to hire the facilitator.

Please call me at 406-444-7409 if you have questions,

Don Skaar

Agency contact list sequence after the Bureau of Reclamation:

- 1) Susan Reimer
✓ US Fish and Wildlife Service
Fisheries Division
MS 60140
PO Box 25486-DFC
Denver, Co 80225
- 2) Col. Joel Cross
✓ U.S. Army Corps of Engineers
1616 Capitol Avenue
Omaha, NE 68102
- 3) Lou Hanebury
Western Area Power Administration
2900 4th Ave. North, Sixth Floor
Billings, MT 59101

4) Mark Fincel
Missouri River Natural Resources Committee
c/o South Dakota Game Fish and Parks
20641 South Dakota Highway 1806
Fort Pierre, SD 57532

5) Bruce Rich
Montana Fish, Wildlife and Parks
1420 East 6th Avenue
Helena, MT 59620

Memorandum of Understanding

Among

Montana Fish, Wildlife and Parks,

U.S Army Corps of Engineers,

U.S. Fish and Wildlife Service,

Western Area Power Administration,

U.S. Bureau of Reclamation, and

Missouri River Natural Resources Committee

This memorandum of understanding (MOU) is entered into among Montana Fish, Wildlife & Parks hereinafter referred to as the "MFWP", U.S. Army Corps of Engineers hereinafter referred to as the "Corps", U.S. Fish and Wildlife Service hereinafter referred to as the "Service", Western Area Power Administration hereinafter referred to as "Western", U.S. Bureau of Reclamation hereinafter referred to as "Bureau" and Missouri River Natural Resources Committee hereinafter referred to as "MRNRC." Throughout this document, the collective group will be referred to as signatory agencies. Throughout this document, this memorandum of understanding will be referred to simply as the MOU.-

The MFWP, Corps, the Service, Western and the MRNRC entered into a MOU in 2011 to collaboratively fund a contractor to serve as a facilitator of the Upper Basin Pallid Sturgeon Working Group. The Bureau of Reclamation wants to join the MOU, and by executing this MOU, the signatories of the 2011 MOU agree that the 2011 MOU is immediately terminated.

I. Purpose

The purpose of this MOU is to collaboratively fund a contractor to serve as facilitator of the Upper Basin Pallid Sturgeon Workgroup, of which MFWP, Corps, Service, and Western are signatory agencies on a Memorandum of Understanding for Upper Basin Pallid Sturgeon Recovery Implementation (Appendix 1; signed in April 2008).

This MOU will benefit all participating agencies by providing a means for dedicated facilitation and coordination of the Upper Basin Pallid Sturgeon Work Group.

This MOU supersedes the 2011 MOU executed by the MFWP, the Corps, the Service and Western and acknowledges the Bureau's status as a signatory agency.

II. Scope of the MOU and Responsibilities

a. Signatory agencies mutually understand:

- i. That every provision of this MOU is subject to applicable laws of the State of Montana and the United States Government.**

- ii. This is a cooperative venture of the parties. Any contractor hired to facilitate the workgroup will be selected by and supervised by project liaisons of signatory agencies as defined within this MOU. Duties of the contractor will be mutually defined by all parties to this agreement. Responsibilities may include, but not be limited to, organizing annual meetings, keeping meeting minutes, facilitating discussions, facilitating annual work plans, facilitating development of RFPs, facilitating screening and selecting of proposals, keeping signatory agencies informed on workgroup business, and facilitating completion of an annual report for the Upper Basin Pallid Sturgeon Workgroup and establishment of work product completion dates. Contractor selection, work duties, and completion dates will be collaboratively (majority vote) developed by the project liaison officers (or designee) identified under Section II (b-f) below.
- iii. While it is the intent of the parties to fulfill their obligations under this MOU, binding commitments cannot be made beyond the period for which funds have been appropriated, made administratively available, or authorized by law. Where activities provided for in this MOU extend beyond the current fiscal year, continued expenditures by the Federal Government agencies are contingent upon Congress making the necessary appropriations required for the continued performance of those agencies under this MOU. In the event funds from which the parties may fulfill their obligations are not appropriated, made administratively available, or authorized by law, the MOU will terminate within 30 days upon written notice by any party. Termination of this MOU shall not affect the rights and obligations of the parties that accrued prior to the effective date of termination. Up to amounts appropriated, made administratively available, or authorized by law, signatory agencies shall compensate MRNRC for all reasonable expenses—proportionally allocated equally among each agency—incurred or committed to be expended as of the effective termination date.

b. MFWP will:

- i. Provide up to \$10,000 toward funding a contractor to facilitate the Upper Basin Pallid Sturgeon workgroup.
- ii. Provide the following as project liaison:

Name:	Don Skaar
Address	Montana Fish, Wildlife & Parks P.O. Box 200701 Helena, Mt 59620-0701
Telephone:	406-444-7409
Facsimile:	406-444-4952
E-mail:	dskaar@mt.gov

c. Corps will:

- i. Provide up to \$10,000 toward funding a contractor to facilitate the Upper Basin Pallid Sturgeon workgroup.
- ii. Provide the following as project liaison:

Joel R. Cross

Name: Colonel, ~~Robert J. Ruch~~, Commander
Address: U.S. Army Corps of Engineers
1616 Capitol Ave
Omaha, NE 68102
Telephone: 402-995-2001
Facsimile:
E-mail:

d. Service will:

- i. Provide up to \$10,000 toward funding a contractor to facilitate the Upper Basin Pallid Sturgeon workgroup.
- ii. Provide the following as project liaison:

Name: George Jordan
Address: 2900 4th Avenue North
Room 301
Billings, MT 59101
Telephone: 406-247-7365
Facsimile: 406-247-7364
E-mail: george_jordan@fws.gov

e. Western will:

- i. Provide up to \$10,000 toward funding a contractor to facilitate the Upper Basin Pallid Sturgeon workgroup.
- ii. Provide the following as project liaison:

Name: Lou Hanebury
Address: 2900 4th Ave. North, Sixth Floor
Billings, MT. 59101
Telephone: 406-255-2812
Facsimile:
E-mail: hanebury@wapa.gov

f. Bureau will:

- i. Provide up to \$10,000 toward funding a contractor to facilitate the Upper Basin Pallid Sturgeon workgroup.
- ii. Provide the following as project liaison:

Name: Gary Davis
Address: P.O. Box 36900
Billings, MT. 59107-6900
Telephone: 406-247-7717
Facsimile:
E-mail: JGDavis@usbr.gov

g. MRNRC will:

- i. Provide administrative support to the Upper Basin Pallid Sturgeon workgroup. This includes establishing a contract with a facilitator for the workgroup, and maintaining a separate financial account to hold funds received from other parties to this MOU for the purpose of payment for services of the contractor.
- ii. Provide the following as project liaison:

Name:	Don Skaar
Address:	c/o MFWP 1420 East 6 th Avenue Helena, MT 59620
Telephone:	406-444-7409
Facsimile:	406-444-4952
E-mail:	dskaar@mt.gov

- h. Signatories' fiscal years may not coincide with the 1 July to 30 June accounting year used by MRNRC.
- i. The provisions for providing up to \$10,000 under II (b)(i), (c)(i), (d)(i), (e)(i) and (f)(i) will be on an annual basis for each year that the period and term of this MOU is extended under Section V.
- j. Any signatory may change its designated project liaison by providing written notice to all the other signatories.

III. Disbursements

This memorandum is not a fiscal or a funds obligation document. Signatory agencies will reimburse or provide funding through grants or cooperative agreements, as appropriate, to MRNRC for expenses incurred up to \$10,000 each (or as defined in section II) for the period of July 1, 2012 through June 30, 2013.

IV. Indemnification

Each signatory agency shall, to the extent provided for by state or Federal law as applicable, be responsible for its own acts and the results thereof and shall not be responsible for the acts of the other party and the results thereof. Each party, therefore, agrees that it will assume all risk and liability to the extent provided for under state or Federal law as applicable, but without waiving sovereign immunity, (a) to itself, its agents or employees, for any injury to persons or property resulting in any manner from the conduct of its own operations, and the operation of its agents or employees under this MOU and (b) for any loss, damage, or expense resulting at any time from any and all causes due to any act or acts, negligence, or the failure to exercise proper precautions, of or by itself or its own agents or its own employees, while occupying or visiting the premises under and pursuant to the MOU. To be clear, notwithstanding any provision in this MOU to the contrary, no signatory shall be deemed to have waived its rights (if any) to sovereign immunity. Further, the Federal agency signatories' liability shall be only to the extent provided for under the Federal Tort Claims Act, 28 U.S.C. 1346(b).

V. Period of MOU

The project period for this MOU begins on 1 July 2012 and continues through 30 June 2013 unless terminated consistent with section VII of this MOU. The MOU may be extended annually by mutual consent of signatory agencies, to a maximum of 7 years from the date of execution of the MOU.

VI. Disagreement Resolution

Attempts at resolution of disagreements between MOU signatories will be conducted at the lowest level possible and as informally as possible.

VII. Termination of MOU

Any signatory agency may terminate their participation in this MOU by providing at least 30 days written notice to that effect. If a signatory agency terminates the MOU, the remaining signatory agencies may continue operating under the MOU if financial commitments can be met. Additionally, the MOU can be terminated immediately by mutual consent of all signatories.

The undersigned parties hereby agree to the terms and condition specified above.

MONTANA FISH, WILDLIFE & PARKS

By: _____

Signature: _____

Title: _____

Date: _____

U.S. ARMY CORPS OF ENGINEERS, OMAHA DISTRICT

By: JOEL R CROSS

Signature: *Joel R. Cross*

Title: District Commander

Date: 10-17-12

U.S. FISH AND WILDLIFE SERVICE, REGION 6

By: Sharon R. Rose

Signature: *Sharon R. Rose*

Title: Assistant Regional Director, Fisheries, R6

Date: 10-2-2012

WESTERN AREA POWER ADMINISTRATION, UPPER GREAT PLAINS REGION

By: Nicholas J. STAS

Signature: *Nicholas J Stas*

Title: UGPR Environmental Manager

Date: 10-26-2012

U.S. BUREAU OF RECLAMATION

By: John F. Soucy

Signature: *John F. Soucy*

Title: Deputy Regional Director

Date: 9/20/12

MISSOURI RIVER NATURAL RESOURCES COMMITTEE

By: _____

Signature: _____

Title: _____

Date: _____