

## MEMO

DATE: February 3, 2009

FROM: Joseph B. Gibbs, PE, Member MRRIC, Flood Control

TO: MRRIC

SUBJECT: MRRIC Recommendation / Land Acquisition / Tabulation of Recovery Lands

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RECOMMENDATION TO: US Army Corps of Engineers (USACE)  
US Fish, the Wildlife Service (US-FWS)

FROM: Missouri River Recovery Implementation Committee (MRRIC)

· It is proposed that the MRRIC recommend that the USACE and the US-FWS and all other agencies cease land acquisition or control of any additional lands for the purposes of recovery until:

a) all existing public and private lands utilized for conservation or recovery purposes are identified and categorized with a conservation or recovery value that is consistent with like categories of lands authorized for recovery;

b) after such public and private lands have been identified and categorized with a conservation or recovery value, their respective acreages are to be included in the target amount of lands needed for recovery purposes; and,

c) if such inclusions are not legally or administratively allowed, that no additional land purchases or control of lands be allowed for recovery until legislation or agency rulings have been enacted or implemented to include all conservation and recovery designated public and private lands in the respective categories of lands authorized for purposes of Missouri River Recovery Program (MRRP) and other recovery programs and plans.

### SUMMARY

· Substantial acres of land have been purchased or leased by public entities and private individuals for purposes of constructing shallow water habitat and other conservation, recovery and recreational uses and investments that resemble land purchases authorized for MRRP. The resulting duplication of land uses by agencies combined with those of private individuals has become such a vast area of land that local businesses and county tax bases are being destabilized. Hundreds of thousands of acres are ultimately involved. There is not a data base providing the identification and compilation of all the acreages, public and private, and activities and land uses authorized and in agency possession and/or control that are taking place for every recovery program. Local private interests, particularly farming interests, and taxpayers are confused by the myriad of programs and

projects involved and want an accounting of all the lands involved before more lands are purchased.

## FINDINGS

- There exists a myriad of programs and projects by state and federal agencies and private land uses providing duplication of conservation and recovery efforts. A partial list of Federal activities would include the MRRP involving chutes, wetlands, etc., the Big Muddy Wildlife Refuge and Squaw Creek Wildlife Refuge of the US-FWS, acreages purchased by the USACE and construction projects on state properties to mitigate the effects of channelization and bank stabilization, wetlands delineations for 404 permits and US Department of Agriculture (USDA) programs of the Farm Service Agency (FSA) and Natural Resources and Conservation Service (NRCS) that include the Wetland Reserve Program (WRP), Emergency Wetland Reserve Program (EWRP), Conservation Stewardship Program (CSP) and CP-23 practice of the Conservation Reserve Program (CRP), and Conservation Easements including USDA requirements on wetlands, farmed wetlands, etc., that regulate land use of private properties. In the State of Missouri the Missouri Department of Conservation (MDC) owns thousands of acres of land in the flood plains where MDC constructed wetlands, wildlife habitat and refuges. Add to all of these lands private property purchased by hunt clubs. All of these lands with their present uses and those authorized to be part of recovery amount to hundreds of thousands of acres.

- All of these land uses, when located adjacent to private agricultural lands, are incompatible with agricultural uses and their existence imposes hardships on the agricultural community. Most of the hardships are related to agency land management and policies. While working for landowners and/or levee and drainage districts, I encounter one or more times every six months tracts that are subject to requirements of agency ownership or regulation. Levee and drainage issues impose the greatest managerial hardships. Agencies do not or are not required to cooperate with adjacent landowners with construction or maintenance of drainage and flood protection facilities. This immediately affects drainage and flood protection of farm fields as well as highways and municipal and public infrastructure. The lack of local tax revenue support by the agencies imposes the greatest policy hardships. The agencies enjoy special privileges on the lands that they control or own. Some include: a) the non-payment of taxes for support of levees and drainage; b) the non-payment of other taxes or substantially reduced payments of other taxes that are not on par with those levied on adjoining private tracts both at the time of purchase and when land values change; c) the loss of tax base resulting from the destruction of improvements (buildings) and loss of personal property (livestock and machinery) upon initial purchase of property; d) the provision that agency lands cannot be sold for non-payment of taxes; e) the fact that rights-of-way cannot be condemned for public uses; and, f) total exemption from local land use and zoning ordinances and noxious weed and plant control ordinances.

- In Missouri, landowners believe that they have established their credibility in matters of conservation and recovery actions, an example being, in addition to the local costs for

being adjacent to agency project sites, the \$100 million+ per year sales tax collected on all goods and services, money that is conveyed to the MDC for wildlife conservation purposes.

### CONCLUSIONS

- Local landowners believe that the agencies have enough land to meet the requirements of the recovery program. They want other lands not owned or controlled by the USACE and other agencies to be added to the targeted amount of acreages authorized for the recovery program. Local landowners believe that they are making a sufficient commitment toward the recovery effort and continued acquisition of land for recovery purposes are imposing too great a hardship on them.

### RECOMMENDATIONS

- There should be a data base created listing all of the lands public and private being used for conservation purposes and a conservation or recovery value assigned to them. These lands should then be included with their respective target acreages of lands needed for recovery purposes.