MEMORANDUM OF DECISION

MISSOURI RIVER MASTER WATER CONTROL MANUAL, REVISON 1, INCORPORATION OF TECHNICAL CRITERIA FOR BIMODAL SPRING PULSE RELEASES FROM GAVINS POINT DAM

In 2003 the United States Fish and Wildlife Service (USFWS) issued an Amended Biological Opinion (Amended BiOp) on the United States Army Corps of Engineers' (Corps') Missouri River Mainstem Reservoir System operations. Among other actions, the Amended BiOp called for bimodal spring pulse releases from Gavins Point Dam for the benefit of the endangered pallid sturgeon. Under the terms of the Amended BiOp, a plan for the bimodal spring pulse releases is to be implemented by March 2006.

Bimodal spring pulse releases from Gavins Point Dam were controversial throughout the Missouri River Master Water Control Manual (Master Manual) Review and Update National Environmental Policy Act (NEPA) process. Although the NEPA documents developed during that process addressed several alternatives that included spring pulse releases, the Record of Decision (ROD) for the revisions to the Master Manual dated March 19, 2004 did not include any flow changes for the pallid sturgeon. The ROD did present the Corps' commitment to identify a spring pulse plan that complied with the provisions of the Amended BiOp by 2006.

Subsequent to the issuance of the March 19, 2004 ROD, the Corps, in coordination with the USFWS and with the assistance of the United States Institute for Environmental Conflict Resolution, coordinated with basin Tribal representatives, States, and stakeholders in an attempt to develop a basin consensus for bimodal spring pulse release criteria meeting the requirements of the Amended BiOp. While this process was not successful in developing a basin consensus, it did assist the Corps in developing spring pulse release technical criteria for inclusion in the Master Manual. Recognizing the unique government-to-government relationship between American Indian Tribes and the United States, and in light of the Corps' Trust responsibilities and commitments pursuant to the March 2004 "Programmatic Agreement for the Operation and Management of the Missouri River Mainstem System for Compliance with the National Historic Preservation Act", additional consultation/meetings were held with Tribal representatives and members regarding the spring pulse release technical criteria to address Tribal issues.

An Environmental Assessment (EA) was prepared (attachment) that addresses the purpose and need for the bimodal spring pulse releases from Gavins Point Dam. The EA compares the environmental impacts of the bimodal spring pulse releases plan, as defined by the technical criteria, with the range of impacts of alternative spring pulse proposals that were addressed in prior environmental analyses conducted by the Corps. These prior analyses were presented in the Final Environmental Impact Statement, Missouri River Master Manual Water Control Manual, Review and Update (FEIS). The EA has concluded that the impacts associated with the bimodal spring pulse releases technical

criteria are within the range of impacts identified for spring pulse alternatives analyzed in the earlier Master Manual Review and Update NEPA process, or less than the impacts identified by those alternatives. The EA also discussed a No Action Alternative whereby spring pulse criteria would not be adopted, but concluded that the Corps would not be in compliance with the Endangered Species Act if the No Action Alternative were adopted.

The USFWS has informed the Corps that the technical criteria for bimodal spring pulse releases from Gavins Point Dam, if implemented in conjunction with a comprehensive adaptive management strategy, will meet the intended purposes outlined in the 2003 Amended BiOp for 2006 and beyond. The technical criteria include sufficient safeguards to minimize impacts to authorized project purposes, basin Tribes, and both upstream and downstream river uses while providing potential benefits to the endangered pallid sturgeon. The bimodal spring pulse releases, as described in the technical criteria, would not be implemented in extreme drought conditions, thereby protecting upstream reservoir uses. The technical criteria do not modify existing downstream flow limits, thereby providing the same level of protection to downstream rivers users, who are concerned about interior drainage and groundwater issues, as are currently provided.

The Corps is committed to monitoring both the physical and biological impacts of the bimodal spring pulse releases, including the response of the pallid sturgeon to the pulses, further evaluation of interior drainage and groundwater concerns, and potential impacts to cultural resources. Within an overall adaptive management strategy, results of monitoring will be used to inform future modifications to the criteria. If future changes to the technical criteria are necessary, they will be the subject of Tribal and public review.

I find that the bimodal spring pulse release criteria, as described in the EA and included in Appendix I of the revised Master Manual, is consistent with all environmental statutes and the Corps' Trust and Treaty responsibilities to Missouri River Basin Tribes; provides for the Congressionally authorized uses of the Mainstem Reservoir System; and is not contrary to the public interest. I, therefore, approve these revisions to the Master Manual.

Date: 28 February 2006

/ Signed /
Gregg F. Martin
Brigadier General, U.S. Army
Division Engineer